

**State of New Hampshire Public Utilities Commission**



**Renewable Energy Fund**

**Grants for Community Solar Photovoltaic (PV) Projects Providing Direct Benefits to Low and Moderate Income Residential Electric Customers**

**REQUEST FOR PROPOSALS (RFP)**

**RFP #2020-002**

**Release Date July 8, 2020**

**Applicate Due: 4:30 p.m. EST September 14, 2020**

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## Executive Summary

Pursuant to RSA 362-F:10 X, the New Hampshire Public Utilities Commission (Commission) issues this Request For Proposals (RFP) seeking proposals for community solar photovoltaic (PV) projects that will provide direct benefits to New Hampshire low, moderate, or low and moderate income (LMI) residential electric customers who reside within the same electric distribution utility service territory. Proposals must present a comprehensive plan that clearly demonstrates and quantifies the net direct benefits to participating LMI customers. Projects or portions of projects that have requested funds from the Commission's Non-residential Competitive Grant Program, Commercial & Industrial (C&I) Renewable Energy Rebate Program, or Residential Renewable Electric Generation Incentive Program<sup>1</sup> are not eligible for funding under this solicitation.

Total funding available under this RFP will be \$646,173. The minimum grant request amount is \$75,000. The maximum grant request amount is \$325,000.

Electronic proposals must be received at the Commission no later than 4:30 p.m. on Monday, September 14, 2020.

### Pertinent Dates and Information

- Written Inquiries:** Proposers may submit written inquiries about this RFP by e-mail to Juli Pelletier, Business Office Director at [RFP@puc.nh.gov](mailto:RFP@puc.nh.gov) no later than 4:30 p.m. on Monday, July 29, 2020. The subject line of the e-mail should state the following: RFP #2020-002, REF LMI Community Solar Grants. No phone calls will be accepted. Inquiries received later than the deadline specified above shall not be considered properly submitted and may not be considered. It is highly recommended that proposers review the RFP as soon as possible and submit any questions to allow the Commission time to answer questions. The Commission intends to issue official responses to properly submitted inquiries on or before August 4, 2020; however, this date is subject to change at the Commission's discretion. Inquiries and responses will be posted on the Commission's website at <https://www.puc.nh.gov/Sustainable%20Energy/RFPs.htm>. The Commission may consolidate and/or paraphrase questions for sufficiency and clarity. The Commission may, at its own discretion, amend this RFP on its own initiative or in response to issues raised by inquiries, as it deems appropriate. Oral statements, representations, clarifications, or modifications concerning the RFP shall not be binding upon the Commission. Official responses by the Commission will be made only in writing by the process described above.

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<sup>1</sup> Information available at <http://puc.nh.gov/Sustainable%20Energy/RenewableEnergyRebates.html>

Proposers shall be responsible for reviewing the most updated information related to this RFP before submitting a proposal.

2. **Proposals must be submitted electronically to the Commission no later than 4:30 p.m. on Monday September 14, 2020.** The electronic copy must be in PDF (portable document file) format and must be searchable. Proposals must be submitted electronically to: [RFP@puc.nh.gov](mailto:RFP@puc.nh.gov). The file will be considered received based on the timestamp in the receiver's email. The Commission can accept electronic files no larger than 8 MB. Submissions that are not received by the date and time and in the manner specified in this section shall be rejected as non-compliant. The Commission reserves the right to waive minor deviations that have no material impact on the competition between proposers, if doing so is determined to be in the best interests of the State. Any response that is filed shall be valid for 180 days following the deadline for submission of proposals, or until the effective date of any resulting contract, whichever is later.
3. **Paper Copies Also Required:** In addition to the electronic submission, proposers must submit four (4) paper copies to the following address:

Juli Pelletier, Business Office Director  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, NH 03301-2429

The paper copies shall be: sent by first class U.S. mail and postmarked no later than September 14, 2020, or sent by 1 day express delivery service (UPS, Federal Express, etc.) no later than September 14, 2020, or hand-delivered no later than September 14, 2020. Hard copies must be identical to the submitted electronic copy in text and pagination. In the case of a difference between the hard copy and the electronic copy, the electronic copy shall control.

4. **Restriction on Contact with State Employees:**  
From the date of the release of this RFP until awards are made and announced regarding the selection, all communications with personnel employed by or under contract with the State regarding this RFP is forbidden, unless first approved by the point of contact, Juli Pelletier, Business Office Director. Commission employees have been directed not to hold conferences and/or discussions concerning this RFP with any potential grantee during the selection process, unless otherwise authorized by the RFP point of contact.

In the event an interview is scheduled, you will hear from Ms. Pelletier and may return calls to her for the sole purpose of scheduling an interview at (603) 271-6008.

## I. Overview

### A. Background and Purpose

The New Hampshire Public Utilities Commission is an executive branch agency responsible for administration of the state's Renewable Portfolio Standard (RPS) program pursuant to RSA 362-F, and management of the state's Renewable Energy Fund<sup>2</sup> (REF) pursuant to RSA 362-F:10. The purpose of the REF is to support thermal and electric renewable energy initiatives in New Hampshire.

Pursuant to RSA 362-F:10, X, the Commission is required to allocate not less than 15 percent of the REF annually to:

benefit low-moderate income residential customers, including, but not limited to, the financing or leveraging of financing for low-moderate income community solar projects in manufactured housing communities or in multi-family rental housing.

The phrase "low-moderate income community solar project," is defined as "ground-mounted or rooftop solar arrays that directly benefit a group of at least 5 residential end-user customers, where at least a majority [at least 3] of the residential end-user customers are at or below 300 percent of the federal poverty guidelines. No more than 15 percent of the projected load for such project shall be attributable to non-residential end-user customers." RSA 362-F:2, X-a. In addition, RSA 362-A:9, XIV(c) requires each utility to provide on-bill credits for each member and the host along with a 3 cent per kwh addition from July 1, 2019, through July 1, 2021, and a 2.5 cent per kwh addition thereafter for low-moderate income community solar projects.

Pursuant to RSA 362-F:10, VIII, the Commission may, after notice and hearing, by order or rule, establish "additional incentive or rebate programs for customer-sited thermal and renewable energy projects" to be supported by the REF. This RFP is issued pursuant to RSA 362-F:10, VIII. *See* Docket No. DE 17-172, Order No. 26,113 (March 19, 2018) and Order No. 26,214 (January 25, 2019).

The Commission issued RFP #2019-007 on December 20, 2019 with a total budget, including FY 2019 carry forward, of \$900,000. After awarding grants under RFP #2019-

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<sup>2</sup> The REF is funded through alternative compliance payments (ACPs) made by the distribution utilities and competitive electric power suppliers in lieu of renewable energy certificates (RECs). RECs are available in the market, for sale, at a price that is equal to or less than the applicable ACPs. ACP amounts are adjusted each year, pursuant to RSA 362-F:10, II and III.

007, the program has a remaining balance of \$646,173. Commission Order No. 26,214 recommends Staff issue a second RFP if the balance of funds exceeds \$300,000. The total funding available under this RFP is \$646,173.

The Commission is seeking proposals from qualified individuals, entities, or multiple entities for community solar projects that would provide direct benefits to LMI residential electric customers, as the means of meeting the statutory requirements.

All grant awards are contingent upon final grant agreement approval by the Governor and Executive Council.

## **B. Definitions**

As used in this RFP, the term “project” includes both the equipment and facilities comprising the solar PV system, and the management and administration of financing, funding, operations, maintenance, benefits provision, participating customer income verification, admission, replacement, education, communications, and other related matters.

## **C. Basic Project Eligibility Requirements**

To be eligible for funding, projects must meet the following minimum requirements:

1. Proposers must propose new resident-owned or third party-owned ground-mounted, carport, or rooftop, community solar PV projects, including, but not limited to, those located in or otherwise serving affordable multi-family rental housing or resident-owned manufactured housing communities.
2. Projects must utilize grant funds primarily for capital investments in new solar PV projects that will result in a quantifiable direct benefit to a minimum of five residential electric customers within the same electric distribution utility service territory and where at least the majority of participants must be LMI. Consistent with RSA 362-F:2, X-a, “LMI” is defined as end-user customers whose income is at or below 300 percent of the federal poverty guidelines.<sup>3</sup> For the purposes of this proposal, moderate income participants are defined as end-user customers whose income is more than 200 percent of the federal poverty guidelines but less than or equal to 300 percent of those guidelines.
3. Projects must adhere to the statutory requirements of RSA 362-F:2, X-a and provide direct benefits to LMI customers from the date of initial operation

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<sup>3</sup> The 2020 Federal Poverty Guidelines (FPG) may be found at: <https://www.federalregister.gov/documents/2020/01/17/2020-00858/annual-update-of-the-hhs-poverty-guidelines>.

through the earlier to occur of (i) 20 years, or (ii) the end of the project's useful operational life.

4. Projects must be operational no later than eighteen (18) months after grant agreement approval by the Governor and Executive Council.
5. Proposers may not also request and/or receive funding from the Non-residential Competitive Grant Program, C&I Renewable Energy Rebate Program, or Residential Renewable Electric Generation Incentive Program for the same project.
6. Grantees must commit to seeking REC eligibility in New Hampshire for the project, including but not limited to submitting a complete application for REC eligibility to the Commission.
7. Only community solar PV projects are eligible for funding under this RFP.
8. Projects must be physically located in New Hampshire; any point of grid interconnection must also be in New Hampshire. Neither the project nor the end-user customers to be served by the system may be located in, or a customer of, a municipal electric utility.
9. Proposers must confirm that control of any site(s) on which their project(s) will be constructed has been secured, through ownership, lease, or binding option to acquire or lease such site(s).
10. Projects requesting full funding through this RFP must demonstrate that a minimum of 75% of the project's net revenues from electric generation will directly benefit LMI participants.

## **II. Proposal Submission Requirements**

The content of the proposals must be complete and clear. As explained above, both electronic and paper copies must be submitted. Proposers are strongly encouraged to print or copy their proposals double-sided and stapled in the upper left hand corner. The strongly preferred format includes 12-point font size with 1" page margins. Page numbers should be included. Proposals shall include the following:

### **A. Letter of Transmittal**

1 page, including, at a minimum, the name of the project, contact information for the project lead, and contact information for and signature of the person who has the authority to enter into a binding agreement.

### **B. Project Summary Sheet**

Please use the form provided in Attachment A, "Project Summary Sheet."

### **C. Technical Project Proposal**

1. Overview of project site location (including panoramic and aerial site photos) and description of where array is to be sited.
2. System size (kW AC and kW DC), and generating facility equipment, including manufacturer and model (if applicable) of inverters, panels, racking, production meter and monitoring software.
3. Solar PV system schematic (including one-line drawing), with an attached copy of any relevant engineering or feasibility studies.
4. Solar Site Survey, including a solar shading analysis and estimated annual production; a minimum of 80% optimal insolation is required. Please attach a copy of the Solar Site Survey.
5. Projected kilowatt-hours (kWh) to be generated (annual and lifetime) and the assumptions (e.g., capacity factor) used for the estimate.
6. Project timeline, including start date, key milestones in project progress (e.g., design, permitting, construction, start-up, commissioning), and expected interconnection date.
7. List of permits and approvals required and status of such permits and approvals, including any lease or site-control arrangements with property owners. Please attach a copy of any applicable lease agreement or any other documents that demonstrate site control.
8. Describe the status of the interconnection review process. Provide the date on which each of the following steps occurred or is anticipated to occur: i)submittal of Pre-Application, ii) submittal of Interconnection Request, iii) execution of System Impact Study Agreements, iv) execution of Interconnection Agreement.
9. If a roof-mounted system, demonstrate that a structural analysis has been completed.
10. Describe project ownership structure, identify system owner, identify site owner, if different, including names of all project owners and project site ownership and/or leasing structure, and describe any power purchase agreement (PPA), if applicable. Please attach a copy of any applicable PPA. Please include letter of support from the site owner, if applicable.
11. Describe assignments and roles of individual key project personnel, listing the project developer, solar installation company, NH licensed electrician, and any other project personnel.
12. Describe operations and maintenance plan for the system, including short-term and long-term system operation, maintenance, and monitoring arrangements, and estimated project lifespan, including any associated costs.



13. Describe the Labor and Product Warranties; note that a minimum of five years' labor warranty is required. Projects must include a long-term plan for one full replacement of project inverters.

#### **D. Project Model**

A narrative description comprehensively addressing how the community solar PV project will be designed and managed, and the net benefits that will be provided directly to participating LMI customers:

1. LMI Participant Benefits:
  - i. Describe estimated monthly or annual direct electric bill impacts (in kWh) to LMI participants, if applicable, and any allocation of kW to LMI participants and to non-LMI participants.
  - ii. Describe all benefits to be provided to LMI participants and how those benefits will be provided to LMI participants (e.g., through on-bill credits, group net metering (GNM), rental payment reduction, association dues reduction, etc.). Projects that include direct cash payments to LMI participants will score lower on relevant criteria than projects that do not, because direct cash payments may affect LMI participants' eligibility for other programs, such as TANF, Medicaid, and SNAP (as defined below in subsection vii).
  - iii. Proposers must provide data projections expressed in dollars that clearly demonstrate the annual net direct benefits to each LMI participant for the first 10 years following initial operation of the PV system (data for additional years may be presented if desired).
  - iv. List the total number of LMI participants, including the number of low income and the number of moderate income participants, and the number of non-LMI participants (individual names are not required; general descriptions may be provided, however the proposer must be able to verify names and income levels upon request).
  - v. Describe any costs to LMI participants including initial joining/subscription fees (fee amount must be specified), and any ongoing subscription fees, including amount, frequency, and term and any other costs to LMI participants.
  - vi. Describe any other costs to LMI participants not included above; describe costs to non-LMI participants, including all elements described in 1(v).
  - vii. Describe any identified potential impacts on public benefits program eligibility of participating LMI customers (such as Section 8 rent subsidy, Supplemental Security Income (SSI), Temporary Assistance to Needy

Families (TANF), Medicaid, Supplemental Nutrition Assistance Program (SNAP), etc.).

- viii. Describe possible tax consequences to LMI participants. If the proposed system is to be owned by LMI participants, please describe measures taken to avoid excess production payments from being considered taxable income.
- ix. Describe ownership interest of the LMI participants, if applicable.
- x. Describe if array is located in a solar tax-exempt town/city. Please estimate the annual property tax costs associated with the array.

2. Participant Communications:

- i. Describe how LMI participants will be identified/recruited, initial and ongoing income verification, etc.
- ii. Define proposed method for and cost of income verification. Identify who will pay those costs.
- iii. Describe process for subscription management, including handling new (additional) participants and/or enrollment of replacement participants.
- iv. Describe method of participant engagement, participating customer education and outreach, and ongoing communication.

3. Ownership Model:

- i. Provide a clear description of who will own the community solar PV system and for how long. If ownership will be transferred or sold during the operational life of the system, please explain when and how that will take place, and what, if any, transaction costs will occur and who will pay them.
- ii. If the community solar PV system is third party owned, describe plans for effective management and communications between third party owner and organization providing direct benefits to participating residential electric customers.
- iii. Provide a statement verifying that the grantee will submit an application for the project to be certified as eligible for Renewable Energy Certificates (RECs) in New Hampshire.
- iv. Define the party that owns the RECs and who will benefit from the sale of the RECs.

4. Metering Arrangements:
  - i. Will this project be serving a master-metered building or individual meters?
  - ii. Describe any GNM arrangements, if applicable, including how community solar PV benefits will be provided to participating customers.
  - iii. Describe any on-bill-credit arrangements required, if applicable, including how community solar PV benefits will be provided to participating customers. Indicate if this project intends to qualify for the LMI adder available through the passage of SB 165 (2019).
  - iv. Describe the utility's role in implementing the proposed project. All REF LMI proposers shall communicate directly with the appropriate utility regarding any utility requirements, and shall document such communications and related conclusions, if any, as part of their responses to this RFP.
  - v. Identify the current or expected rate class of the interconnecting meter account holder.

#### **E. Project Development Costs and Financing**

1. Provide total project cost estimate, including itemized costs for equipment, labor, design, permitting, materials, balance of system costs, etc., and any specific quotations from vendors and contractors.
2. State the grant amount being requested from the Commission.
3. Describe the project's financing plan, financing status, and letters of intent/commitment obtained or expected from any third party investors, lenders, or financiers. If securing financing from outside lenders, identify the lending institution and describe the interest rate, term, and all material conditions of the loan(s).
4. Describe all other financial resources and funding sources, including grants, rebates, LMI Adder, tax credits, etc., anticipated to be used by or for the project.
5. Describe and quantify in dollars any funding to be received from community solar PV project participants (both LMI and non-LMI), if applicable, including initial joining fees and ongoing subscription fees including amount, frequency and term (if funding or fees differ for LMI and non-LMI participants, list each cost separately).
6. Describe use of federal investment tax credit (ITC) and/or any other tax incentives.
7. Describe costs of initial project administration, such as LMI participant identification, marketing, education, and income qualification.

## **F. Ongoing Project Management Costs and Financing**

1. Describe any financial resources, including REC revenue, grants, rebates, tax credits, etc., anticipated annually to cover project administration costs, if any.
2. Describe any funding from community solar PV project participants (both LMI and/or non-LMI), if applicable. List any ongoing subscription or other fees (i.e., amount, frequency, and term). If costs differ for LMI and non-LMI participants, list each cost separately.
3. Describe costs of administration such as new LMI participant identification, ongoing annual income verification costs, and participant subscription management costs.

## **G. Qualifications and Experience**

1. Provide a summary of the qualifications, experience, and roles of the project team. As a separate attachment to the proposal, provide resumes of key personnel, including community solar developer, if applicable, solar installation company, contractors and subcontractors, such as electrician(s). List proposer's years of experience, specifically including community solar project experience (resumes should be limited to relevant experience).
2. Summaries of similar community solar or LMI projects undertaken by key personnel (including the date of project installation, summary of project, current status of project, client name, and name and phone number of contact for reference).

## **H. Conflicts of Interest**

Describe any potential conflicts of interest on the part of any members of the project team or its contractors and subcontractors.

## **III. Proposal Selection Process and Criteria**

Proposals will be reviewed and evaluated in a three-tier review process, followed by a contracting phase. The steps are summarized below:

Step 1: Proposal Screening: Commission Staff shall assess completeness and responsiveness of proposals to eliminate non-conforming proposals; Staff may waive or offer a limited opportunity to cure immaterial deviations from RFP requirements if it is determined to be in the best interests of the State;

Step 2: Preliminary Evaluation: An Evaluation Team consisting of Commission Staff shall evaluate and score conforming proposals according to the criteria below, including both technical requirements and funding amount requested (See Attachment B, Scoring Criteria Summary Sheet for an example of the scoring sheet);

Step 3: Staff's Final Evaluation: The Evaluation Team may request and hold interviews, and product demonstrations if applicable (if requested as described below). The Evaluation Team shall score all proposals using the scoring criteria set forth in the RFP and develop a score (individually or a consensus score) for each proposal from 0-100 points. The Evaluation Team shall submit recommendations regarding projects and funding to the Commissioners;

Step 4: Commissioners' Review: Based on the scores developed by the Evaluation Team, the Commissioners will apply the criteria set forth in Puc 2508.02(c)(2) and (3) and determine percentage factors for each proposal. The scores developed by the Evaluation Team will be multiplied by those factors to produce a final score, upon which the proposals will be ranked. Awards will be made within the constraint of available funds; consequently, awards may not be made to all qualifying proposals. In addition, the Commission reserves the right to make partial awards, and/or award grants to a lower-ranked proposal(s) if there are insufficient funds remaining to award the amount requested in a higher-ranked proposal;

Step 5: The Commission shall negotiate, if necessary, and develop grant agreements and related contract documents with selected proposers;

Step 6: The Commission shall submit completed grant agreements to the Governor and Executive Council for approval.

Notwithstanding any other provision of this RFP, this RFP does not commit the Commission to make an award. The Commission reserves the right, at its sole discretion, to reject any or all proposals, or any portions thereof, for any reason, at any time, including, but not limited to, canceling the RFP, and soliciting new proposals under a new acquisition process. If, for any reason, negotiations with the top scorer(s) do not result in a contract(s), despite reasonable efforts made in good faith, the Commission may go to the next highest scorer(s) and seek to negotiate with that proposer(s).

Proposals will be deemed incomplete, nonconforming, and ineligible for grant funding if information required under this RFP is not included in the proposal. Proposals that fail to meet the following criteria will be deemed ineligible:

- Filing of a timely proposal, with the correct number of paper and electronic copies, and all mandatory elements;
- Propose a project for community solar photovoltaic that will provide direct benefits to low, moderate, or low and moderate income residential electric customers who reside within the same electric distribution utility service territory;
- Present a comprehensive plan that clearly demonstrates and quantifies the net direct benefits to participating LMI customers;
- Identification of potential contractors and subcontractors, if applicable, or a detailed process and timeline to identify and engage them;
- Listing of key project milestones and the associated timeline and project schedule; and
- Identification of other funding and financing sources, or in the alternative a statement that there are no other funding or financing sources, and related letters of intent or commitment.

Projects or portions of projects that have requested funds from the Commission's Non-residential Competitive Grant Program, Commercial & Industrial Renewable Energy Rebate Program, or Residential Renewable Electric Generation Incentive Program are also ineligible.

Ineligible projects will not be scored. All projects deemed ineligible will receive notification of that determination in a timely manner.

Commission Staff will evaluate all qualified proposals received for their completeness, clarity, quality of presentation, how well the project meets the goals of RSA 362-F and the REF, including net direct benefits to LMI participants, technical project specifications, project feasibility and readiness, and project administration and management applying the specific criteria identified below.

During the evaluation process, if Commission Staff determines that it is appropriate, proposers may be invited to oral interviews and/or demonstrations, including demonstrations of any proposed systems or technology components. Commission Staff retain the sole discretion to determine whether to conduct oral interviews, with which proposers, and the number of interviews. Proposers are advised that Commission Staff may decide to conduct interviews with fewer than all proposers.

The purpose of oral interviews and demonstrations is to clarify and expound upon information provided in the written proposals. Proposers are prohibited from altering the basic substance of their proposal during the oral interviews and /or demonstrations. Commission Staff may ask the proposer to provide written clarifications of elements in the technical Proposal regardless of whether Staff intend to conduct oral interviews. Information gained from oral interviews and

demonstrations will be used to refine scores assigned based on the preliminary evaluation of the Proposal.

The Commission will consider the following criteria and assign a corresponding point score. A maximum score for all criteria would be 100 points:

1. **Net Direct Benefits to LMI Participants.** Assessment of project will include evaluation of the net direct annual benefits to be provided to participating low and moderate income residential electric customers during the first 10 years following initial operation of the PV system; the amount of grant funding requested in relation to the net direct LMI benefits being provided; the percentage of participants who are LMI; inclusion of moderate income participants; and the percentage of energy produced that is effectively allocated to LMI participants.  
**Maximum Point Score 50**
  
2. **Technical Project Specifications.** Proposal elements evaluated will include cost-effectiveness of project; direct ownership of project; optimal project siting; locational benefits; optimal energy modeling (e.g., Solar Pathfinder) results; labor and equipment warranties; inverter replacement warranty or plan; community solar PV project development team experience.  
**Maximum Point Score 20**
  
3. **Project Feasibility and Readiness.** Proposer proposes a realistic and achievable project with a clear definition of project ownership and team members; secured project site control; identified community solar participants (LMI and non-LMI); a well-defined and feasible project timeline; project personnel demonstrating low moderate income participant experience; all necessary permits obtained or applied for; and financing, funding, and/or investment commitments obtained, if applicable.  
**Maximum Point Score 15**
  
4. **Project Administration and Management.** Proposal presents a clear and detailed approach to initial identification, income verification, recruitment, enrollment, and replacement when necessary of LMI participants; methods of effective long-term project management and administration; minimal administrative and financial impacts on utility and Commission; minimal potential impacts on public benefits program eligibility of LMI customers; and plans for effective LMI participant education, engagement, and outreach.  
**Maximum Point Score 15**

#### IV. General Conditions

- A. Reservation of Rights. The Commission reserves the right: to reject any or all proposals, or any part thereof; to determine what constitutes a conforming proposal, to waive irregularities that it considers non-material to the proposal; to make funding decisions, including partial awards, solely as it deems to be in the best interests of the State; and to negotiate with any party in any manner deemed necessary to best serve the interests of the State. This RFP and all information relating to this RFP (including, but not limited to, fees, contracts, agreements, and prices), are subject to the laws of the State of New Hampshire regarding public information and state procurement of goods and services.
- B. Requests for Additional Information. The Commission reserves the right to request additional information from any or all parties submitting proposals to assist in the evaluation process.
- C. Confidentiality of Proposal and Information Provided to Proposers. Proposals must remain confidential until the effective date of any grant agreement resulting from this RFP. A proposer's disclosure or distribution of proposals other than to the Commission may be grounds for disqualification, unless disclosure was made to other funding sources to obtain funding. Each proposer also agrees to maintain as confidential all information to which it has access in the course of this RFP and any related contracting process, until such time as it is instructed otherwise by the Commission.
- D. Public Disclosure. By submitting a proposal, the proposer acknowledges that the Commission is subject to the Right-to-Know Law, RSA Chapter 91-A. Accordingly, information submitted as part of a proposal in response to this RFP may be subject to public disclosure unless otherwise exempt. *See* RSA 91-A and RSA 21-G:37, VII. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP may be made accessible to the public online through the website Transparent NH: (<http://www.nh.gov/transparentnh/>).

Notwithstanding RSA 91-A:4, information relating to grant applications or proposals shall remain confidential until the grant contract is approved by the governor and executive council, or, if the grant contract does not require approval from the governor and executive council, until the effective date of the grant contract as determined by the issuing agency. RSA 21-G:37. Business financial information, **confidential information, such as personally identifiable information, including, but not limited to, LMI participants' names, addresses, social security numbers,**



**and account numbers**, proprietary information such as trade secrets, financials models and forecasts, and proprietary formulas, are categories of information that may be exempt from public disclosure. RSA 91-A:5, IV.

If a proposer believes any information submitted in response to this RFP should be kept confidential, the proposer must specifically identify that information where it appears in the submission in a manner that draws attention to the designation and must mark/stamp each page of the materials that the proposer claims must be exempt from disclosure as “CONFIDENTIAL.” Proposers must also provide a letter to the person listed as the point of contact for this RFP, identifying the specific page number and section of the information you consider to be confidential, commercial or financial and providing your rationale for each designation. Marking or designating an entire proposal, attachment or section as confidential shall neither be accepted nor honored by the State. Proposers must also provide a separate copy of the full and complete document, fully redacting those portions and shall note on the applicable page or pages that the redacted portion or portions are “confidential.”

Submissions which do not conform to these instructions by failing to include a redacted copy (if necessary), by failing to include a letter specifying the rationale for each redaction, by failing to designate the redactions in the manner required by these instructions, or by including redactions which are contrary to these instructions or operative law may be rejected by the Commission as not conforming to the requirements of the proposal.

Notwithstanding a proposer’s designations, the Commission is obligated under the Right-to-Know law to conduct an independent analysis of the confidentiality of the information submitted in a proposal. If a request is made to the Commission by any person or entity to view or receive copies of any portion of the proposal, the State shall first assess what information it is obligated to release. The Commission will then notify the proposer that a request has been made, indicate what, if any, information the Commission has assessed is confidential and will not be released, and specify the planned release date of the remaining portions of the proposal. To halt the release of information by the Commission, a proposer must initiate and provide to the Commission, prior to the date specified in the notice, a court action in the Superior Court of the State of New Hampshire, at its sole expense, seeking to enjoin the release of the requested information.

- E. Proposers’ Costs.** By submitting a proposal, a proposer agrees that in no event shall the Commission be either responsible for or held liable for any costs incurred by the

- proposer in preparation of or in connection with the proposal, or for work performed prior to the effective date of a resulting grant agreement.
- F.** Equal Employment Opportunity and Non-Discrimination. All parties submitting proposals shall be Equal Opportunity Employers. Funding recipients will be expected to comply with all federal, state, and local laws respecting non-discrimination in employment.
  - G.** Amendment or Cancellation of RFP. The Commission reserves the right to amend or cancel this RFP at any time. Proposers should check the Commission website at <http://www.puc.nh.gov/Sustainable%20Energy/RFPs.htm> for any addenda to this RFP before submitting their proposals, and for answers to questions other prospective proposers may have submitted, if any.
  - H.** Vendor Registration Requirements. Recipients of funds will be required to submit their Taxpayer Identification Number (TIN), Employer Identification Number (EIN), or Social Security Number (SSN), and to register as a vendor with the State of New Hampshire.
  - I.** Grant Agreement General Provisions. The terms and conditions set forth in the State's "General Provisions" for grant agreements, attached hereto as Attachment C, will apply to the grant award and funding agreement that the Commission will enter into with grant recipients. In addition, each agreement will be supplemented by three exhibits: Exhibit A will set forth the scope of services and reporting requirements in detail; Exhibit B will set forth the amount of the grant, any required milestones, preconditions to reimbursement, the amount of grant holdback or retainage, and the documentation requirements for, and conditions of, grant payments; and Exhibit C will include any special provisions, including any modifications to the General Provisions regarding insurance coverage and other matters.
  - J.** Project Changes. Once a grant agreement becomes effective, any subsequent material changes or modifications to the project or agreement terms, including, but not limited to, changes in project site plan, design, equipment, or other major components, overall project budget, key project personnel, LMI customer participation, project funding or financing model, project administration, management, or communications, or proposed technical details, must be submitted for review and evaluation by the Commission. Amendments to the Grant Agreement are subject to approval by the Governor and Executive Council.
  - K.** Nature of RFP. This RFP is not an offer. Neither the Commission nor this RFP shall create any commitment on the part of the State or confer any rights on the part of the

proposer unless and until a written grant award agreement is executed between the Commission and the proposer, and approved by the Governor and Executive Council.

- L. Reporting, Inspection, and Audit.** There will be reporting and inspection requirements for the projects that are awarded grants under this solicitation. These may include, but are not limited to, development and construction progress reports and the reporting of expenditures, annual energy production for up to ten years after the project becomes operational, numbers of LMI and non-LMI participants, and accounting for net direct benefits provided to participating LMI customers. Pursuant to Puc 2508.04, any recipient of any monies disbursed from the REF shall make its books, records, and facilities available to the Commission for the purpose of allowing the Commission to discharge its audit responsibilities pursuant to RSA 362-F:10, I.
- M. Property of the State.** All materials and data submitted or received in response to this RFP will become the property of the State and will not be returned to the proposer. Upon grant award and agreement, the State reserves the right to use any information presented in any proposal, provided that its use does not violate any copyrights, or other provisions of law, including RSA 91-A.
- N. Reimbursement of Project Costs.** Payment to grantees under this program is on a cost-reimbursable basis, unless approved otherwise. Costs incurred prior to final grant agreement approval by the Governor and Executive Council are not eligible for reimbursement. Reimbursement may be contingent on the occurrence of specified milestone events and the satisfaction of other conditions as set forth in the approved grant agreement. In accordance with the terms of the grant, a grantee is required to submit requests for reimbursement together with supporting documentation of the paid expenditures. The Commission will withhold payment of a percentage of any grant award until final completion and interconnection of the project.
- O. Ethical Requirements.** From the time this RFP is published until a grant is awarded, no proposer shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded an RFP, or similar submission. RSA 21-G:38. Any proposer that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any proposer, or member of proposer's board or senior management, who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from bidding on the RFP, or similar request for submission, and every such proposer shall be disqualified from bidding on any RFP or similar request for submission issued by any

state agency. A proposer that was disqualified under this section because of a pending criminal charge which is subsequently dismissed, results in an acquittal, or is annulled, may notify the Department of Administrative Services, which shall note that information on the list maintained on the State’s internal intranet system, except that, in the case of annulment, the information shall be deleted from the list.

- P. Challenges on Form or Process of the RFP.** Any challenge regarding the validity or legality of the form and procedures of this RFP, including, but not limited to, the evaluation and scoring of proposals, shall be brought to the attention of the Commission at least ten (10) business days prior to the deadline for submission of proposals, by sending writing notice to the RFP point of contact, Ms. Juli Pelletier, the Commission’s Business Office Director. By submitting a proposal, the proposer is deemed to have waived any challenges to the Commission’s authority to conduct this procurement and the form and procedures of this RFP.

**V. Grant Agreement and Certificates**

Successful proposers will be expected to enter into a grant agreement with the State of New Hampshire. A copy of the General Provisions of the grant agreement to be signed by the parties is included as Attachment C to this RFP. In addition, project-specific terms and conditions will be negotiated with the proposer and included in the grant agreement.

**Proposers will be required to fill in this form ONLY upon the Commission’s approval of the proposal for REF grant funding.**

Successful proposers will also be required to provide the following certificates prior to entering into a grant agreement with the Commission:

Secretary of State’s Office Certificate of Good Standing (“CGS”)	Individuals contracting in their own name do not need a CGS. Business entities and trade names need a CGS, except for nonresident nonprofit corporations.
Certificate of Vote /Authority (“CVA”)	Individuals contracting in their own names do not need a CVA. Business entities and trade names need a CVA.
Certificate of Insurance	Certificate of Insurance form attached with insurance coverage required under the grant agreement. Modifications of insurance coverage required will be specified in Exhibit C to the agreement.
Workers’ Compensation	Grantee must demonstrate compliance with or exception from RSA 281-A (and, if applicable, RSA 228:4-b and RSA 21-I:80, and any other applicable laws or rules).

**Proposers will be required to provide these certificates ONLY upon selection of the proposal to receive REF grant funding by the Commission.**

**Attachment A. PROJECT SUMMARY SHEET**

Please fill in the Project Summary Sheet and insert directly following the letter of transmittal in the final proposal submission.

Please see next page.

<b>Project Summary Sheet</b>	
<b>Project Name</b>	
<b>Project Team</b> <i>(entities, contacts, roles)</i>	
<b>Proposer Name</b> <i>(name of entity to contract with the Commission to receive funds)</i>	
<b>Contact Information for person authorized to enter into binding grant agreement</b>	
<b>Project Location</b>	
<b>Summary of Project Model</b>	
<b>Description of net direct benefits provided to LMI participants; including annual quantified value of net direct benefits</b>	
<b>Description of net direct benefits provided to non-LMI participants; including annual quantified value of net direct benefits</b>	

<b>Participants receiving direct benefits</b>	<b>Total participants:</b>	<b># of low income:</b>	<b># of moderate income:</b>	<b># of non-LMI:</b>
<b>Capacity and Anticipated Annual Energy Production</b>	<b>kW DC and kW AC</b>		<b>(Modeled kWh/year)</b>	
<b>Total Project Cost (\$)</b>				
<b>Total Funding Requested under the RFP (\$)</b>				
<b>Total Costs to LMI Participants, including joining &amp; subscription fees, other payment commitment</b>				
<b>Eligible for LMI Adder?</b>				
<b>Anticipated Project Completion Date</b>				

**Attachment B. SCORING CRITERIA SUMMARY SHEET**

**Project Name:**

**Proposer Name:**

**Grant Amount Requested:**

<b>Criteria</b>	<b>Maximum Score</b>	<b>Score</b>	<b>Comments</b>
Net Direct Benefits to LMI Participants	50		
Technical Project Specifications	20		
Project Feasibility and Readiness	15		
Project Administration and Management	15		
<b>Total</b>	<b>100</b>		

**Comments:**



## Attachment C. GENERAL PROVISIONS

A copy of the State of New Hampshire's General Provisions to be executed by the parties can be found at

<http://www.puc.nh.gov/Sustainable%20Energy/RFPs/2011%20C&I%20RFP/Grant%20Agreement%20Form-General%20Provisions.pdf>.

**Proposer will be required to fill in this form ONLY if and when its proposal is selected by the Commission to receive REF LMI grant funding.**

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

GENERAL PROVISIONS

1. Identification and Definitions.

<b>1.1. State Agency Name</b>		<b>1.2. State Agency Address</b>	
<b>1.3. Grantee Name</b>		<b>1.4. Grantee Address</b>	
<b>1.5. Effective Date</b>	<b>1.6. Completion Date</b>	<b>1.7. Audit Date</b>	<b>1.8. Grant Limitation</b>
<b>1.9. Grant Officer for State Agency</b>		<b>1.10. State Agency Telephone No.</b>	
<b>1.11. Grantee Signature</b>		<b>1.12. Name &amp; Title of Grantee Signor</b>	
<b>1.13. Acknowledgment: State of _____, County of _____, on</b> <b>__/__/____, Before the undersigned officer, personally appeared the person identified in block</b> <b>1.11., known to me (or satisfactorily proven) to be the person whose name is signed in block</b> <b>1.12., and acknowledged that he executed this document in the capacity indicated in block</b> <b>1.12.</b>			
<b>1.13.1 Signature of Notary Public or Justice of the Peace</b>  (Seal)			
<b>1.13.2. Name and Title of Notary Public or Justice of the Peace</b>			
<b>1.14. State Agency Signature(s)</b>		<b>1.15. Name &amp; Title of State Agency Signor(s)</b>	
<b>1.16. Approval by Attorney General (Form, Substance and Execution)</b>  <b>By:</b> _____ <b>Assistant Attorney General, On:</b> __/__/____			
<b>1.17. Approval by the Governor and Council</b>  <p style="text-align: right;"><b>On:</b> __/__/____</p>			

2. SCOPE OF WORK: In exchange for grant funds provided by the State of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as “the State”), the Grantee identified in block 1.3 (hereinafter referred to as “the Grantee”), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being hereinafter referred to as “the Project”). Except as otherwise specifically provided for herein, the Grantee shall perform the Project in the State of New Hampshire.

3. EFFECTIVE DATE; COMPLETION OF PROJECT.

3.1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the effective date").

3.2. Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in its entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").

4. GRANT AMOUNT; MANNER OF PAYMENT; LIMITATIONS.

4.1. The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

4.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

4.3. In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 4.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

4.4. The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

4.5. Notwithstanding anything 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 Grant limitation set forth in block 1.8 of these general provisions.

5. SPECIAL CONDITIONS. Modifications to these General Conditions and any additional grant conditions shall be set forth in Exhibit C attached hereto.

6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all applicable statutes, regulations, and orders of federal, state, county, or municipal authorities that impose any legal obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. RECORDS AND ACCOUNTS.

7.1. Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2. Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. PERSONNEL.

8.1. The Grantee shall, at its own expense, contract for or provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who is a State officer or employee, elected or appointed.

8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. DATA; RETENTION OF DATA; ACCESS.

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 or data, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2. Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3. No data shall be subject to copyright in the United States or any other country by anyone other than the State, unless otherwise specified in Exhibit C..

10. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those 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 Grantee notice of such termination.

11. EVENT OF DEFAULT; REMEDIES.

11.1. Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1. failure to perform the Project satisfactorily or on schedule; or

11.1.2. failure to submit any report required hereunder; or

11.1.3. failure to maintain, or permit access to, the records required hereunder; or

11.1.4. failure to perform any of the other covenants and conditions of this Agreement.

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

11.2.1. give the Grantee 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 Grantee notice of termination; and

11.2.2. give the Grantee 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 Grant Amount which would otherwise accrue to the grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3. set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

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

12. TERMINATION.

12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. CONFLICT OF INTEREST. No representative, officer, member or employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any contractor, subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its representatives, officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, worker's compensation or emoluments provided by the State to its employees.

15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State.

16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses

Initials \_\_\_\_\_

Date \_\_\_\_\_

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 on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or its contractors, subcontractor, or subgrantee or other agent of the Grantee in the performance of the Project. 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 shall survive the termination of this agreement.

17. INSURANCE AND BOND.

- 17.1. The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
- 17.1.1 statutory worker's compensation and employees liability insurance for all employees engaged in the performance of the Project, and
- 17.1.2 comprehensive general liability insurance for all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State. A certificate of insurance demonstrating compliance with subparagraphs 17.1 and 17.2 shall be attached to this Grant Agreement.

18. 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, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver 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 default on the part of the Grantee.
19. 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 first above given.
20. 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 Council of the State of New Hampshire.
21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.
22. 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.
23. 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.

Initials \_\_\_\_\_  
Date \_\_\_\_\_