

SPONSORED SERVICES AGREEMENT

The Southern New Hampshire Planning Commission
and
The University of New Hampshire

This **SPONSORED SERVICES AGREEMENT** ("Agreement") between the Southern New Hampshire Planning Commission ("Sponsor") and the University of New Hampshire ("UNH") becomes effective as of the date of the last Authorized Representative's signature ("Effective Date").

The work contemplated by this Agreement is of mutual interest and benefit to UNH and to the Sponsor, and will further the educational, research, or outreach objectives of UNH in a manner consistent with its status as a non-profit, tax-exempt, educational institution.

THEREFORE, the parties hereto agree as follows:

1. **STATEMENT OF WORK.** UNH agrees to use reasonable efforts to perform the work as described in Exhibit A to this Agreement ("Project").
2. **PROJECT DIRECTOR.** The Project will be supervised by Fay Rubin, the "Project Director." If, for any reason this individual is unable to continue to serve as Project Director and a successor acceptable to both UNH and the Sponsor is not available, this Agreement shall be terminated as provided in Article 6.
3. **PERIOD OF PERFORMANCE.** The Project shall be conducted during the period November 10, 2008 (the "Starting Date") through January 30, 2009 (the "Completion Date"). The Completion Date will be subject to extension only by mutual written agreement of both parties' authorized representatives.
4. **TOTAL COST.** The total cost for performance of the Project is estimated at \$11,606.
5. **PAYMENT.** This Agreement is designated as: x Cost-Reimbursable Fixed Price.

If Cost-Reimbursable: Sponsor will reimburse UNH for all direct and F&A (Facilities & Administrative or indirect) costs incurred in the performance of the Project, which shall not exceed the total cost estimated in Article 4 without written authorization from the Sponsor. UNH may submit invoices to Sponsor, at the address shown below, at least quarterly but not more frequently than monthly. Invoices will show the period for which reimbursement is being requested and will itemize the costs by major budget category, as proposed. The invoice will show "current" and "cumulative" costs. Sponsor will pay properly submitted invoices within 30 days of receipt. UNH shall submit its final invoice, marked "Final," no later than 90 days after the Completion Date of this Agreement as specified in Article 3 - Period of Performance. The final invoice will serve as UNH's final report of expenditures.

If Fixed-Price: Sponsor will pay UNH for all costs indicated in Article 4. The parties estimate that this amount is sufficient to support the Project. UNH may submit to Sponsor a revised budget requesting additional funds if Sponsor requests a change in the Project scope of work. UNH has the authority to rebudget costs at the discretion of the Project Director, as long as the rebudgeting is consistent with the goals of the Project. Sponsor is not entitled to any refund of funds not spent as of the Completion Date if all Project commitments have been met.

An invoice will be sent to the following address at the conclusion of the project:

David J. Preece, Executive Director/CEO
Southern NH Regional Planning Commission
438 Dubuque Street
Manchester, NH 03102

Checks shall be made payable to the University of New Hampshire and shall be sent to:

UNH Office of Sponsored Research
Service Building, Room 109
University of New Hampshire
Durham, NH 03824-3585

6. **TERMINATION & NOTICES.** Performance under this Agreement may be terminated by the Sponsor upon sixty (60) days' prior written notice to UNH's authorized representative at the address given below. Performance may be terminated by UNH (1) if the Sponsor fails to make payment to UNH in accordance with the terms stated in Article 5 above and does not remedy the non-payment within thirty (30) days' written notice from UNH or (2) if circumstances beyond UNH's reasonable control preclude continuation of the Project. Upon termination by either party, UNH will be reimbursed for all costs and non-cancelable commitments incurred in the performance of the Project up to and including the effective date of termination, such reimbursement shall not exceed the total estimated project cost specified in Article 4.

Any notice or communication required or permitted to be given hereunder will be in writing and, except as otherwise expressly provided in this agreement, will be deemed given and effective (i) when delivered personally or by fax or (ii) when received if sent by email, overnight courier, or mail:

To UNH: Karen Jensen Office of Sponsored Research University of New Hampshire 51 College Road Durham, NH 03824 Attn: Sr. Grant & Contract Administrator Tel: 603-862-4865 Fax: 603-862-3564	To Sponsor: David J. Preece, AICP Executive Director/CEO Southern NH Planning Commission 438 Dubuque Street Manchester, NH 03102 Tel: 603-669-4664 Fax: 603-669-4350
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7. **REPRESENTATIONS AND WARRANTIES.** UNH MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING THE WORK ON THE PROJECT OR ANY INTELLECTUAL PROPERTY RIGHTS, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. Specifically, and not to limit the foregoing, UNH makes no warranty or representation (i) arising out of any course of dealing; (ii) regarding the validity or scope of the Project outcomes or any intellectual property rights optioned or granted hereunder; and (iii) that the exploitation of the Project outcomes or any intellectual property rights will not infringe any patents or other intellectual property rights of UNH or of a third party.

IN NO EVENT SHALL UNH, ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND STUDENTS (OR THEIR SUCCESSORS, HEIRS OR ASSIGNS), BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ECONOMIC DAMAGES OR INJURY TO PERSONS OR PROPERTY AND LOST PROFITS, LOSS OF DATA OR DELAY OR TERMINATION OF PROJECT, OR FROM USE OF PROJECT OUTCOMES REGARDLESS OF WHETHER UNH SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING. THIS ARTICLE 7 SHALL SURVIVE THE EXPIRATION OR ANY EARLIER TERMINATION OF THIS AGREEMENT.

8. **INSURANCE.** Each party will maintain Workers' Compensation insurance or other coverage on its employees as required by New Hampshire or other applicable law, and will self-insure or maintain insurance covering its liability under this Agreement. Each party will procure and maintain during the term of this Agreement comprehensive liability insurance to the full amount of their respective insurance limits, but in no event less than \$1 million per occurrence and \$2 million aggregate, with a reputable and financially secure insurance carrier that is properly licensed or authorized to do business in the applicable jurisdiction.
9. **INTELLECTUAL PROPERTY.** The parties to this Agreement do not anticipate that any intellectual property (e.g., inventions or copyrights) will be created in the performance of the Project; however, in the unlikely event that intellectual property is created it will vest in the creator or their employer, as appropriate, and no rights to such intellectual property are transferred under this Agreement. In addition, no rights to any pre-existing intellectual property that shall be the subject or focus of the Project are transferred under this Agreement.
10. **PUBLICATIONS AND REPORTS.** The Project Director will submit deliverables to Sponsor as described in Exhibit A. UNH will be free to publish or otherwise disseminate the results of the Project after providing the Sponsor with a thirty (30) day period in which to review each manuscript or other public disclosure to identify patentable subject matter

and to identify any inadvertent disclosure of the Sponsor's Proprietary Information, as defined in Article 11. If necessary to permit the preparation and filing of U.S. patent applications, UNH may, in its sole discretion, agree to an additional review period not to exceed sixty (60) days.

11. **PROPRIETARY INFORMATION.** For the purposes of this Agreement, "Proprietary Information" refers to information of any kind which is disclosed by either party and which, by appropriate marking, is identified as confidential and proprietary at the time of disclosure. Each party shall use the other's Proprietary Information solely for the purposes of the Project and further agree that all Proprietary Information exchanged in connection with this Agreement shall be kept confidential by the receiving party unless specific written release is obtained from the disclosing party. This confidentiality requirement shall not attach to information that a party is obligated to produce pursuant to an order of a court of competent jurisdiction or a valid administrative or Congressional subpoena. It is agreed that the disclosure of Proprietary Information shall not be construed as a grant of any right or license with respect to such information except as set forth herein or in a duly executed license agreement.
12. **INDEPENDENT CONTRACTOR.** UNH and Sponsor shall act hereunder only as independent contractors, and nothing herein contained shall be construed to be inconsistent with that relationship or status.
13. **INDEMNIFICATION.** Sponsor will indemnify, defend, and hold harmless UNH, its trustees, directors, officers, employees, agents, and students (or their successors, heirs or assigns) ("Indemnitees") from any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses of litigation) incurred by or imposed upon the Indemnitees or any one of them in connection with any claims, suits, actions, demands, or judgments arising out of or connected with this Agreement or work done on the Project under this Agreement, except to the extent that the liability is due to the gross negligence and willful misconduct of UNH. UNH will promptly notify Sponsor of any claim and will cooperate with Sponsor in the defense of the claim. Sponsor will, at its own expense, provide attorneys reasonably acceptable to UNH to defend against any claim with respect to which Sponsor has agreed to indemnify UNH. This indemnity will not be deemed excess coverage to any insurance or self-insurance UNH may have covering a claim. Sponsor's indemnity will not be limited by the amount of Sponsor's insurance. The provisions of this clause will survive termination of this Agreement.
14. **ASSIGNMENT.** This Agreement shall not be assignable by either party without the prior written consent of the other party; any attempted assignment is void.
15. **GOVERNING LAW.** The validity and interpretation of this Agreement and the legal relationship of the parties to it shall be governed by the laws of the State of New Hampshire and any applicable United States Federal law, and shall be enforced in a court of competent jurisdiction in New Hampshire.
16. **FORCE MAJEURE.** Neither party shall be responsible to the other for failure to perform any of the obligations imposed by this Agreement, provided such failure shall be

occasioned by fire, flood, explosion, lightning, windstorm, earthquake, subsidence of soil, failure or destruction, in whole or in part, of machinery or equipment, or failure of supply of materials, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor disturbance, transportation difficulties, labor shortage or any cause beyond its reasonable control.

17. **ENTIRE AGREEMENT & COUNTERPARTS.** Unless otherwise specified, this Agreement and its Exhibits embody the entire understanding between UNH and the Sponsor for the Project, and any prior or contemporaneous representations, either oral or written, are hereby superseded. No amendments or changes to this Agreement, including without limitation, changes in the statement of work, total estimated cost and period of performance, shall be effective unless made in writing and signed by authorized representatives of the parties. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. A facsimile or .pdf copy of a signature of a party hereto shall have the same effect and validity as an original signature.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement, effective as of the most current day and year written below.

UNIVERSITY OF NEW HAMPSHIRE

SOUTHERN NH REGIONAL
PLANNING COMMISSION

Signature: _____

Signature: _____

Name:

Name:

Title:

Title:

Date: _____

Date: _____

I, Fay Rubin, named as Project Director, acknowledge that I have read this Agreement in its entirety and will use reasonable efforts to uphold my obligations and responsibilities set forth herein:

Signature: Fay Rubin

Date: 11/25/08

EXHIBIT A
Regional Open Space Data Sets for CTAP Communities
STATEMENT OF WORK

The GRANIT staff at Complex Systems Research Center, University of New Hampshire, will update the Natural Services Network and will produce a regional data archive comprising a suite of data sets suitable for use in community natural resource inventories. The archive will cover the 26 towns in the 193 Community Technical Assistance Program (CTAP). Data sets housed in the archive will be standardized and documented, and will thus support and facilitate subsequent efforts to develop local natural resource inventories/open space plans that are regionally coherent.

The regional archive will include current versions of the data layers listed below, e.g. all layers referenced in the “Natural Resources: An Inventory Guide for NH Communities (2001) – Table 1 Revised October 2007” that are presently available in digital form from the GRANIT database and/or other state sources, or may be derived from such. It may also include other data sets relevant to local planning, as identified by GRANIT in consultation with the project sponsor.

- Political boundaries
- Road centerlines
- Pipelines
- Railroads
- Surface water (from NH National Hydrography Dataset)
- Watershed boundaries
- Conservation lands
- Stratified drift aquifers
- Favorable gravel well analysis (from DES)¹
- Wellhead protection areas (from DES)¹
- Public water supply sources (from DES)¹
- National Wetlands Inventory
- Hydric soils
- Farmland soils (prime agricultural soils and soils of statewide importance)
- Unfragmented roads²
- Co-occurring resources²
- NH Wildlife Action Plan: wildlife habitats³
- NH Wildlife Action Plan: highest ranked habitats by ecological condition³
- NH Wildlife Action Plan: focus areas³
- Natural Services Network
- Land Conservation Plan: Conservation Focus Areas⁴
- Land Conservation Plan: Forest Ecosystems Model⁴
- Land Conservation Plan: Forest Ecosystems Zones⁴
- Land Conservation Plan: High Quality Watersheds⁴

¹Data from sources other than GRANIT will be incorporated to the extent data are made available in December, 2008.

²Data will be derived from existing sources based on the description in the above-referenced document.

³These data sets are presently available from GRANIT but may be subject to further updating by NH Fish & Game. The regional archive will incorporate data made available as of December, 2008.

⁴While the document indicates that other maps from the Land Conservation Plan are available through GRANIT, only these data sets have been provided as GIS data layers. The other maps have been provided as pdf's, and are therefore not available for incorporation in the archive.

Deliverables from this effort will be provided to the sponsor via ftp file transfer and/or DVD, and will include:

- An ESRI 9x-compatible geodatabase comprising feature classes and associated documentation for the data sets listed above.
- An ESRI 9x-compatible map document (.mxd) that presents the data sets using standardized symbology.

				Year 1	Year 2	Year 3	Total
A. Faculty	Base	Mos or %					
PI	0	Acad 0.00	611f60	0	0	0	0
		Summer 0.00	611psr	0	0	0	0
		Cal 0.00	615f10	0	0	0	0
Co-PI	0	Acad 0.00	611f60	0	0	0	0
		Summer 0.00	611psr	0	0	0	0
		Cal 0.00	615f10	0	0	0	0
Other Sr Personnel	0	Acad 0.00	611f60	0	0	0	0
		Summer 0.00	611psr	0	0	0	0
		Cal 0.00	615f10	0	0	0	0
Total Faculty				0	0	0	0
B. Other Personnel							
Grad Students AY		0.0%	613NZ0	0	0	0	0
Grad Students SU (Partial Fringe applies)		8.4%	613NZ0	0	0	0	0
Subtotal Grad Students				0	0	0	0
Post Doctoral Assoc			611Q90	0	0	0	0
Pat Staff			615f10	6,000	0	0	6,000
OS Staff			617f10	0	0	0	0
Labor (incl student)		09hl	61SNZ0	0	0	0	0
Labor (Partial Fringe exempt)		09sl	61snsh	0	0	0	0
Total Salaries & Wages (A+B)				6,000	0	0	6,000
C. Fringe Benefits	0	8.4%	65YF10	0	0	0	0
	0	28.2%	65YF10	0	0	0	0
	6,000	40.8%	65YF10	2,448	0	0	2,448
Subtotal Fringe				2,448	0	0	2,448
Total Salaries, Wages & FB (A+B+C)				8,448	0	0	8,448
D. Tuition			721100	0	0	0	0
Grad Health Insurance (non F&A)				0	0	0	0
E. Equipment			740000	0	0	0	0
F. Travel - Domestic			710000	200	0	0	200
F. Travel - Foreign			710200	0	0	0	0
G. Other Direct Costs							
Materials/Supplies/Communication			711200	0	0	0	0
Publications Cost			711200	0	0	0	0
Computer Services			717000	0	0	0	0
Subcontracts			711200	0	0	0	0
Consultants			730001	0	0	0	0
Service Providers			717200	0	0	0	0
Participant Support			722200	0	0	0	0
Other				0	0	0	0
Other (F&A Exempt)				0	0	0	0
Subtotal Other Direct Costs				0	0	0	0
Total Direct Costs				8,648	0	0	8,648
H. Facilities & Administrative		0.00	760300	2,958	0	0	2,958
Total Direct + F&A				11,606	0	0	11,606
I. Cost Sharing (if any)				0	0	0	0
J. Program Income (if any)				0	0	0	0
Total Project Costs				11,606	0	0	11,606
MTDC Base				8,649	0	0	8,649

F&A Rate	34.20%	34.20%	34.20%
Full Fringe Rate	40.80%	43.80%	43.80%
Postdoc rate	28.20%	28.50%	28.50%
FICA Rate	8.40%	8.70%	8.70%
Inflation Factor	103.50%	103.50%	103.50%