



State of New Hampshire

DEPARTMENT OF TRANSPORTATION

Long Term Lease/Concession Agreement of the Dover and Portsmouth Bus Terminals

RFP DOT 2020-01

RFP ISSUED.....April 15, 2020

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CONTRACT TYPE.....FACILITIES LEASE/CONCESSION AGREEMENT

PROPOSALS DUE..... June 26, 2020

AT: New Hampshire Department of Transportation

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1. OVERVIEW AND SCHEDULE

1.1. Executive Summary

The New Hampshire Department of Transportation (NHDOT) is seeking a partnership through the execution of a Facilities Lease/Concession Agreement with a private entity (hereinafter known as the Operator) to undertake the potential development and long-term maintenance and operation of two bus terminals/park & ride lots (facilities) located in Portsmouth and Dover, New Hampshire.

The Portsmouth and Dover facilities were constructed in 2000 and 2007, respectively. The NHDOT is required to fund increasing maintenance and operating costs, along with increased capital costs for building improvements and security systems. Each facility also warrants expanded parking. The ability to address these needs, while providing patrons with high quality facilities and services, is difficult given the available Federal and State funding and resources dedicated to transit-related maintenance and capital improvements.

Increased transit demand, carpooling and vanpooling, coupled with the lack of available parking and parking abuse at both locations, has resulted in a negative impression of the facilities and of services offered. There is a continuous challenge in providing a positive experience, and with anticipated growth, the current operational model is unsustainable.

Numerous locations throughout the United States have proven fee-based parking to be an effective management tool. Funds collected support expansion of transit services, capital improvements, maintenance, and operating costs. The State is pursuing a long-term partnership with an Operator to manage all aspects of maintenance and operations at the two facilities, including parking, bus terminal operations, maintenance, capital improvements, and any user-based concessions. The Operator must implement parking control measures, which may include fee-based parking, as well as other revenue-generating measures noted within this Request for Proposal (RFP) at the facilities.

1.2. Proposed Public Private Partnership

The State will negotiate and enter into a Long Term Lease/Concession Agreement (Agreement or Ground Lease Contract) with the Operator for no less than 30 years, during which time the Operator will be responsible for all financial obligations for developing, maintaining, operating, and potentially expanding the facilities, with the goal of enhancing transit-related services. At the sole discretion of the State, the Agreement may be extended by two five-year options.

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1.3. Schedule

The following table provides a schedule of events for this RFP.

EVENT	DATE(S)	TIME
RFP & Ground Lease Contract released to pre-qualified Operators	April 15, 2020	
Operator Review and Comment Period Begins	April 15, 2020	
Operator Site Visits	Week of April 20, 2020	
Operator Comment Period Ends/Inquiry Submittal Deadline	May 1, 2020	2:30 PM
NHDOT Response to Comments/RFP Addenda Issued	May 15, 2020	
Final Date for Delivery of Proposal Submissions	June 26, 2020	2:30 PM
Invitations for Operator Interviews Issued	July 2, 2020	
Operator Interviews with Selection Committee	Week of July 13, 2020	
Selection Committee Recommendation to P3 Commission	Late July 2020	
Long Range Capital Planning and Utilization Committee Review & Approval	August 2020	
Finalize Ground Lease Contract Document Developed	August 2020	
Governor and Executive Council Approval of Ground Lease Contract	September 2020	
Ground Lease Contract Effective Date (estimated)	Subsequent to G&C approval as determined during contract development phase with selected Operator	

The State reserves the right to alter or change the schedule as needed, or to cancel the process entirely.

1.4. Contract Award

The Agreement awarded by the State will be based upon criteria, standards, and scoring identified in this RFP. Each Operator Proposal will be considered as a whole solution, without

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limitation, including all services proposed, qualifications of the Operator and any subcontractor/sublessee, and Revenue Proposal.

1.5. Contract Type

The State plans to execute an Agreement with the selected Operator. The Agreement is a defined document that shall incorporate the material terms of this RFP, the selected Proposal, and typical boilerplate provisions generally found in a ground lease contract. A draft Agreement containing terms and provisions is found in Appendix F.

An executed Agreement will be contingent upon the necessary governmental approvals, including but not limited to, Long-Range Capital Planning and Utilization Committee (LRCPUC) and Governor and Executive Council approvals.

In return for the use of State property described in this RFP for the purpose of expanding, operating and maintaining the facilities in accordance with the requirements of this RFP, the Early Development Agreement between the Federal Highway Administration and the New Hampshire Department of Transportation (EDA), Federal and State requirements, the Operator agrees to pay Rent as identified in Appendix F.

1.6. Agreement Term

Approval of this Agreement by the Governor and Executive Council is anticipated to be September 2020.

The term of the Agreement is thirty (30) years, with two five-year options to extend, at the sole discretion of the State.

The Operator's initial term shall begin the Effective Date identified in the Agreement. Failure to commence on the Effective Date will not relieve the Operator from paying Rent as defined in the Revenue Proposal.

The Operator shall operate and maintain the facilities for and on behalf of the State of New Hampshire. In the event of termination of the Operator's Ground Lease Contract, these facilities, including all amenities and appurtenances purchased during the term of the Agreement, shall become the unencumbered property of the State and the State will be free to enter into a Ground Lease Contract with another Operator.

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1.7. Definition of Terms

Capitalized terms, not otherwise defined herein, shall have the meaning set forth in the Terms and Definitions, located in Appendix G.

1.8. Conflict of Terms and Provisions

In the event of any inconsistency between the terms or provisions of this RFP and any terms or provisions of the EDA, the terms and provisions of the EDA shall govern and control.

2. STATE AGENCIES INVOLVED

2.1. New Hampshire Department of Transportation

The NHDOT is an agency of the State under the executive direction of a Commissioner of transportation. NHDOT is responsible for the following general functions: (a) Planning, developing, and maintaining a State transportation network to provide for safe and convenient movement of people and goods throughout the State by means of a system of highways, railroads, air service, mass transit, and other practicable modes of transportation. The network supports State growth and economic development and promotes the general welfare of the citizens of the State. (b) Performs regulation of transportation activities required by law which is not within the jurisdiction of another State agency.

NHDOT is responsible for nearly 4,700 miles of roadway, 3,850 State and municipal bridges, 25 airports, 203 miles of active State-owned railroad utilized by 6 railroad operators, as well as 27 State-owned park & ride lots. There are seven park & ride lots with bus terminals owned by NHDOT, such as Portsmouth and Dover, that are managed and operated by commuter bus operators through existing agreements with NHDOT.

2.2. New Hampshire Department of Transportation Bureau of Rail and Transit

The Bureau of Rail and Transit manages public transportation programs and State-owned railroad properties, and provides rail safety inspections. Directly related to this RFP is the Bureau's oversight of the seven State-owned bus terminal/park & ride lots mentioned in Section 2.1. As such, the Bureau of Rail and Transit will be responsible for providing oversight during the term(s) of the Agreement. In addition, the Bureau provides oversight of 11 public transit providers in the State as well as intercity/commuter bus transportation supplied by a range of private companies.

2.3. New Hampshire Department of Transportation Bureau of Turnpikes

The New Hampshire Bureau of Turnpikes oversees all operations on 89 miles of limited access highway, 36 miles of which are part of the US Interstate Highway System, comprising a total of

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approximately 658 total lane miles. Since beginning operations in 1950, the Turnpike System has contributed to the development of New Hampshire and has also been a major factor in the growth of the tourism industry in the State. The Turnpike System is comprised of three limited-access highways: the Blue Star Turnpike (I-95) and the Spaulding Turnpike, collectively referred to as the Eastern Turnpike, and the F.E. Everett Turnpike, known as the Central Turnpike.

The Bureau of Turnpikes owns the Dover bus terminal and park-and-ride facility located at 23 Indian Brook Drive in Dover, New Hampshire.

2.4. New Hampshire Department of Administrative Services Division of Public Works

The New Hampshire Division of Public Works (NHDPW) is responsible for oversight of all phases of improvements, from project initiation and program development to final design and construction of all State-owned and supported land and buildings unless specifically assigned to other agencies by law. The Division's project managers work closely with State agencies throughout the planning, design, and construction process. The NHDPW oversees the work of selected consulting architectural, engineering and other building organizations. The NHDPW professional staff may also prepare building studies, develop final design and construction documents, as well as provide construction administration for the general contractors on both new construction and building repair projects.

2.5. Project Selection Committee

Fred Butler, NHDOT Bureau of Rail and Transit, Public Transportation Administrator
Lauren O'Sullivan, NHDOT Bureau of Finance & Contracts, Financial Analyst
Michael Pouliot, NHDOT Bureau of Rail and Transit, Transportation Specialist
Nancy Spaulding, NHDOT Bureau of Turnpikes, Project Manager

3. PROPOSED SCOPE OF WORK AND GOALS

3.1. Scope of Work

The Operator will control all operations, maintenance, and capital improvements at the facilities for parking and transit service. The Operator must implement parking control measures, which may include fee-based parking, as well as other revenue generating means noted within this RFP at the facilities to support operations, maintenance, and potential expansion of the facilities to provide additional parking/transit capacity while providing patrons with an expected level of service.

3.2. Goals of the Public Private Partnership

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In pursuing this partnership, the NHDOT has developed criteria to be used in selecting the Operator under the RFP solicitation that are tied to five specific goals. They are:

Goal #1 – Ensure that the facilities are operated to a high standard that will promote the growth of public transportation, carpooling, and vanpooling in NH’s seacoast region.

- Ensure the bus terminals will be open a minimum of 16 hours per day weekdays, including peak commuting times, and 12 hours per day weekends/holidays.
- Provide for continuous ticket sales from an onsite kiosk or equivalent.
- Include facility accessibility standards and procedures for public transit providers (intercity, local, other), private transit providers (charter, shuttle, other), other transportation providers (taxi cab, ride hailing services, other) to include fee structures (docking, departure, per passenger, other) for providers with standards for fee structure escalation throughout the term of the lease/concession agreement.
- Provide accessibility standards and procedures for users that engage in carpooling and vanpooling.
- Provide accessibility for the general public to drop off or pick up passengers at the bus terminals free of charge.
- Include details for advertising, concessions, and other revenue-generating activities proposed at the facilities.

Goal #2 – Ensure the facilities are operated and maintained to a high standard that will provide a positive user/customer experience.

- Development of facility operations plan that includes facility condition assessment procedures and standards to ensure each facility meets or exceeds FHWA and/or FTA state of good repair guidelines throughout the term of the Agreement.
- Development of capital improvement plan/asset management plan showing programmed facility lifecycle capital improvements throughout the term of the Agreement.
- Staffing plan that demonstrates ability to operate and maintain the facilities to a high standard and to respond to unscheduled facility maintenance needs in a timely manner.

Goal #3 – Efficient and effective parking management at the facilities to control capacity and prevent abuse.

- Development of a proposed fee-based parking infrastructure design, construction, operation, and maintenance, if applicable.

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- Development of other parking control measures
- Development of parking security infrastructure design, construction, operation, and maintenance.
- Staffing plan that demonstrates ability of the Operator to meet level of operations and maintenance required for parking management.
- Development of parking enforcement policies and procedures to be implemented in conjunction with standing rules, regulations, and statutes.
- If applicable, detail of initial parking fee structure with standards and procedures for parking fee structure escalation throughout the term of the lease/concession agreement.
- Development of an Operator strategy to manage potential transit growth and increased parking demand.

Goal #4 – Provide a fair return to the NHDOT.

- Identify the structure and amount of proposed revenue sharing to the NHDOT through the Facilities Lease/Concession Agreement through a base rent plus percentage of gross revenues collected as defined by the Operator. The proposed revenue sharing may include, but is not limited to, facility parking fees, boarding and alighting fees, and advertisement and concession revenues.

Goal #5 – Provide for the transfer of the Dover and Portsmouth facilities at the termination of the lease/concession agreement term.

- The Operator shall provide for the transfer of the facilities, including infrastructure expansion or additional property acquired during the term of the Agreement that is integral to the operation of the facilities, to the NHDOT or to another entity in satisfactory and operational condition.

The Operator's ability to meet the stated goals will comprise a maximum of 20 points per the RFP evaluation matrix. Scoring will be negatively affected accordingly should the Operator's proposal be deemed to insufficiently address the goals.

3.3. Current Site Operations

The Portsmouth facility, located at 185 Grafton Drive, was constructed in 1999 and has a 4-dock bus terminal and 1,248 parking spaces over two surface parking lots. The Dover facility, located at 23 Indian Brook Drive, was constructed in 2008 and has a small bus terminal and 450 parking spaces. Off-site satellite parking is provided at the Portsmouth facility by the current Operator. Both

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facilities have transit service provided by the current operator and the Cooperative Alliance for Seacoast Transportation (COAST). The current operator provides an intercity/commuter bus service from Dover and Portsmouth, NH to Boston South Station and Logan Airport in Massachusetts as well as service to New York City, New York. COAST is the local public transit operator that provides service to 13 communities in the NH Seacoast and southern Maine. All existing operators at each facility will be allowed to continue providing service but may be subject to terms and conditions, e.g., fees, as implemented by the Operator.

3.4. Development Approach and Key Details

The Operator will be responsible for maintaining and operating the facilities for their originally intended purpose of providing services for use by commuters, persons utilizing transit services, and persons using other shared ride activities, while providing benefits of reduced congestion and improving air quality.

In addition to the requirements stated elsewhere in this document, the selected Operator will be responsible for the following:

- Staffing the terminal buildings and keeping them open to the public a minimum of 16 hours per day weekdays, thru peak AM & PM commuting times, and 12 hours per day weekends and holidays.
- Establishing accessibility standards and procedures for all public transit providers, private transit providers (charter, shuttle, other), other transportation providers (taxi, ride hailing services, other) to include fee structures (docking, departure, per passenger, other) for providers with standards for fee structure escalation throughout the term of the Agreement.
- Implementing parking control measures, e.g., fee-based parking control system or expansion to accommodate demand.
- Management of advertising within the structures (subject to compliance requirements, while maintaining the transit focus).
- Management of concessions within the facilities, if proposed (subject to compliance requirements).
- Adherence to all Federal, State, local statutes and/or local land use and zoning regulations (i.e., Early Development Agreement, requirements between State and FHWA, MS4 General Permit regulations, salt application requirements, etc.).

Further, the following requirements apply with regard to the Ground Lease Contract:

- Development for concessions at the sites would be limited to an expansion of existing

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terminal buildings, though concessions located within parking structures shall be permitted. No welcome center type development, no restaurant pad within the sites, or diner type facility (or similar) would be permitted. Permitted concessions at the sites would be limited to those types that are complementary to transit/shared ride user demand. Concessions that create non-transit/non-shared ride user demand will not be permitted. Concessions such as convenience stores attached to the existing terminal buildings that would be patronized before or after transit/shared ride use are envisioned.

- No alcohol/beer/wine sales will be permitted. NHDOT reserves the right to further restrict concessions.

3.5. Opportunities for the Operator

- Execution of an Agreement with the State providing opportunity to improve and expand user services and facilities.
- Fee-based parking to establish a revenue stream to offset maintenance and operating costs, as well as necessary building and site capital improvements associated with the park & ride facilities and any new, increased, or improved transit-related operations serving the premises.
- Exploration of other revenue enhancing initiatives, such as additional parking revenue from expanded parking either on or off-site, additional docking fees from new transit providers, advertising inside the terminal buildings, concessions within the facilities, electronic vehicle charging stations, or short term rental vehicles.

3.6. Benefits to the State

- Potential for the increased offering and use of transit services, carpooling, and vanpooling with additional on or off-site parking provided.
- Parking control measures will manage the demand on the parking lots thereby effectively managing overnight and extended parking to reduce the periods of time the lots are at capacity or use is not for the intended purpose. This will improve the ability of users to obtain parking at the lots thereby improving user expectations.
- Under the terms of the Agreement, the selected Operator will be responsible for 100% of the costs to maintain and operate the facilities in a state of good repair, such as landscaping, snow removal, pavement resurfacing, and restriping, resulting in zero cost to the State over the term of the Agreement.
- The Operator will be responsible for developing and implementing strategies to manage increased parking demand throughout the term of the Agreement. This will include being responsible for the design, installation, operation, and maintenance of any parking control

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equipment throughout the term of the Agreement.

- NHDOT will not budget or otherwise avail funds for the maintenance of operations of the facilities throughout the term of the Agreement, as that responsibility lies with the Operator.
- The Operator will be able to respond to unplanned maintenance issues and effect repairs in a timelier manner due to organizational flexibility. Additionally, NHDOT employees will not be required to respond to maintenance issues at the facilities, freeing them for other priorities.
- The State will not be required to invest in construction of expanded parking at the facilities to meet current and future demand. Cost for expanded parking is projected to be significant due to limited property adjacent to the facilities that may be available for additional parking.
- The State seeks a Base rent and percentage of any gross revenues collected relative to the use of the facilities.
- At the end of the Agreement term, the facilities will be transferred to the State in satisfactory and operational condition. This will include any new infrastructure constructed or installed at the facilities or additional property purchased for expanded parking that is integral to the operation of the facilities during the term of the Agreement. Any lease agreement between the operator and subleases for properties, facilities, etc., shall be structured to expire at the same time as the State and Operator Agreement.
- The State will shift all general liability for operation of the facilities to the Operator.

3.7. Miscellaneous Benefits

- Municipalities where the facilities are located may realize an increase in property tax revenue for the land and leased facilities to be paid by the selected Operator.

4. PROCESS FOR SUBMITTING A PROPOSAL

4.1. Request for Proposals (RFP)

The RFP process¹ will allow Operators shortlisted from the RFQ to further detail their proposed approach to developing and operating the facilities as stated in Section 3.2: *Goals of Public-Private Partnership*. The RFP includes additional criteria per Section 5: *Content and Requirements for a Proposal* and Section 6: *Evaluation of Proposals, and the attached Ground Lease Contract*. The shortlisted Operators will need to respond to the additional criteria in their detailed proposals.

¹ The RFP phase is contingent upon final approval of the P3 Commission, NHDOT, LRCPU, Capital Budget Overview Committee (CBOC), and Governor and Executive Council.

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The Selection Committee will review Proposals and develop initial scores for each Operator who responds to the RFP. Proposals will be evaluated in two stages: Technical Proposals will be evaluated and scored first, with evaluation of Revenue Proposal conducted only after the Selection Committee completes the initial review and scoring of Technical Proposals.

Each responsive Operator will be interviewed by the Selection Committee, which will provide the opportunity for the Operator to further explain their facilities maintenance, operation, and development approach and key aspects of their Proposal. The purpose of oral interviews is to clarify and expound upon information provided in the written Proposals. Operators are prohibited from altering the basic substance of their Proposals during the oral interviews. The Selection Committee may ask the Operator to provide written clarifications of elements in their Proposal.

Information gained from oral interviews and product demonstrations will be used to refine technical review scores assigned from the initial review of the Proposals.

Upon completion of the scoring process outlined in Section 6, the Agency may, at its sole option, invite the highest scoring Proposers to submit a “Best and Final Offer” for the Agency’s consideration. The Agency reserves the right to select the Proposer based solely on the initial proposals and is under no obligation to solicit or accept a BAFO from any proposers. As the Agency may not request a Best and Final Offer, Proposers are encouraged to provide their most competitive prices in their initial proposals.

The Best and Final Offer (BAFO) is a one-time invitation only process for a proposer to submit its highest priced offer for the Agency’s consideration. In its invitation to submit a BAFO, the Agency will provide a deadline submission date for the BAFO. The Agency may communicate in writing any price/cost targets that the Agency is seeking in the BAFO. If such target(s) is provided, the Agency will do so uniformly to all Proposers selected to participate in the BAFO. All restrictions on contact with State employees outlined in Section 7.1 shall remain in effect for the BAFO period. Each invited Proposer may only make one BAFO. The BAFO may not alter the substance of the Proposer’s technical proposal. The BAFO may only amend the Proposer’s initial price proposal.

To the extent the Agency solicits and receives a BAFO pursuant to this section, the Agency will re-score the BAFO participants’ price proposals after review of the BAFO in accordance with section 6G (Calculation of the Price Proposal Score). The Agency will not select a Proposer based on the highest priced BAFO proposal. A final selection, if any, shall be based on the combined score of the technical proposal and BAFO price proposal. Only those Proposers who were invited to submit a BAFO will be considered for the award.

4.2. Facility Site Visits

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Optional site visits of both facilities will be provided for each Operator as identified in Section 1.3. *Schedule*.

NHDOT and its agents will accompany each Operator during its site visit(s), but will not address questions on site. Only written responses to questions provided by the Operators in writing on the provided Form 1: *Operator Inquiry Form* included in Appendix A will be binding. The State may issue an addendum to the RFP to address any Operator inquiries that are deemed substantive. Operators will be responsible for any and all costs associated with attending the Operator site visit, as well as all costs incurred or associated with the RFP process.

If a second site visit or a more extensive examination of the facility is desired, then a request must be submitted to NHDOT's designated point of contact (see Section 4.4. *Request for Additional Information*).

The Operator is strongly encouraged to research the existing conditions of the facilities prior to submission of its Proposal. Following the RFP selection process and prior to the approval of the Ground Lease Contract, the apparent selected Operator will be provided the opportunity to do its due diligence to fully research the existing conditions of the facilities, including sub-surface conditions should any construction be proposed.

4.3. Limits of Reliability

By submitting a Proposal, the Operator acknowledges that its right to rely on the State-furnished information in the preparation of its Proposal is subject to the limitations specified in the Project Documents (including this RFP, supplements or addenda, Facilities Lease/Concession Agreement, and any other documents required to be executed by either party at signing of Agreement) and that it is responsible for undertaking such further verifications and inquiries as appropriate to properly address such limitations.

Reference documents provided with this RFP are not Project Documents, and as such the State makes no representations or guarantees as to, and shall not be responsible for, the accuracy, completeness, or pertinence of reference documents, and in addition, shall not be responsible for the conclusions to be drawn there from. The reference documents are made available to Operators for the purpose of providing such information as is in the possession of the State, whether or not such information may be accurate, complete, pertinent, or of any value. The submittal of a Proposal shall be considered evidence that the Operator has made such examination.

4.4. Request for Additional Information

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The State's point-of-contact for this RFP is:

Shelley Winters
Administrator, Bureau of Rail and Transit
New Hampshire Department of Transportation
Shelley.Winters@dot.nh.gov

Operators are required to submit questions via email on Form 1, *Operator Inquiry Form* included in Appendix A; however, the State assumes no liability for assuring accurate/complete email transmission/receipt and is not responsible to acknowledge receipt.

Inquiries must be received by the State's RFP Point of Contact (see above) no later than the Operator comment period end date and time (see Section 1.3: *Schedule*). Inquiries received later than Operator comment period end date and time will not be considered.

The State may issue official responses to properly submitted inquiries, if deemed substantive, to the Dover and Portsmouth Bus Terminal Long Term Lease/Concession Agreement project website. The State may consolidate and/or paraphrase questions for sufficiency and clarity. The State may, at its discretion, amend this RFP on its own initiative or in response to issues raised by inquiries, as it deems appropriate. The State may also cancel the RFP in its sole discretion at any time. Oral statements, representations, clarifications, or modifications concerning the RFP shall not be binding upon the State. Official responses will be made in writing.

5. CONTENT AND REQUIREMENTS FOR A PROPOSAL

5.1. Proposals, Submission, Deadline, and Location

Proposals submitted in response to this RFP must be received by NHDOT no later than the time and date specified in Section 1.3: *Schedule*. Proposals must be addressed to:

**Shelley Winters
Administrator, Bureau of Rail and Transit
New Hampshire Department of Transportation**

**Physical Address for Parcel or Hand Delivery Only
John O. Morton Building
7 Hazen Drive
Concord, NH 03301**

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**USPS Mailing Address
P.O. Box 483
Concord, NH 03302-0483**

Packages containing Proposals must be clearly marked as follows:

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**LONG TERM LEASE/CONCESSION AGREEMENT OF THE DOVER AND
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Late submissions will not be accepted and will remain unopened. Delivery of the Proposal shall be at the Operator's expense. The time of receipt shall be considered to be the time when a Proposal has been officially documented by the NHDOT, in accordance with its established policies, as having been received at the location designated above. NHDOT accepts no responsibility for mislabeled mail. Any and all damage that may occur due to shipping shall be the Operator's responsibility.

All Proposals submitted in response to this RFP must consist of one (1) original (clearly marked as such) and twelve (12) clearly identified copies of the Proposal, including all required attachments, and one (1) electronic copy of the Proposal in a searchable PDF format on USB flash drive.

The Proposal shall be accompanied by the proposal transmittal letter described in Appendix A, Form 2, *Proposal Transmittal Letter*, herein. The original and all copies shall be bound separately, delivered in sealed containers, and permanently marked as indicated above. One (1) copy of the proposal transmittal letter shall be signed by an official authorized to legally bind the Operator and shall be marked "ORIGINAL." An Operator's disclosure or distribution of its Proposal other than to the State will be grounds for disqualification.

5.2. Proposal Preparation Cost

By submitting a Proposal, an Operator agrees that in no event shall the State be either responsible for or held liable for any costs incurred by an Operator in the preparation of or in connection with the Proposal, or for work performed prior to the Effective Date of an Agreement.

5.3. Proposal Format

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Proposal shall follow the following format:

- Proposal shall be bound.
- Proposal shall be printed on white paper with dimensions of 8.5 by 11 inches with right and left margins of one (1) inch.
- Proposal shall use Times New Roman font with a size of eleven (11). Exceptions for paper and font sizes are permissible for: graphical exhibits, including conceptual layouts and organization charts which may be printed on white paper with dimensions 11 inches by 17 inches, and plans which may be printed on paper with dimensions no greater than 22 inches by 34 inches to accommodate requested scales for building and site plans. Plans shall be folded and placed in pockets to fit neatly within the submittal. Plan submissions will not affect page limits described in Section 5.4.
- Each page of the Proposal shall include a page number and the number of total pages and identification of the Operator in the page footer. Each page shall be numbered consecutively within each Section (i.e., 1-1, 1-2...; 2-1, 2-2...; 3-1, 3-2..., etc.), and the page numbers shall be centered at the bottom of each page.
- Proposal shall be printed double-sided. Each side of each page shall be considered one page.

The State reserves the right to waive minor deficiencies at its discretion.

5.4. Proposal Organization

Proposals shall adhere to the following outline and shall have a total page limit of thirty-five (35) pages, excluding the items identified below as not applying to the page limit.

Section	Page Limit Applies? (Yes/No)
Cover Page	No
Proposal Transmittal Letter (Appendix A, Form 2)	No
Table of Contents	No
Section I: Site Development to include any new/altered infrastructure (page limit applies to narrative only)	Yes
Section II: Facilities Management Plan (Operations and Maintenance)	Yes
Section III: Approach to generating revenue at or through the use of the facilities	Yes

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Section IV: Team members' experience and key staff qualifications in similar transportation center management projects (resumes do not apply to page limit)	Yes
Section V: Overall ability to meet stated Goals of the State and criteria of Ground Lease Contract (which incorporates Early Development Agreement by reference)	Yes
Section VI: Proof of Financial Strength and Ongoing Stability	No
Section VII: Base Rent (lease) Payment Proposal	No
Section VIII: Gross Sales Rent Payment Proposal	No

5.5. Proposal Content

Proposals must contain the following:

Cover Page

The first page of the Operator's Qualifications must be a cover page containing the following text:

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The cover page must also include the Operator's name, contact person, contact telephone number, address, city, state, zip code, fax number, and email address.

Proposal Transmittal Letter

The Operator must submit a signed proposal transmittal letter, that is hand written or typed, with their response using the Form 2, *Proposal Transmittal Letter* provided in Appendix A. Any electronic alteration to the proposal transmittal letter is prohibited. Any such changes will result in the Proposal being rejected.

Table of Contents

The Operator must provide a table of contents with corresponding page numbers relating to its Proposal. The table of contents must conform to the outline provided in Section 5.3: *Proposal Format*, but should provide detail, e.g., numbering, level of detail.

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Section I: Site Development to Include any New/Altered Infrastructure

The Operator shall provide detailed site development narratives and plans that exhibit any proposed new infrastructure or modifications to existing infrastructure at the facilities. The Operator shall describe in detail the purpose and need for any new infrastructure or for any modifications to existing infrastructure. The Operator shall highlight key aspects of the Site Development Plans as they relate to the following, to include but not limited to:

- Implementation of parking control measures, including provisions for anticipated growth and pricing control proposals
- Facility accessibility for public transit providers, private transit providers, and other transportation providers
- Facility accessibility for users that engage in carpooling, vanpooling or other shared ride activities
- Facility accessibility for the general public to drop off or pick up at the bus terminal without incurring a fee
- New development within the facilities for concessions, etc.
- Enhancing the user/customer experience
- Approach to expanding the facilities with the least amount of disruption to the existing bus terminals/park & ride facilities (if applicable)
- Innovation related to operation, maintenance, efficiency, sustainability, and possible parking expansion of the facilities

Site Development Plans shall be developed to ensure current operations will not be compromised. Plans shall be 22" x 34" at a minimum. The Operator shall take reasonable measures to ensure that any new infrastructure or any modification to existing infrastructure proposed is able to be permitted and constructed in accordance with all applicable Federal, State, and local regulations and ordinances.

Section II: Facilities Management Plan (Operations and Maintenance)

The Operator shall develop a narrative on the Facilities Management Plan. The narrative should address the organizational approach to operating the facilities within the terms and conditions of the RFP, EDA and Ground Lease Contract, with specific regard to parking management and overall transit operations. The Operator will need to provide insight as to how future capacity needs are to be addressed. The narrative should address the following, to include but not limited to:

- The opportunity to expand use of facilities, including new tenants, additional transit operators, and advertisement and concession revenue inside the terminal buildings subject

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to any applicable FHWA and FTA limitations

- Proposed customer service feedback approach and marketing strategy
- Proposed strategy to deal with facility growth and demand, including temporary and seasonal parking demand
- Life cycle/asset management approach to the operation, maintenance, and potential expansion of the facilities

Maintenance of the facilities shall also be discussed noting plans and procedures to maintain and repair the facilities consistent with operational needs, user/customer expectations, and FHWA, FTA, NHDPW, and NHDOT standards. The Operator shall understand that the State will perform facility condition assessments/audits at least annually to identify the condition of all infrastructure at the facilities. The Operator will be expected to develop and plan to address any/all deficiencies identified.

Section III: Approach to Generating Revenue at or Through the Use of the Facilities

The Operator shall provide its approach for generating revenue at or through the use of the facilities. The Operator shall provide a detailed description of the proposed means for generating revenue to include but not limited to fees, commissions on sales, or lease payments, and shall include the structure of the means proposed such as the fee amount or commission rate. The Operator shall also provide the projected revenue for the means proposed for each year of the term of the Agreement, and shall include any escalations in fees, commission rates, or other increases projected throughout the term of the Agreement.

The Proposal shall identify the sources of the revenue and its procedure for reporting such revenue to the NHDOT, as well as explanation (justifications, methodologies, and assumptions) for revenue values presented in the Proposal. The Proposal shall also provide for inclusion of any anticipated revenue sources that may be realized throughout the term of the Agreement. Explanations for any sources of revenue that will comprise either the Base Rent (Section VII) or Gross Sales Rent (Section VIII) shall be sufficient to demonstrate reasonableness.

The Operator shall provide its proposed fee structure for transit-related fees, to include, but not limited to, parking, docking, and ticket commission fees, throughout the term of the Ground Lease Contract. All such fees should be commensurate with transit industry standards and structured so as to encourage maximum transit usage per the Goals listed in Section 3.2 *Goals of the Public Private Partnership*. Significant deviation from what is provided within the Operator's Proposal during the term of the Ground Lease Contract shall require prior State approval.

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Section IV: Team Members' Experience and Key Staff Qualifications

The Operator shall identify the members of the executive management team and key staff that will be involved in the day-to-day management of the facilities. If applicable, the Operator shall also identify key members of the site development team that will be involved with any construction/expansion at the facilities. A description of the qualifications and a full resume for each team member shall be provided. The Operator is also encouraged to highlight those team member qualifications that relate to Transportation Centers, including, but not limited to, the following:

- Parking management record at similar sized locations
- Operation and maintenance record on similar sized transportation facilities
- Design and construction record on similar-sized parking facility expansion and site development (if applicable)
- Experience in long-term facility management, including environmental and safety records

Section V: Overall Ability to Meet Stated Goals of the State and Criteria of the Ground Lease Contract

The Operator shall describe how its Proposal meets the five stated Goals of the State and the criteria of the Ground Lease Contract and the EDA. The Operator is encouraged to highlight distinguishing elements of its Proposal as they relate to the Goals of the State.

As a point of emphasis, the Operator is strongly encouraged to familiarize itself with the contents of the EDA. The terms and conditions of the EDA cannot be waived. Proposals that do not meet the terms and conditions of the EDA may be considered as nonresponsive.

Section VI: Proof of Financial Strength and Ongoing Stability

The Operator shall provide proof of financial strength and ongoing financial stability. The Operator shall provide the following:

- Five (5) most recent audited/reviewed financial statements for all affiliated companies
- Disclosure of all pending or resolved litigation within the past seven (7) years for all affiliated companies involved with funding, construction, and on-going maintenance
- Initial funding sources and terms
- All covenants or liens on assets and debts
- Detail of financial strength to support ongoing maintenance and operation of existing and any proposed facilities, as well as design and construction of infrastructure if the Operator proposes expansion or modification of the facilities, including all bonding and insurance requirements.

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Following the review of the financial documents provided, the State reserves the right to request additional financial documentation from the Operator.

Section VII: Base Rent Payment Proposal

The Operator shall present its proposal to provide the NHDOT a monthly Base Rent (lease fee) for use of the facilities. The proposal shall also provide for escalation of the Base Rent throughout the term of the Agreement. Form 7 shall be utilized for Base Rent calculations.

Section VIII: Gross Sales Rent Payment Proposal

The Operator shall present its proposal to provide the NHDOT a percentage of the applicable gross sales generated at or through the use of the facilities. Form 8 shall be used for Gross Sales Rent calculations.

6. EVALUATION OF PROPOSALS

6.1. Selection Process and Proposal Scoring

Responses to this RFP will be evaluated by a Selection Committee (see Section 2.5) made up of individuals selected by the State. The Selection Committee will review and evaluate all conforming and responsive Proposals according to the requirements identified in Section 5: *Content and Requirements for a Proposal* herein.

Proposals shall be considered conforming and responsive provided the information is submitted within the allowed time periods and contains all requested information as specified. In making its evaluation and selection, the Selection Committee will rely on the information submitted by the Operators in their Proposals. The Selection Committee may request additional information to clarify elements of a Proposal.

The Selection Committee will use a scoring scale of 100 points, which shall be applied to the Proposals as a whole. The operator must score a minimum 50 points in the technical section of its proposal to be considered. The maximum points that will be awarded by category are shown in the following table:

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Proposal Scoring**

CATEGORY	POINTS
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TECHNICAL PROPOSAL	80
<i>Section I: Site/Facility Development to include any new/altered infrastructure</i>	15
<i>Section II: Facilities Management Plan (Operations and Maintenance)</i>	15
<i>Section III: Approach to generating revenue at or through the use of the facilities</i>	5
<i>Section IV: Team members' experience and key staff qualifications in similar transportation center management projects</i>	15
<i>Section V: Overall ability to meet stated Goals of the State and criteria of Ground Lease Contract (which incorporates Early Development Agreement by reference)</i>	20
<i>Section VI: Proof of Financial Strength and On-Going Stability</i>	10
REVENUE PROPOSAL	20
<i>Section VII: Base Rent Payment Proposal</i>	15
<i>Section VIII: Gross Sales Rent Payment Proposal</i>	5
TOTAL POTENTIAL MAXIMUM POINTS	100

NHDOT reserves the right to reject any and all Proposal Packages and to cancel the RFP at any time, at its sole discretion.

6.2. Oral Interviews

Each responsive Operator will be interviewed by the Selection Committee, which will provide the opportunity for the Operator to further explain their facilities maintenance, operation, and development approach and key aspects of their Proposal. The purpose of oral interviews is to clarify and expound upon information provided in the written Proposals. Operators are prohibited from altering the basic substance of their Proposals during the oral interviews. The Selection Committee may ask the Operator to provide written clarifications of elements in their Proposal.

Information gained from oral interviews and product demonstrations will be used to refine technical review scores assigned from the initial review of the Proposals.

6.3. Best and Final Offer (BAFO)

Upon completion of the scoring process outlined in Section 6, the Selection Committee may, at its sole option, invite the highest scoring Operators to submit a “Best and Final Offer” for the Selection

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Committee's consideration. The Selection Committee reserves the right to select the Operator based solely on the initial proposals and is under no obligation to solicit or accept a BAFO from any Operators. As the Selection Committee may not request a Best and Final Offer, Operators are encouraged to provide their most competitive prices in their initial proposals.

The Best and Final Offer (BAFO) is a one-time invitation only process for the Operators to submit its highest Rent offer for the Selection Committee's consideration. In its invitation to submit a BAFO, the Selection Committee will provide a deadline submission date for the BAFO. The Selection Committee may communicate in writing any Rent targets that the Selection Committee is seeking in the BAFO. If such target(s) is provided, the Selection Committee will do so uniformly to all Operators selected to participate in the BAFO. All restrictions on contact with State employees outlined in Section 7.1 shall remain in effect for the BAFO period.

Each invited Operator may only make one BAFO. The BAFO may not alter the substance of the Operator's technical proposal. The BAFO may only amend the Operator's initial Rent proposal.

To the extent the Selection Committee solicits and receives a BAFO pursuant to this section, the Selection Committee will re-score the BAFO participants' Rent proposals after review of the BAFO in accordance with Section 6.1: *Selection Process and Proposal Scoring*. The Selection Committee will not select an Operator based on the lowest priced BAFO proposal. A final selection, if any, shall be based on the combined score of the technical proposal and BAFO Rent proposal.

6.4. Available Data

The State has gathered and will make available a number of reference documents for Operators to review while conducting their due diligence in response to this RFP. A complete list of available data is identified in Section 8: *Reference Documents*.

7. PROPOSAL REQUIREMENTS AND DELIVERABLES

7.1. Restriction of Contact with State Employees

From the date of release of this RFP until an award is made and announced regarding the selection of an Operator, all communication with personnel employed by or under contract with the State regarding this RFP is forbidden unless first approved by the Point of Contact listed in this Section. State employees have been directed not to hold conferences and/or discussions concerning this RFP with any Operator during the selection process, unless otherwise authorized by the RFP Point of Contact.

7.2. Alteration of RFP

The original RFP document is on file with the NHDOT. Operators are provided an electronic

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version of the RFP. Any alteration to this RFP or any file associated with this RFP is prohibited. Any such changes may result in Proposals being rejected.

7.3. RFP Amendment

The State reserves the right to amend this RFP at its discretion, prior to the Proposal submission deadline. In the event of an amendment to this RFP, the State, at its sole discretion, may extend the Proposal submission deadline as it deems appropriate.

7.4. Non-Collusion

The Operator's signature on a Proposal submitted in response to this RFP guarantees that the terms and conditions, and services quoted have been established without collusion with other Operators and without effort to preclude the State from obtaining the best possible competitive Proposals.

7.5. Validity of Proposals

Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of Proposals in Section 1.3: *Schedule*, or until the Effective Date of any resulting Agreement, whichever is later.

7.6. Property of the State

All material received in response to this RFP shall become the property of the State and will not be returned to the Operator. Regardless of the Operator selected, the State reserves the right to use any information provided.

7.7. Confidentiality of Proposals

Proposals must remain confidential until approval of any resulting Agreement by the Governor and Executive Council as a result of this RFP. An Operator's disclosure or distribution of its Proposal other than to the State will be grounds for disqualification.

7.8. Public Disclosure

All materials submitted in response to the RFP shall remain confidential pursuant to RSA 21-G:37, until the execution of the Facilities Lease/Concession Agreement and approval of the Agreement by the Governor and Executive Council, unless otherwise ordered by a NH court of competent jurisdiction.

While all documents submitted are considered public records subject to RSA 91-A, Operators may identify information in their Proposal they deem to be exempt from RSA 91-A as confidential,

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proprietary, or trade secrets and provide justification why such materials, upon request, should not be disclosed by the NHDOT, or the State.

The content of each Operator's Proposal shall become public information upon the award of any resulting Agreement. Any information submitted as part of a response to the RFP and may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of the RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). However, business financial information and proprietary information such as trade secrets, business and financials models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV. If an Operator believes any information being submitted in response to this RFP should be kept confidential as financial or proprietary information; the Operator must specifically identify that information in a letter to the Department and must mark/stamp each page of the materials that you claim must be exempt from disclosure as "CONFIDENTIAL". A designation by the Operator of information it believes exempt does not have the effect of making such information exempt. The Department will determine the information it believes is properly exempted from disclosure.

Marking of the entire Proposal or entire sections of the Proposal (e.g., pricing) as confidential will neither be accepted nor honored. Notwithstanding any provision of this RFP to the contrary, Operator pricing will be subject to disclosure upon approval of the contract. The Department will endeavor to maintain the confidentiality of portions of the Proposal that are clearly and properly marked confidential.

If a request is made to the Department to view portions of a Proposal that the Operator has properly and clearly marked confidential, the Department will notify the Operator of the request and of the date the Department plans to release the records. By submitting a Proposal, the Operator agrees that unless the Operator obtains a court order, at its sole expense, enjoining the release of the requested information, the Department may release the requested information on the date specified in the Department's notice without any liability to the Operators.

7.9. Non-Commitment

Notwithstanding any other provision of this RFP, this RFP does not commit the State to solicit proposals through an RFP process. The State reserves the right, at its sole discretion, to reject any and all Proposals, or any portions thereof, at any time; to cancel this RFP; and to solicit new Proposals under a new acquisition process.

8. REFERENCE DOCUMENTS

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The following Reference Documents are available in electronic format and may be obtained by contacting NHDOT.

Reference Documents:

- 8.1. Current Operator/NHDOT Agreements
- 8.2. Historic facility operating costs
- 8.3. Parking utilization data
- 8.4. Historic operations and maintenance costs
- 8.5. RSA's for Park & Ride facilities
- 8.6. Site Plans
- 8.7. Building Plans
- 8.8. Applicable FHWA and FTA requirements
- 8.9. Early Development Agreement (EDA)
- 8.10. Drawing of Leased Premises; Legal Description

These materials will be made available via a NHDOT file transfer (ftp) site. Directions on use of the ftp site will be provided at the time of request.

Obtaining the Documents from the New Hampshire Department of Transportation

Contact by e-mail:

Shelley Winters

Administrator, Bureau of Rail and Transit
New Hampshire Department of Transportation

Email: Shelley.Winters@dot.nh.gov

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APPENDIX A: REQUIRED FORMS

DRAFT

STATE OF NEW HAMPSHIRE
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Form 1

Operator Inquiry Form

DRAFT

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Form 1: Operator Inquiry Form

Operator: _____

Sheet _____ **of** _____ **sheets**

Item No.	Section	Page	Inquiry	Reserved for Response
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Duplicate as needed.

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Form 2

Proposal Transmittal Letter

DRAFT

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FORM 2: PROPOSAL TRANSMITTAL LETTER

Company Name _____
Address _____

To: Shelley Winters
Administrator, Bureau of Rail and Transit
New Hampshire Department of Transportation

Physical Address
7 Hazen Drive
Concord, NH 03301

Mailing Address
P.O. Box 483
Concord, NH 03302-0483

RE: LONG TERM LEASE/CONCESSION AGREEMENT OF THE DOVER AND PORTSMOUTH BUS TERMINALS

Proposal Number: DOT 2020-01

Proposal Due Date and Time: June 26, 2020 at 2:30 PM

Dear Ms. Winters:

Company Name: _____ hereby offers its proposal to the State of New Hampshire as indicated in Request for Proposal (RFP) New Hampshire Department of Transportation 2020-01, LONG TERM LEASE/CONCESSION AGREEMENT OF THE DOVER AND PORTSMOUTH BUS TERMINALS, in complete accordance with all conditions of this RFP.

Company Signatory: _____ is authorized to legally obligate Company Name: _____.

We attest to the fact that:

The company has reviewed and agreed to be bound by all RFP terms and condition, including but not limited to the Goals and Desired State outcome identified in this RFP. All information used in this RFP shall form the basis of any Facilities Lease/Concession Agreement resulting from this process.

The Proposal is effective for a period of 180 days following the deadline for submission of Proposals in Section 1.3: *Schedule*, or until the Effective Date of any resulting Facilities Lease/Concession Agreement, whichever is later.

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By signing this form, the Operator acknowledges that it has read the RFP, any addenda to the RFP, and all supplemental documents included in or referenced in the RFP.

Operator point of contact _____

Title _____

Telephone _____

Email _____

Authorized Signature Printed _____

Authorized Signature _____

Important Note: Facility Operators are provided an electronic version of the RFP Transmittal Letter. Any electronic alteration to this Transmittal Letter template is prohibited. Any such changes will result in a Proposal being rejected.

DRAFT

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APPENDIX B: STATE AGENCIES INVOLVED AND PROJECT TEAM

B-1 NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

The NHDOT is an agency of the State under the executive direction of a Commissioner of transportation. NHDOT is responsible for the following general functions: (a) Planning, developing, and maintaining a State transportation network to provide for safe and convenient movement of people and goods throughout the State by means of a system of highways, railroads, air service, mass transit, and other practicable modes of transportation. The network supports State growth and economic development and promotes the general welfare of the citizens of the State. (b) Performs regulation of transportation activities required by law which is not within the jurisdiction of another state agency.

NHDOT is responsible for nearly 4,700 miles of roadway, 3,850 State and municipal bridges, 25 airports, 203 miles of active State-owned railroad utilized by 6 railroad operators, as well as 27 State-owned park & ride lots. There are seven park & rides lots with bus terminals owned by NHDOT, such as Portsmouth and Dover, that are managed and operated by commuter bus operators through existing agreements with NHDOT.

B-2 NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION BUREAU OF RAIL AND TRANSIT

The Bureau of Rail and Transit manages public transportation programs and State-owned railroad properties, and provides rail safety inspections. Directly related to this RFP is the Bureau's oversight of the seven State-owned bus terminal/park & ride lots mentioned in Section 2.1. As such, the Bureau of Rail and Transit will be responsible for providing oversight during the term(s) of the Agreement. In addition, the Bureau provides oversight of 11 public transit providers in the State as well as intercity/commuter bus transportation supplied by a range of private companies.

B-3 NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION BUREAU OF TURNPIKES

The Bureau of Turnpikes is a Division of the NHDOT operating 89 miles of limited access highway, 36 miles of which are part of the US Interstate Highway System, comprising a total of approximately 658 total lane miles. Since beginning operations in 1950, the Turnpike System has contributed to the development of New Hampshire and has also been

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a major factor in the growth of the tourism industry in the State. The Turnpike System is comprised of three limited-access highways: the Blue Star Turnpike (I-95) and the Spaulding Turnpike, collectively referred to as the Eastern Turnpike, and the F.E. Everett Turnpike, known as the Central Turnpike.

The Bureau of Turnpikes owns the Dover bus terminal and park-and-ride facility, located at 23 Indian Brook Drive in Dover, NH.

**B-4 NEW HAMPSHIRE DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PUBLIC WORKS**

The New Hampshire Division of Public Works (NHDPW) is responsible for oversight in all phases of building project management from project initiation and program development to final design and construction of all State-owned and supported land and buildings unless specifically assigned to other agencies by law. The Division's project managers work closely with State agencies throughout the planning, design, and construction process. The NHDPW oversees the work of selected consulting architectural, engineering and other building science organizations. The NHDPW professional staff may also prepare building studies, develop final design and construction documents, as well as provide construction administration for the general contractors on both new construction and building repair projects.

B-5 PROJECT TEAM

The State of New Hampshire high-level staffing for the Project will include:

NHDOT Bureau of Rail and Transit, Administrator – State Project Champion
NHDOT Bureau of Rail and Transit, Transportation Specialist – State Project Manager
NHDOT Bureau of Turnpikes, Project Manager – State Deputy Project Manager

Project Champion – the role of the Project Champion is to oversee all aspects of the initiative, at an administrative level, providing direction, guidance and insight throughout development of the project, ensuring that the project meets all timelines, and acting as liaison between the Selection Committee and the NHDOT Executive Office. The Project Champion efforts begin with the solicitation and selection processes (RFQ and RFP phases) and continue through the administrative and legislative processes (NHDOT Executive Office, LRCPUC, CBOC and G&C coordination and approvals, and execution of the contract), transition of operations to the Operator, construction/expansion (if any) timeframes, as well as the oversight of operations.

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State Project Manager – the role of the State Project Manager is to oversee the day-to-day efforts of all aspects of the Ground Lease Contract beginning with the solicitation and selection of the Operator (RFQ and RFP process) through the administrative and legislative processes (NHDOT Executive Office, LRCPU, CBOC and G&C coordination and approvals, and execution of the contract), transition of operations to the Operator, construction/expansion (if any) timeframes, as well as the oversight of operations.

State Deputy Project Manager - the role of the State Deputy Project Manager is to provide support to the State Project Manager throughout the overall process, as well as during operations. The State Deputy Project Manager will represent the Bureau of Turnpikes as owner of the Dover facility.

B-5.1 NHDOT Bureau of Rail and Transit Involvement and State Project Manager

The structure of the Ground Lease Contract assumes that NHDOT Bureau of Rail and Transit, as the lead bureau, will remain involved in the oversight of operations of the facilities throughout the period of the Ground Lease Contract. The NHDOT Bureau of Rail and Transit recognizes the Operator is responsible for the design, construction, financing, operations, and maintenance of any facility improvements. However, since these facilities are an integral part of the State’s transportation network and are important to the traveling public, it is essential for the Operator and the Bureau of Rail and Transit to form a working partnership for their mutual benefit. The State Project Manager, as identified above, shall be the designated representative at the time of the execution of the Ground Lease Contract as the Authorized Representative of the Bureau of Rail and Transit. The Operator shall designate an Operator Project Manager with whom the State Project Manager will interact throughout the term of the Agreement.

This role of the State Project Manager is not to provide or assume responsibility for management of the facilities, but instead to ensure compliance with all aspects of the Agreement and to serve as a single point of contact for the Operator during the period of the Ground Lease Contract. It is recognized that continued interaction and sharing of ideas is in the best interest of the Operator, the Bureau of Rail and Transit, and the patrons who will use the facilities.

The State Project Manager will have the following responsibilities:

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1. Serve as the State's point-of-contact with the Operator during the term of the Agreement.
2. Facilitate the review of any design documents relative to capital improvements at the facilities.
3. Review conformance with Performance Standards and the terms of the Ground Lease Contract.
4. Conduct periodic facility condition assessments.
5. Make recommendations to NHDOT Bureau of Rail and Transit Administrator, Director of Aeronautics, Rail, & Transit, and NHDOT Deputy Commissioner to issue notices to cure deficiencies when such standards or requirements of the Ground Lease Contract are not met.
6. Schedule meetings as required with the Operator and the Operator's Team.
7. Review and facilitate any proposed design changes. During the design phase, changes may prompt negotiated modifications to the schedule, scope, or cost of the project. During the construction phase, changes to the design are to be approved by the State Project Manager.
8. Review construction progress and adherence to the schedule (and any recovery schedules).
9. Review the Operator's proposed schedule throughout any/all projects.
10. Facilitate review the design documents with the appropriate State agencies.
11. Oversee the Operator's quality control program.
12. Negotiate and approve refinements to the work.
13. Report to the NHDOT and NHDPW periodically on the progress of the work.
14. Ensure the design/project closeout documentation is complete.

B-5.2 Operator Project Manager

The Operator is to identify the Operator Project Manager who will be the primary lead upon execution of the Ground Lease Contract. The Operator Project Manager shall serve as the designated lead and the interface with the State Project Manager. The State shall consider the Operator Project Manager as the designated person who is authorized to act on behalf of the Operator. The State reserves the right to interview and approve the original Operator Project Manager, as well as any replacements throughout the life of the Ground Lease Contract.

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APPENDIX C: REQUIRED DETAILS OF THE PROPOSAL

This section defines the technical requirements of the Proposal for the Operator. It includes requirements related to the Operator's approach to the design and construction of any improvements, development concepts, parking and facility management of the terminals through the life of the Ground Lease Contract, approach to operations and maintenance, and overall Project Management. The submission requirements for the Operator are summarized in Section 5 of this Proposal.

C-1 APPROACH TO DESIGN AND CONSTRUCTION

General Approach

The State is interested in assuring that the operations and potential expansion of the facilities is undertaken with the users/customers in mind, while the experience of using the facilities leaves a positive impression. The State is also interested in providing facilities that promote transit and shared ride activities to the fullest extent, while ensuring that construction undertaken at these facilities meet the requirements established for all State-owned properties, including buildings and support infrastructure. Towards this goal, if the Operator plans to implement parking control measures or parking rates, the Operator will need to establish parking controls and rates that are equitable and fair, that do not diminish the value of this facility in connecting travelers to transit and shared ride options, and that ultimately relieve the stress and improve mobility on the roadway systems.

The Operator is to include a written description of its overall approach to the design and construction of improvements which may include parking controls and expansion. The Operator is to describe methods for minimizing construction time, maximizing cost effectiveness, and avoiding delays resulting in inconveniencing patrons and failure to meet the proposed schedule. The Operator must describe its approach to assuring quality and promoting safety. The Operator should include unique techniques or approaches used on other design/build projects resulting in the completion of the projects on time, on budget, and with a high level of user/customer satisfaction.

Site Development Plans

The Proposal shall include conceptual plans for proposed parking controls, parking expansion (if applicable) interior and exterior renderings of modifications to the bus facility (if applicable), and other conceptual drawings that aid in demonstrating the engineering and site development approaches proposed for these facilities. All conceptual plans shall be provided by the Operator in Section I of the Proposal, as outlined in Section 5 in the

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RFP. This information should be developed in a manner that easily conveys the concepts to the Selection Committee.

The Proposal is to provide sufficient detail of any improvements to allow the Selection Committee to evaluate approaches that satisfy the goals of the project. The conceptual layout must include all the features and amenities, including, but not limited to parking controls, parking expansion, building modifications, or other improvements properly meeting the requirements of this RFP and the EDA. An aerial photo may be used to provide a base for the existing conditions and it may be overlaid to clearly identify the major features of the proposed construction. The State may use this information provided by the successful Operator as a way of demonstrating the future design of the sites until such time the Operator provides more detailed information. The following sections define the specific submissions to be included in this RFP.

- Site plans must show the major elements to be improved or reconstructed at appropriate scales. Concepts shall be detailed to address and identify site challenges such as restricted areas, underground utilities, drainage, etc. Plans shall be developed as necessary conveying phased construction work, specifically providing for the maintenance of parking at current capacity and the facility as a whole to current operating levels. Public and employee parking areas must be identified. Additional data the Operator feels may be used to better understand the Proposal should be included on the plans.
- Color-rendered exterior elevations of any building modifications must be provided. The elevation views must show all sides of the buildings and indicate all major features. The features must be labeled in a manner that clearly indicates and describes the type of materials that are featured on the renderings. The types of materials or brand including the level of quality must either be shown or listed on a separate table that indicates the materials and equipment.
- Color-rendered interior elevations of all buildings must be provided. The interior elevations must show major features of the interior finishes such as floor coverings and walls. Like the exterior renderings the features and materials must be labeled or listed in detail on a separate sheet.

C-2 DEVELOPMENT CONCEPTS

The Operator shall provide a written response to the series of topics related to the development concept of the Project that the Selection Committee will consider in selecting the Operator.

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Topic 1: Program Elements – The Selection Committee will evaluate the Operator’s responses to specific requirements identified in Appendix F: *Ground Lease Contract Requirements*.

Topic 2: Technology – The Selection Committee will evaluate the Operator’s use of technology to meet the requirements of the RFP including the use of innovative technology features use to enhance the user/customer experience.

Topic 3: Construction Concept – The Selection Committee will evaluate the Operator’s proposed construction sequencing plan, schedule, and ability to meet the identified requirements of Appendix F-10: *Construction Requirements* in this Proposal.

C-3 FACILITIES MANAGEMENT PLAN

The Operator shall provide a written response to the series of topics related to the Facilities Management Plan of the Project that the State of New Hampshire will consider in selecting the Operator.

Topic 4: Goals of the Plan – The Selection Committee will evaluate the Operator’s goals for their focus maintaining state-of-the-art systems and functionality throughout the life of the lease.

Topic 5: Plan Content – The Selection Committee will evaluate the Operator’s proposed Facilities Management Plan for breadth and comprehensiveness in addressing all facility elements defined in the RFP.

Topic 6: Specific Requirements – The Selection Committee will evaluate the Operator’s proposed Facilities Management Plan’s ability to meet the specific requirements of the RFP.

C-4 OPERATION AND MAINTENANCE REQUIREMENTS

The Operator shall provide a written response to the topic related to the operation and maintenance requirements of the Project that the State will consider in selecting the Operator.

Topic 7: Operations and Maintenance Requirements – The Selection Committee will evaluate the ability of the Operator’s proposed Operations and Maintenance (O&M) plan to meet the specific requirements of the RFP.

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C-5 PROJECT MANAGEMENT TOPICS

The Operator shall provide a written response related to the series of topics related to initial and ongoing management of the Project that the State of New Hampshire will consider in selecting the Operator.

Topic 8: Status Meetings and Reports

The State believes that effective reporting through meetings and written reports is essential to project success. At a minimum, the State expects the following:

- Kickoff Meeting: Participants will include the State and Operator Project teams. This meeting is to establish a sound foundation for activities to follow.
- Pre-Construction Meetings (if applicable). These meetings will occur prior to any construction at either facility, and will be held at the site of the proposed construction, to establish the overall construction schedule and activities. Participants will include the State and the Operator Project teams, and may include representatives from the Cities of Portsmouth and Dover, and the Pease Development Authority.
- Construction Status Meetings: Participants will include Project leaders from the Operator and the State. These meetings, to be conducted at least monthly, will address overall Project status and any additional topics needed to remain on schedule. A status report from the Operator will serve as the basis for these meetings. The State reserves the right to increase frequency of status meetings at any time during any construction project.
- Special Meetings: Need may arise for special meetings with State leaders or Project stakeholders to address specific issues.

The State expects the Operator to prepare agendas, background for and minutes of all meetings. Background for each meeting must include an updated Project Work Plan. Drafting of formal presentations, such as a presentation for the kickoff meeting, will also be the responsibility of the Operator.

The Operator shall submit reports in accordance with the Schedule and terms of the Ground Lease Contract. All reports shall be prepared in formats approved by the State. The Operator Project Manager shall produce reports related to

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Project Management as reasonably requested by the State. The Operator shall produce Project status reports, which at a minimum shall contain the following:

- a. Project status as it relates to the Project Work Plan,
- b. Deliverables status,
- c. Accomplishments during weeks being reported,
- d. Planned activities for the upcoming four (4) week period,
- e. Future activities,
- f. Issues and concerns requiring resolution,
- g. Report and remedies in case of falling behind schedule

Topic 9: Risk and Issue Management

The Operator shall describe the proposed methodologies for risk and issue management. This response should discuss State and Operator responsibilities. The State seeks a clear means to compare planned versus actual status, including percentages, at a sufficiently detailed level to ensure the State can adequately monitor the progress of the Project. Be sure to identify any essential time constraints on State actions. Escalation procedures are defined in F-20: *Dispute Resolution*.

Topic 10: Quality Assurance Approach

The Operator shall describe the methodology that will be employed to assure high quality service offerings to the traveling public. Discussion should include, but not be limited to, provision for the State to provide input for quality reviews and the standard for Operator internal review of service offerings.

Topic 11: Project Work Plan

The State sees a Project Work Plan as being essential to reach a comprehensive agreement with an Operator. Consequently, the State will seek to refine the proposed Project Work Plan during the GLC. The Operator should provide the following:

- Provide a preliminary Project Work Plan depicting tasks, task dependencies, schedule, milestones and deliverables. Define proposed deliverables. Include sufficient detail so the State will be able to identify departures from the plan in sufficient time to seek corrective action. In particular, provide information about staffing.

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- Describe all deliverables to be produced in the Project. Ensure that all Deliverables and milestones are identified in the Project Work Plan. Identify and discuss the following:
 - All assumptions upon which the Project Work Plan is based;
 - Descriptions of recommended roles by activity and time required for both State and Operator members of the Project Team;
 - Assignments of members of the Operator’s team identified by role to specific tasks; and
 - Critical success factors for the Project.

Discuss how the Project Work Plan will be used and how the State will have access to plan details, including resource allocation. Also, discuss frequency for updating the plan, at a minimum once every two weeks, and for every status meeting. Explain how the State will know whether the Project is on schedule.

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**APPENDIX D: CORPORATE QUALIFICATIONS OF FIRMS AND KEY
STAFFING QUALIFICATIONS**

This section should provide corporate qualifications of firms and key staff proposed to participate in the Project ONLY FOR KEY STAFF PROPOSED OR ANY NEW FIRMS not identified as part of the project within the Operator's RFQ submission. Required information shall be provided as outlined in Section IV of the Request for Proposal and shall include an updated organization chart.

Please note that any new firms or key staff identified in this section are subject to written approval by the State and will not be considered part of the Operator's team until such written approval is provided.

No information shall be provided in this Section unless firm or key staff changes are proposed by the Operator.

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APPENDIX E: REVENUE PROPOSAL

This section defines the required revenue and additional financial information to be provided by the Operator in this Proposal. All revenue and financial information provided shall be submitted by the Operator in Section VII and Section VIII of the Request for Proposals.

E-1 REVENUE AND FINANCIAL INFORMATION

As part of its Proposal, the Operator must submit sufficient revenue and financial information that addresses all responsibilities required under the full term of the Ground Lease Contract, which must include all of the following:

- Five most recently audited or reviewed financial statements for all affiliated companies.
- Discloser of all pending or resolved litigation within the past seven years for all affiliated companies involved with funding, construction and on-going maintenance.
- Initial funding sources and terms for the project.
- All covenants or liens on assets and debts.
- The capital costs for items addressed in the Parking Controls and Parking Expansion (if any), as shown in Form 4 (*Capital Costs*).
- The annual capital and operations/maintenance costs required to maintain the facilities in a state of good repair. This information shall be presented in nominal year dollars in Form 5 (*Annual Costs*).
- Rent payments, considered a combination of Base Rent and Gross Sales Rent as further defined in Appendix E. Proposed structure and amount of rent payments to be determined by the Operator that best meets their overall business model and provides a fair return to the State. The Operator should provide all necessary information to support the identified rent payment totals. This information shall be presented in year of cost using Form 7 (*Base Rent Payment*) and Form 8 (*Gross Sales Rent Payment*).

The Revenue and Financial Information shall also include a written narrative addressing the following:

- Detailing the Revenue and Financial Information Strategy;
- Citing either lender's commitments evidencing the ability to achieve financial closing or committing sufficient internal funds for the funding of all capital obligations at the time of Ground Lease Contract signing.

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- Describing the benefits to State of the offered structure.

All estimated rent values, either from Base Rent or Gross Sales Rent, should take into consideration site feasibility and shall include enough supporting information to justify rent identified. Anticipated revenue streams should consider parking fees, docking fees, ticket sales, concessions and other revenue generating operations in compliance with the Ground Lease Contract and EDA.

E-2 REVENUE AND FINANCIAL ASSUMPTIONS

The Operator is required to submit the assumptions that were used in preparing the Revenue Proposal. These assumptions will be used for purposes of evaluating the Proposals. These should include:

- Assumed effective date
- Development timeline, if applicable
- Timeline on periodic rent payments
- Financing costs including
 - Average cost of financing
 - Discount rates for average cost of capital
 - Discount rates used to calculate the net present value of the financial offer
 - Construction loans, term loans, bridge loans, etc., with relative interest rates and loan sizes
- Indicate expected revenues over the term of the lease in nominal year dollars
- Cost escalation parameters by type
- Costs nominal broken down into:
 - Periodic rent payments
 - Cost associated with design, construction, purchasing equipment and other start-up costs, including all requirements addressed in the Parking Control Requirements
 - Annual Capital Maintenance costs over the term of the Lease
 - Routine operations and maintenance of the sites including all requirements addressed in the O&M Requirements
 - Anticipated cost of goods sold (if concessions are provided at the facilities)

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- Anticipated advertising sales
- Anticipated rents paid by tenants to the Operator
- Calculation of anticipated return
- Rate of inflation for operating costs

E-3 REVENUE AND FINANCIAL RESTRICTIONS

The Operator is required to comply with the noted restrictions below. These restrictions are intended to promote the use by transit and shared ride activities. It is not the goal of the State, nor shall it be the goal of the Operator, to bring non-transit-related operations to the site.

These restrictions shall include:

- No full service/sit-down-style restaurant facilities will be permitted to be constructed on the premises. Fast casual establishments will generally be permitted, but are subject to NHDOT approval.
- Fuel sales will not be permitted on these sites
- No beer or alcohol will be permitted to be served or sold on the premises
- No tobacco, e-cigarettes, or adult magazines
- Items such as magazines that display nudity or X- rated movies, as well as dangerous items such as knives, guns, fireworks, and other items that may cause damage or harm are not considered wholesome and pure and are prohibited from sale.
- Any food, drinks, beverages, confections, merchandise and other items sold or kept for sale, if any throughout the duration of the Contract shall be wholesome and pure, and must conform in all respects to Federal, State and municipal laws, ordinances and regulations.
- All goods and services offered for sale, if any, must be in good taste and be considered appropriate, proper and consistent with the State's obligations to the user/customer.

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APPENDIX F: GROUND LEASE CONTRACT REQUIREMENTS

F-1 NEW HAMPSHIRE CERTIFICATE OF AUTHORITY OR CERTIFICATE OF GOOD STANDING

(REQUIRED TO SUBMIT AT GROUND LEASE CONTRACT TIME BY OPERATORS)

As a condition of Ground Lease Contract award, the Operator must furnish a Certificate of Authority/Good Standing dated after April 1, 2020, from the Office of the Secretary of State of New Hampshire. If your company is not registered, an application form may be obtained from:

Secretary of State
State House Annex, Room 317
25 Capitol Street
Concord, New Hampshire 03301
603-271-3246
www.sos.nh.gov

If your company is registered, a Certification thereof may be obtained from the Secretary of State.

F-2 STATE OF NEW HAMPSHIRE TERMS AND CONDITIONS

All RFP terms and conditions including but not limited to the following terms and conditions, shall constitute the basis for any and all ground lease contracts resulting from the RFP. The Operator, and its subcontractors and sublessees, will incorporate these terms and conditions into all subcontracts and subleases.

STATE OF NEW HAMPSHIRE TERMS AND CONDITIONS

F-2.1 Effective Date: Completion of Services

The Ground Lease Contract and all obligations of the parties hereunder shall become effective on a date subsequent to the Governor and Executive Council of the State of New Hampshire approval. The Effective Date will be determined during final contract development with the selected Operator.

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The State does not require the Operator to commence work prior to the Effective Date; however, if the Operator commences work prior to the Effective Date, such work shall be performed at the sole risk of the Operator. In the event that the Ground Lease Contract does not receive Governor and Council approval, the State shall be under no obligation to pay the Operator for any costs incurred or services performed.

F-3 PROPERTY DESCRIPTION

The State is the owner of real property located adjacent to I-95 in Portsmouth, New Hampshire and on Indian Brook Drive in Dover, New Hampshire. Such properties are currently designated as the “Bus Terminal and Park-and-Rides”, in the cities of Portsmouth and Dover, all in the State of New Hampshire, as more particularly described in the legal descriptions and shown on the plans attached hereto as Exhibit 10 and incorporated hereto.

In the event of a conflict between the plans and the legal description, the legal description will control. Said premises will be hereinafter referred to as "the Leased Premises" and shall be for use in common with the State of New Hampshire and its patrons in accordance with the terms of this Ground Lease Contract.

F-4 DEVELOPMENT REQUIREMENTS

Development of the facilities shall take place within the limits of the real property described in Exhibit 10. The Operator must minimize user/customer inconvenience during the development process subject to the terms described herein. Furthermore, development activities shall be planned and scheduled to complete construction in the most expeditious manner possible. The bus terminal and park-and-ride facilities shall at a minimum meet the program requirements identified herein.

All plans and concepts shall be approved in writing by the State as identified in Appendix F-11: *Design Requirements*. Plan reviewers will include the New Hampshire Department of Transportation, Bureaus of Rail and Transit, Turnpikes, Highway Design and Bridge Design, as well as the Department of Administrative Services, Division of Public Works.

The Operator will be responsible for all aspects of the project and operations during the lease period including, but not limited to:

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- All site improvements including parking controls and expansion (if applicable), as well as terminal modifications (if applicable), etc.
- Operation and maintenance of the facilities for the term of the Ground Lease Contract, unless terminated earlier as provided herein.

The Operator shall be responsible for all development costs associated with the project including, but not limited to, demolition, construction, operation and maintenance of the facilities as described in this Ground Lease Contract. The Operator may employ subcontractors/sublessees to deliver required services subject to the terms and conditions of this Ground Lease Contract. The Operator shall remain wholly responsible for performance of the entire Ground Lease Contract regardless of whether a subcontractor/sublessee is used. The State will consider the Operator to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from this Ground Lease Contract.

F-5 PRODUCT OFFERINGS AND SERVICE STANDARDS

The Operator agrees to operate the Leased Premises in a highly efficient and attractive manner and to conduct its operations so as to make its facilities models of proper management. In this respect, the services provided, continuous maintenance, cleanliness, training of personnel, customer service and general operations are of the essence of this Ground Lease Contract.

The Operator will be permitted to dispense food, non-alcoholic beverages and such other products, including candy, snacks, beverages, maps, and travel aids as are customarily sold at bus facilities for the comfort of their patrons. Fee concessions (e.g., a convenience store) will be permitted within the constraints set forth in the Ground Lease Contract. The Operator agrees not to use or to permit any part of the Leased Premises to be used for any other commercial purpose, except as specifically allowed by this Ground Lease Contract or as permitted by the State in writing.

In addition, to the extent and for so long as the State may agree at its sole discretion in writing, the Operator may do the following: sell a selection of retail items, such as souvenirs, clothing, and regional products.

All matters involving sanitation, cleanliness, training of personnel, customer service and general operations shall be conducted in strict accordance with the highest standards applicable to facilities of the same type. All such aspects of the Operator's

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operations shall conform to the manual of operating data or comparable operating guidelines issued by the applicable franchisor as from time to time in effect.

Without limiting the generality of the foregoing requirements, the Operator shall assure that patrons are provided prompt, efficient, and courteous service, and that a sufficient number of trained and properly attired personnel are on duty to operate the Leased Premises within the constraints of the Ground Lease Contract.

The Operator shall, in and about all Leased Premises, control the conduct, demeanor and appearance of persons doing business with it, as well as its agents, servants and employees, and exert reasonable control over the conduct of its patrons.

F-6 TERM

The Operator's initial term of this Ground Lease Contract shall be thirty (30) years and shall commence on the Effective Date of the Ground Lease Contract, unless sooner terminated in accordance with the provisions hereof, shall extend to the Expiration Date.

At its sole discretion the State may extend the Ground Lease Contract, with two five-year options. The State will provide notice of Ground Lease Contract extension or termination at least one year prior to contract expiration date. The Operator must affirm its acceptance of contract extension in writing within 30 days of receipt of notice. Specific provisions may be amended at the sole discretion of the State.

The State covenants that the Operator, on paying the Rent as defined herein and performing the Operator's obligations in this Ground Lease Contract, shall peacefully and quietly have, hold, and enjoy the Leased Premises throughout the Term, without hindrance, ejection or molestation by any person lawfully claiming under the State, except that the State shall have and enjoy all rights of entry and all other rights set forth herein.

F-7 RENT PAYMENTS

From and after the commencement of this Ground Lease Contract, the Operator covenants and agrees to pay Base Rent (as defined in Section F-7.2) and Gross Sales Rent (as defined in Section F-7.3) (collectively "Rent") as provided in this section.

F-7.1 Payment

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All Rent shall be paid in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private, at the time of payment, at such place as the State in writing may designate, without any set-off or deduction whatsoever (except as otherwise provided herein) and without any prior demand therefore. Annual Rent shall be based on the State fiscal year, which runs July 1 to June 30 (called either the “Fiscal Year” or “Lease Year”). In the absence of such written designation, all Rent shall be paid at the office of the State, payable to “Treasurer of the State of New Hampshire”, at the Rent Payment Address provided below.

TRANSPORTATION, DEPT OF
Bureau of Finance and Contracts
7 Hazen Drive
PO Box 483
Concord, NH 03302-0483

F-7.2 Base Rent

The Operator shall pay Base Rent, in twelve (12) monthly installments for the term of the Ground Lease Contract during each Lease Year.

Such Base Rent shall be payable in advance on the first day of each calendar month. The Operator’s Proposal shall identify Base Rent beginning for the first whole month (and provided to the State consistent with the stated requirements) subsequent to execution of the Ground Lease Contract, regardless of any delays in commencing business including but not limited to delays caused by failure to obtain required approvals or permits.

F-7.3 Gross Sales Rent

If proposed, Gross Sales Rent shall be based on Operator annual gross sales as identified in the Operator’s Proposal. In determining the Gross Sales Rent, gross sales from both sites are to be included. The Operator may determine the sources of gross sales for the Gross Sales Rent.

If proposed, the Operator shall pay a single lump-sum Gross Sales Rent payment on or before July twentieth (20th) following the preceding Fiscal Year for all gross sales earned during the preceding Fiscal Year.

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Gross sales is defined in Appendix F-8.

The Operator shall keep, at Operator's Headquarters in <<city, state>> or such other location as the State may approve, which approval shall not be unreasonably withheld, for at least forty-two (42) months after expiration of each Lease Year (or such shorter period of time as the State may approve with respect to any particular Lease Year), full, true, and accurate books of account and records conforming to generally accepted accounting principles showing all of the gross sales transacted at, in, on, about or from the Leased Premises for such Lease Year, including all tax reports, dated cash register tapes, sales checks, sales books, bank deposit records and other supporting data.

Within twenty (20) days after the end of each calendar month, or portion thereof, the Operator shall furnish to the State a statement signed and verified by an authorized officer of the Operator of the gross sales transacted during such month or portion thereof; and, beginning in 20XX, on or before <<Insert Date>>, in each Fiscal Year and within sixty (60) days after the end of the Term, the Operator shall furnish to the State a statement, hereinafter called the annual statement, certified to the State by an officer of the Operator, of gross sales transacted during the preceding Lease Year included in the Term.

In addition, beginning in 20XX, on or before <<Insert Date>>, for each preceding Fiscal Year (e.g., State Fiscal Year 2021 represents the period from July 1, 2020 through June 30, 2021), the Operator shall furnish to the State a statement, hereinafter called the Fiscal Year statement, certified to the State by an officer of the Operator, of gross sales transacted during the preceding Fiscal Year included in the Term. The certification by said authorized officer of the Operator shall expressly state that the gross sales shown on said statement conform with and are computed in compliance with the definition thereof contained in this Ground Lease Contract.

The State shall have the right on a yearly basis, by its accountants or representatives to, audit all statements of gross sales from the Leased Premises and in connection with such audits to examine all of the Operator's records (including all supporting data from which such gross sales may be tested or determined) of such gross sales disclosed in any statement given to the State by the Operator; and the Operator shall make all such records readily available for such examination. If any such audit discloses that the actual gross sales transacted by the Operator exceed those reported, the Operator shall forthwith pay to the State such additional Gross Sales Rent as may be so shown to be payable, including interest at two (2%) percent above the Federal funds rate but in no

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event to exceed the maximum rate allowed by law and, if the excess so disclosed shall be more than 3% of actual gross sales, the Operator shall also then pay the reasonable cost of such audit and examination.

F-7.4 Rent for a Partial Month

For any portion of a calendar month included at the beginning or the end of the Term, the Operator shall pay 1/30 of each monthly installment of Rent for each day of such portion, and which shall be computed and paid as provided in Sections 7.2 and 7.3 respectively hereof, except that Base Rent for such portion shall be computed and paid as provided in Section 7.2 hereof.

F-7.5 Interest

If the Rent is not paid when due, interest shall accrue on the balance due beginning after the fifth (5th) calendar day following the mailing of written notice of nonpayment given by the State to the Operator at a rate per annum of two (2%) percent above the Federal funds rate but in no event to exceed the maximum rate allowed by law.

F-8 DEFINITION OF GROSS SALES

The term "gross sales" shall mean the gross amount, in cash or for credit (whether or not collected), received from any and all operations at or through the use of the Leased Premises, including but not limited to sublessee fees, licensees, parking fees, ticket sales, docking fees, advertising, concessions sales, advertising, marketing, and any other commodities and services at or through the use of the Leased Premises. Gross sales include sales of products and services from amusement machines, telephones, and other devices which are owned by the Operator and operated on the Leased Premises, and also commissions paid to the Operator with respect to said devices which are owned by others and operated on the Leased Premises.

Any tax imposed upon and added to the retail sales price of any or all services or merchandise collected by the Operator shall not be treated as a part of gross sales. No franchise or capital stock tax or income tax which forms a part of the cost of merchandise to the Operator or otherwise shall be deducted in the computation of gross sales.

Gross sales shall not include the sales price of returned tickets, canceled sales or exchanges made to or with other entities on the sites, operated by the Operator. Lottery

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tickets, phone cards, and gift cards are not included in gross sales if sold in a concession's operation.

F-9 TAXES

The Operator shall duly pay or cause to be paid all taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to the Operator's leasehold interest (whether real or personal) hereunder, or its property and improvements located on the Leased Premises or any construction materials or equipment incorporated or installed on the Leased Premises.

Except as otherwise identified or provided herein, the Operator shall also duly pay or cause to be paid all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Leased Premises.

The Operator is required to pay property taxes consistent with local municipal ordinances. The Operator is responsible for determining applicable taxes through consultation with the respective municipalities, understanding that applied taxes for the Operator may be different than those levied for current operations.

Failure of the Operator to pay the duly assessed taxes when due shall be considered an Event of Default.

F-10 CONSTRUCTION REQUIREMENTS

The Operator shall be solely responsible for conducting and assuming all risk with respect to any construction or renovation activities on the Leased Premises. All engineering reports or other results of such investigations or analyses shall be jointly addressed to and delivered to the State by the consultants in question. The State may require the Operator to conduct, at the Operator's expense, further investigation or analyses that the State may determine are reasonably required to protect the State's interests. The State considers reasonable additional testing to be items such as borings, drainage analysis, subsurface investigation, etc. Unreasonable testing may be items such as testing regarding hazardous material removal, etc. If the Operator encounters any unreasonable testing expense, the Operator shall be allowed to renegotiate its Rent based on the cost of the additional testing. The Operator shall not rely on the State's exercise or non-exercise of its rights in the preceding sentence as any kind of representation on the part of the State or its consultants that the investigations or

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analyses procured by the Operator are sufficient for construction or any other activities of the Operator.

All construction shall be performed using first class materials and workmanship in strict accordance with the State-approved plans and specifications.

Upon completion of final plans and specifications as defined in Appendix F-4, the Operator shall submit to the State said final plans and specifications together with the bonds and insurance certificates required under Appendix F-22. Upon the Operator's receipt of approval by the State of such final plans and specifications, such insurance certificate and such bonds, the Operator shall without delay commence construction of the improvements contemplated in such plans and specifications and shall continue with all reasonable dispatch to complete the same on or before any applicable date for completion set forth in this Ground Lease Contract or in any approval given by the State under this section.

The parties agree to cooperate and consult with each other throughout the entire construction period. The State shall have the right to attend any meetings and to review the content of any communications the Operator may have with its contractors. Each party agrees to use all reasonable efforts to accommodate the legitimate concerns of the other party as long as those concerns are consistent with the duties, rights, and responsibilities of the respective parties as outlined in this Ground Lease Contract and attachments hereto. The State and its authorized agents or representatives shall have access to the construction site at all reasonable times and the right to inspect construction work for compliance with the requirements of this Ground Lease Contract. The State shall be notified of regularly scheduled meetings among the Operator's inspecting architects and engineers and the contractor(s) performing such construction. The State's duly authorized representative shall also receive copies of all minutes issued by the Operator's inspecting architect or engineer with respect to each such job meeting.

The Operator shall take or cause to be taken all safety precautions and programs in connection with its construction work as shall be reasonably necessary and/or which are required by Federal, State or local regulation to prevent damage, injury or loss to employees of the Operator or any of its contractors or subcontractors, to patrons of the facilities, or to any other person, or to any property of the State.

The Operator shall promptly cause to be discharged of record of any lien, attachment or other claim asserted against the property of the State, immediately upon the filing of

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any such claim. Without limiting the rights of the State as set forth in Appendix F hereof, the Operator covenants and agrees to defend, and indemnify and save harmless the State from and against any and all claims, demands, suits, actions, judgments, recoveries, and expenses, including but not limited to the fees and expenses of attorneys, against or incurred by the State in connection with any claim by any contractor, subcontractor, workman, material supplier, design professional or any other party on account of work performed or goods or services delivered in connection with the performance of any repairs, redecorating, remodeling or construction on the Leased Premises.

F-10.1 Requirements During Construction

The number of parking spaces at each location shall remain operational to the same level as currently exists during the construction of parking controls, parking expansions, building modifications or other proposed improvements.

The Operator shall conduct a pre-construction meeting, as scheduled in the Project Work Plan, for each site after which, it must assume maintenance responsibilities at the site as described in Appendix F-13.

Essential Services must be provided without disruption during any construction. Essential Services are defined as maintaining the current level of parking, bus and transit services, lot lighting, utilities (electric, water, sewer, etc.) and restrooms. Failure to provide and maintain these Essential Services by the Operator can constitute an Event of Default (see Appendix F-30).

F-10.2 Construction Planning

No disruption to existing operations shall be allowed during construction of any improvements. The Operator shall identify construction sequence, schedule and dates when each facility shall be operational in the schedule identified in the Operator's Proposal.

The Operator must manage all aspects of site development including the coordination of development activities with subcontractors and the State. In addition, site planning must include a Site Development Plan, design and construction schedule, an organization chart, communications plan, quality control and quality assurance plans.

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All parking lot controls parking expansions, building modifications and other improvements will be designed and constructed by the Operator as its own cost.

F-10.3 Construction Project Work Plan

Prior to signing the Ground Lease Contract, the Operator shall prepare and submit a Construction Project Work Plan to the State for review and approval for any proposed construction. This Plan shall accurately reflect the status of the Project schedule, tasks, deliverables, critical events and task dependencies at each site. This Plan shall be updated as necessary, but not less than once every two weeks. Any significant changes to the construction Project Work Plan shall require the prior approval of the State. Unless otherwise agreed in writing by the State, changes to the Construction Project Work Plan shall not relieve the Operator from liability to the State for any damages resulting from the Operator's failure to perform its obligations under this Ground Lease Contract.

In the event of a delay in the schedule, the Operator shall immediately notify the State in writing. The written notification will identify the nature of the delay, i.e., specific actions or inactions of the Operator or State causing the problem; its estimated duration period to reconciliation; specific actions that need to be taken to correct the problem; and the expected schedule impact on the Project. The schedule shall automatically extend on a day-to-day basis to the extent that the State's execution of its major tasks takes longer than described in the construction Project Work Plan.

Notwithstanding anything to the contrary, the State at its discretion shall have the option to terminate this Ground Lease Contract for default if it is dissatisfied with the Operator's Construction Project Work Plan or elements within the Project Work Plan.

F-10.4 Licenses and Permits.

Except as set forth in Appendix F-11.2.3: *Consideration for Community Development*, the Operator shall promptly comply with all statutes, ordinances, rules and regulations of any government whether Federal, State, county or municipal or any department, agency or State thereof applicable to the Leased Premises or any construction therein or renovations thereof or to the Operator's activities therein and shall apply for and obtain in a timely manner, at its sole cost and expense, all necessary Federal, State and municipal approvals and permits necessary for the commencement of construction, the occupation of buildings once renovated and the conduct of the Operator's activities as contemplated herein. The Operator agrees to make any reasonable alterations to the

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Leased Premises as contemplated that may be necessary to obtain any required approval or permit. The Operator agrees that the State shall not be liable to the Operator for any damages, compensation for lost profits, reimbursement for funds expended or any expense whatsoever due to the failure of Operator to obtain an approval or permit. If the failure to obtain a required approval or permit prevents the construction of one of the Leased Premises in substantially the same form as contemplated herein then in such an event the parties agree to pursue all reasonable alternative configurations that could be expected to generate at least approximately the same amount of gross income.

F-11 DESIGN REQUIREMENTS

The Operator shall provide the State with the Design Deliverables as defined in this Ground Lease Contract in accordance with the terms herein. Upon its submission of a Design Deliverable, the Operator shall represent that it has performed its obligations under the Ground Lease Contract associated with the Design Deliverable. Design Deliverables associated with parking control or expansion design, including but not limited to plans and specifications, shall be submitted for review and approval by the State at the following milestones:

Parking Assessment and Projection Study as described in F-11.3.1.

- 30% Design Phase (*Note - The concept plans included with the RFP are assumed to represent 10% design plans*)
- 60% Design Phase
- 100% Design Phase
- As-built drawings – Post-construction Phase (following completion and acceptance of construction)

The aforementioned Design Deliverables shall be prepared consistent with the New Hampshire Department of Transportation standards for site/utility work including but not limited to The NHDOT Standard Specifications for Road and Bridge Construction as amended from time to time and incorporated herein by this reference, and industry standards for construction. The Operator shall assume a thirty (30) calendar day review and approval period by the State for each design phase in their overall schedule.

F-11.1 Design Deliverables Review

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Prior to the commencement of work on the design development of site improvements, if any, the Operator shall provide to the State a “Design Deliverables” document stating all materials to be submitted for review. The design deliverables shall at least include plans, specifications, estimates, construction schedules and other relevant information. The design deliverables schedule shall be consistent with that noted in Form 2 – Operators Schedule of Appendix H.

The State will review and either approve the proposed content for the written Design Deliverable or not accept it within fifteen (15) business days and specify what the State requires. The finalized documents will then be utilized to review the Design Deliverable to ensure it has met the State’s expectations and can be accepted or not accepted based on previously agreed upon criteria and the requirements of this Ground Lease Contract.

After receiving written Certification from the Operator that a Design Deliverable is final, complete, and ready for review, the State will have fifteen (15) business days to review the Design Deliverable and the State will notify the Operator in writing of its acceptance or rejection of the Design Deliverable. If the State rejects the Design Deliverable, the State will notify the Operator, in detail, of the nature of the Deficiency and the Operator must correct the Deficiency within fifteen (15) business days or such other time period the State may require in writing.

Upon receipt of the corrected Design Deliverable, the State will have fifteen (15) business days to review the corrected Deliverable and notify the Operator of its acceptance or rejection thereof.

Failure to remedy the deficiency during the cure period shall be considered an Event of Default.

F-11.2 Final Plan Approval / Design Guidelines

The State reserves the right to require specific design standards, revisions, alterations, modifications or other requirements it deems necessary to provide optimal comfort, convenience, safety and service at these facilities. The State will have final plan approval on all site, parking lot, and building designs including any subsequent modifications or changes.

F-11.2.1 Design Quality

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The State is committed to excellence in design and development of its sites and buildings. The Operator's designs must achieve the highest quality of performance and aesthetics in meeting the requirements of the facilities' patrons and the State, while delivering enhanced or new facilities that are cost effective to maintain throughout their useful life.

F-11.2.2 Building Operations and Maintenance

Systems and materials should be selected on the basis of long-term operations and maintenance costs as those costs may be significantly higher over time than initial costs. The design of the improvements should ensure ease and efficiency of operation and allow for easy and cost-effective maintenance and repair during the facilities' useful life. The Operator is required to develop detailed instructions for operational/maintenance procedures to be incorporated into the training for operations and maintenance personnel.

F-11.2.3 Consideration for Community Development

This project is covered under RSA 674:54 (Governmental Land Use). The project sites exist in the Cities of Portsmouth and Dover. The State is committed to being a good neighbor to these communities. Collaboration with local officials, neighboring property owners, residents, and appropriate interest groups is essential to use of these facilities in ways that provide positive benefits to the surrounding communities and neighborhoods.

◀ The Operator shall participate in a Public Informational meeting in each city where the improvements associated with this Ground Lease Contract (if applicable) are planned to occur. Such meetings shall be facilitated by the State, immediately following the 30% design submittal review. Format, location and scheduling for the meeting shall be coordinated with and approved by the State. All costs for the meeting shall be borne by the Operator including procurement of the venue. Set-up and advertisement of the meeting shall be conducted by the Operator as approved by the State.

F-11.2.4 Codes and Regulations

This project is currently used for governmental uses and therefore covered under RSA 674:54 (Governmental Land Use). However, and regardless of the provisions of RSA 674:54 and current application of codes and regulations, the project shall be compliant with RSA 21-I:80 and any and all municipal and airport related

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requirements for zoning and construction, and shall come before the respective Cities of Portsmouth and Dover for the required public presentation under RSA 674:54 (II). The Operator is responsible to coordinate all requirements with the municipalities as well as the Pease Development Authority.

Additionally, the Operator shall obtain, at its own expense, local building permit(s) and appropriate inspections, including Certificate of Occupancy, in coordination with the State Fire Marshall for all buildings constructed or modified under this Ground Lease Contract. Delay in obtaining such approvals and permits shall not relieve the Operator of its obligation to pay Base Rent.

Any utility permissions and permits shall be obtained from the respective entities providing services.

Site and building design and construction must meet all applicable Federal, State and local codes and standards and the Americans with Disabilities Act Accessibility Guidelines.

All road and bridge design and construction shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) and the American Association of State Highway and Transportation Officials (AASHTO) standards as they exist at the time.

The project shall comply with all Federal and State codes, including but not limited to RSA 143, RSA 143-A and He-P 2300, and the New Hampshire rules for sanitary production and distribution of food (if applicable) as amended from time to time, if proposed. As part of these requirements, the Operator shall submit plans for review prior to construction of food service improvements and submit food service license applications with the appropriate fees and be inspected and licensed prior to opening.

F-11.2.5 Special Inspections

The Contractor shall have the registered design professional(s) in responsible charge of the structural design to provide special structural inspections per 2018 International Building Code, Chapter 17, as/if applicable.

F-11.2.6 Inspection by New Hampshire Division of Public Works (NHDPW)

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The NHDPW will be responsible for overseeing inspection of the improvements to the facilities that are subject to the requirements of RSA 21-I-80 to ensure that all identified codes and regulations identified in this RFP are met.

The NHDPW inspection shall be paid for by the Operator as follows:

- Payment to oversee inspection of the improvements shall be by the Operator in the form of periodic payments up to \$500,000 to be paid to the NHDPW upon invoicing.

F-11.2.7 Professional Affidavits

The Contractor shall provide two signed affidavits each from the registered design professionals in responsible charge of civil/site engineering, structural engineering, architecture, mechanical engineering, electrical engineering. Design Affidavits shall be submitted at the conclusion of the design phase, but prior to the beginning of the construction phase, and shall state that the design professionals' respective design meets all applicable State and Federal codes. The Contractor Affidavit shall be submitted after substantial completion of the project, but before the issuance of a Certificate of Occupancy, if applicable, and shall state that the design professional made periodic visits to the site to observe the work and, to the best of their knowledge, information and belief, the project was constructed in accordance with their design. The frequency of site visits shall be such as to provide the design professional a reasonable assurance that the work is being done per the design documents.

The design professionals shall keep a log of all site visits, noting the dates and times of the visits and all pertinent observations and shall submit monthly reports to the State noting all findings during the site visits of that month. The design professional shall promptly notify the State of any of the following events or conditions which he observes in the course of performing his duties:

- Code violations.
- Changes which affect code compliance.
- The use of any materials, assemblies, components, or equipment prohibited by code.
- Major or substantial changes between approved plans and specifications and the work in progress.

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- Any condition which he or she identifies as constituting an immediate hazard to the public.

F-11.2.8 Safety and Security

The Operator proposed improvements, parking controls, expansions and buildings, shall be designed to ensure the safety of patrons, including building occupants entering and exiting the building. Emergency first responders entering the building are not to be impacted by any proposed security measures. The security measures implemented should be based on an output of a site-specific risk assessment identifying operational and maintenance issues.

Closed Circuit Television (CCTV) shall be implemented to the full extent of the facilities' limits to ensure safety and security of the patrons and for use by enforcement authorities. All video monitoring shall be consistent with applicable State and local laws and regulations.

F-11.2.9 Technology

The Operator buildings are encouraged to include state-of-the-art technology features. Buildings' infrastructure should be "technology friendly". These features should include, but not be limited to, arrivals/departure boards, wireless Internet access (WIFI), various payment methods for services, secure access for restricted/private areas, security system monitoring, a TV monitor with cable/satellite feeds providing road conditions, incident management information (when needed) and weather/news information as appropriate.

The State reserves the right at any time to retrofit the Leased Premises to accommodate any technology at the State's expense, and the Operator will cooperate to the fullest possible extent with the State in any such effort.

F-11.3 Programmatic Design Requirements

F-11.3.1 Parking Assessment and Projection Study

The Operator shall make an attempt to maximize parking spaces onsite accommodating current and future user/customer demand. The Operator shall develop and provide to the State an assessment of long-term parking needs over the term of the Ground Lease Contract. The study shall be developed providing insight as to anticipated growth rates related to operations, socio-economic issues

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(environmental, gas prices, etc.) that may lead to increased parking demand and need for expanded capacity. The goal of this study is to understand long term parking needs and any proposed expansion(s), as well as to provide insight for potential parking fees.

Signed employee parking shall be provided on site with preferential locations provided to the general public in the parking lots. Signed ADA-compliant accessible parking spaces shall be provided at both facilities and the number of accessible parking spaces shall be per ADA, State, and local rules and regulations.

F-11.3.2 Parking Controls and Expansion(s)

The Operator will be responsible for developing all parking controls and expansion(s), providing all site/civil needs, including but not limited to, drainage, pavement types, select materials, curbing, striping, utility connections, conduits, pull boxes and any other needs to sustain these new operations which may include the implementation of parking attendant booths, ticket booths and/or kiosks, lift/slide gates, parking billboards, and other needs.

F-11.3.3 Buildings

The Operator will be responsible for developing any proposed building improvements. This includes, but is not limited to, all structural, interior and exterior components, food concepts, common areas, restrooms, security, and other services/amenities, as applicable.

F-11.4 Environmental Conditions

The State makes no representation or warranty as to the condition of the leased property. The condition of leased property shall be inspected and documented by the Operator and certified by its Licensed Engineer/Environmental Consultant prior to commencing operations at the site. Documentation of the existing environmental conditions shall be at the Operator's expense.

F-11.5 Scope Changes

In the event of other significant changes in the scope of the project, such as unforeseen subsurface soil conditions, changes due to significant public input through Public Informational Meetings, etc., the Operator and State shall in good faith renegotiate their

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Base Rent and Gross Sales Rent (as defined in Appendix F-7) subject to Governor and Executive Council approval.

F-12 FACILITIES MANAGEMENT PLAN

F-12.1 Context / Goals of the Plan

The Operator is responsible for all maintenance, repair, replacement and upgrade of any and all elements of the facilities, including but not limited to equipment and/or systems throughout the facilities. The Operator shall prepare and submit to the State for approval a detailed Facilities Management Plan for review and approval. The Operator should expect that the submitted Facilities Management Plan will be developed in close coordination with the State and may require resubmittals until the document meets the expectations of the State. The Operator shall understand that no current or existing Facilities Management Plan will be provided to support the development of the Facilities Management Plan required under this Ground Lease Contract.

The finalized Facilities Management Plan shall be complete and accepted by the State within six months of Governor & Council approval of the Ground Lease Contract.

The goals of the Facilities Management Plan shall be:

- To maintain and repair the facilities consistent with operational needs, user/customer expectations, and economic operation throughout their useful life.
- To provide for the systematic repair and replacement of obsolete or non-functional systems.
- To meet future expectations of users/customers in a planned, systematic manner.

The plan must address the overall approach to achieving these goals, including but not limited to, the following elements:

- Maintain a complete inventory of equipment at the facilities, space utilization, and building system descriptions. The inventory shall note equipment that exists on site at the beginning of the Ground Lease Contract and that which is added over the duration of the lease term.
- Perform facility condition assessments/audits no less than annually to identify the condition of all elements of the facilities, buildings/building systems and deficiencies requiring correction.

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- Define performance standards for the required level of maintenance/repair performance as defined throughout the Ground Lease Contract.
- Define a method to prioritize deficiencies/facility needs in order to address safety and environmental compliance, operational impact, user/customer expectations, and economical operation.
- Define a process for work effort identification, planning, prioritization, design, and construction.
- Define performance indicators and performance measures and their reporting. These shall, at a minimum, be consistent with requirements set forth in the EDA.
- Define how program performance will be documented and communicated to the State.

The State shall participate in the condition assessments of all facilities, in the prioritization of requirements/deficiencies, and in the establishment of performance standards and performance measures.

F-12.2 Plan Contents

The Facilities Management Plan shall demonstrate a detailed approach and organization. Components of this plan shall include, but not be limited to, the following:

- Site Maintenance, including but not limited to parking control equipment and infrastructure, pavement resurfacing, signing, striping, and drainage
- Landscape Management, including but not limited to grounds maintenance and landscaping
- Winter Maintenance, including but not limited to snow removal, sanding and salting of hard surfaces
- Emergency Response
- Facilities Maintenance and Repair
- Major Capital Improvements such as renovation, major modifications, expansions/additions
- Furniture, Fixtures and Equipment found in the facilities
- Utilities/Energy Management

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- Building and Site Security
- Pest Control
- Environmental Compliance and Pollution Prevention
- Custodial Services

Each of these components shall be fully described in the Facilities Management Plan. For each component, the plan should describe in a narrative the following:

- The work processes to be used
- Proposed activities to be performed and their frequencies (daily, weekly, monthly, semi-annually, annually, etc.)
- Proposed performance standards
- Proposed performance measures
- Management controls (i.e., monitoring, reporting, and corrective action)
- Assignment of responsibility and accountability for performance which shall include the provision for contracts and receipts for services.

F-12.3 Specific Requirements

F-12.3.1 Building Maintenance

The Operator must include in the Facilities Management Plan a description of the daily, weekly, monthly custodial services to be performed in all areas of the buildings, performance standards for these services, and assignment of responsibility and accountability for these services.

F-12.3.2 Landscape Management and Grounds Maintenance

The Operator's Facilities Management Plan must address litter/debris removal over the entire site, landscape management including but not limited to non-environmentally detrimental fertilizing and herbicide application, mulching, pruning, planting of native vegetation, watering, mowing, etc., fencing, sidewalks, parking areas and driveways.

F-12.3.3 Winter Maintenance

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The Operator's Facilities Management Plan must address snow and ice control, including but not limited to, plowing, salting and sanding of walkways, parking areas and driveways.

F-12.3.4 Emergency Situations / Response

The Operator's Facilities Management Plan shall address handling facility-related emergencies, such as broken water/sewage pipes, loss of power, building systems failure, spills, etc., involving the call out of tradesmen including:

- Protocol and communications with NHDOT and the Bureau of Turnpikes.
- Approach to continuity of utility services during emergency situations.
- Proposed response time to the site, management responsibility and accountability, performance standards, performance measures, and reporting for emergency situations.
- Proposed emergency power system requirements.
- Proposed spill containment and clean-up requirements, as well as management responsibility and accountability, performance standards, performance measures and reporting.

F-12.3.5 Facilities Maintenance and Repair

The Operator's Facilities Management Plan shall address recurring or preventive maintenance, along with non-recurring repairs to building systems and equipment including:

- A description and a defined process for work identification, validation, planning, prioritization, design, construction, and quality assurance/quality control (QA/QC) of work performed.
- A program of preventive maintenance in order to keep the facilities and equipment for which they are responsible in good working order.

F-12.3.6 Capital Repairs, Renovation, Modernization, Expansion

The Operator's Facilities Management Plan shall include a proposed process for long range work identification, validation of need, planning, prioritizing, design, construction, and QA/QC of work performed. As with all components, the Operator must address performance standards, measures, management controls,

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responsibility, and accountability. The Operator will be expected to keep their facilities furnished and decorated in the most modern and effective manner to sustain user/customer satisfaction.

The State must approve in writing any major repairs, renovation, modernization, or expansion, prior to their execution in accordance with the following requirements:

- The Operator will submit preliminary plans, specifications, schedule, and detailed cost estimates to the State for review and comment.
- Final plans, specifications, and costs must be approved in writing before proceeding with work.

The State shall have the right to inspect all construction, renovation, and repairs to ensure compliance with approved plans and specifications, and to ensure the safety of patrons.

F-12.3.7 Furniture, Fixtures, and Equipment

The Operator's Facilities Management Plan shall address managing the life cycle of furniture, fixtures, and equipment considered non-real property assets associated with the facilities' operation.

F-12.3.8 Utilities/Energy Management/Plant Management

The Operator's Facilities Management Plan shall address supply of utilities, energy management, and sewage treatment facilities management.

F-12.3.9 Building and Site Security

The Operator shall describe its approach to security to prevent incidents and how it will respond to incidents, should they occur. This includes site lighting, security cameras, electric access gates, and physical security at buildings and grounds.

F-12.3.10 Pest Control

The Operator is responsible to contract with an extermination service to perform all extermination both inside and outside each building, and on such terms and demand as the health requirements may require.

F-12.3.11 Environmental Condition, Compliance and Pollution Prevention

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The Operator's Facilities Management Plan shall manage environmental compliance measures to prevent pollution from occurring. The Operator shall comply with the requirements of all Federal, State, and local regulatory requirements associated with the development, operation, and maintenance of the facilities.

Performance will be measured based on benchmark levels established by the Operator and approved by the State at the commencement of the Ground Lease Contract term for environmental contamination at each facility. The Operator shall be responsible for, among other things, identifying, remediating, packaging, manifesting, reporting, record keeping, handling, transporting and legally disposing of all hazardous and non-hazardous liquid or solid wastes generated by its operation of the facilities.

The Operator is responsible for meeting all applicable Federal, State and local regulatory requirements including, but not limited to, stormwater control.

The Operator is responsible for securing all environmental permitting necessary for this Project.

F-12.3.12 Custodial Services

The Operator must include in the Facilities Management Plan a description of the custodial services to be performed daily, weekly, and monthly in all areas of the building, including performance standards for these services, and the assignment of responsibility and accountability for these services.

F-13 OPERATIONS AND MAINTENANCE REQUIREMENTS

This section identifies the Operations and Maintenance responsibilities and requirements for the State and Operator following initiation of construction of any facilities within the land area described in Exhibit 1.

F-13.1 State Responsibilities

The State, at its expense, shall maintain and make repairs and replacements to the following:

- The paving, patching, striping, curbs as well as all stormwater drainage systems including catch basins, swales and culverts thereof, and trash, litter, and rubbish

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control, collection and removal in the areas immediately adjacent to, but **outside**, the land area described in Exhibit 10.

- Snow removal, snow plowing, sanding, and salting of areas immediately adjacent to, but **outside**, the land area described in Exhibit 10, including highway ramps to and from the facility in accordance with its policies as they exist from time to time. These areas shall not include the driveways into either facility.

If the State neglects or refuses to perform any repair or replacement required hereunder, the nonperformance of which materially adversely affects the Operator's operations hereunder, for more than thirty (30) days after delivery by the Operator of written notice to the State requesting such repair or replacement (or if the nature of the repair or replacement is such that it cannot reasonably be performed within said thirty (30) day period, but the State neglects or refuses to perform such repair or replacement within a reasonable time after delivery of such notice), then as the Operator's sole remedy hereunder and following prior written notice to the State of the Operator's intention to do so, the Operator may affect said repair or replacement and may deduct from installments of Rent next due the reasonable cost of such repairs and replacements so effected by the Operator.

F-13.2 Operator Responsibilities

The Operator shall be responsible, at its expense, for all repairs, maintenance and replacements on the land area described in Exhibit 10, including but not limited to the following:

- The Operator shall restripe the parking lots annually unless striping condition is sufficient such that this requirement is waived by the State. This determination shall be made early in the spring season, between the Operator and State, to allow for striping application within the appropriate timeframe and weather conditions. The condition of the striping will also be assessed during each of the annual facility and equipment audits.

F-13.3 Operations and Maintenance Requirements – General:

The Operator must:

- Provide well maintained facilities which are attractive, pleasant to use, and meet user/customer expectations.

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- Provide services and products in a prompt and timely manner with a high level of user/customer satisfaction.
- Ensure the operating standards practiced exceed industry guidelines.

F-13.3.1 Area Assets, Branding/Sponsorship/Marketing

The State reserves any and all rights for the purpose of developing, implementing, operating and marketing a branding/sponsorship program for the facilities. Such rights include, but are not limited to, naming of structures or areas, logo affixation, advertising, payment programs, media tie-ins, marketing partnerships with tourist, entertainment and sports destinations, content and Web sites. The State reserves and retains any and all rights to identify the nature and extent of the branding/sponsorship program and its relationship to the sites.

The State does not intend to conflict with site concepts or services, but rather to compliment or be generic to concepts and services provided by the Operator.

F-13.3.2 Area Concepts and Services

In order to avoid any conflict or potential conflict with rights associated with the branding/sponsorship program, the Operator shall provide to the State all relevant information and documentation that describes and defines:

- The concept, service or tie in (“ancillary concept”).
- The rights that may be acquired from or passed through to a franchiser.
- How it will be implemented and managed.
- How it will affect and/or benefit users/customers.
- Noting how revenue may affect gross sales revenue.
- The period of time that it will be operated.

If the Operator believes that the information or documentation needed to satisfy this obligation is or may be confidential, the Operator may submit redacted documents, or the State may consider entering into an appropriate non-disclosure agreement. The State will have final approval of all site concepts and services.

All food concepts must be contracted through the Operator. The Operator may allow an approved franchisee to operate the State approved concept or Ancillary Concept.

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F-13.3.3 Automatic Teller Machines

The Operator will be allowed to install ATM's at the facilities. Locations of the ATM's shall be designated on any plans developed if they vary from those currently existing at the facilities. Transaction fees at the ATM's shall be consistent with industry averages.

F-13.3.4 Signs-Advertising-Promotions

The Operator shall furnish, install and maintain all site signage on the facilities and within the defined Ground Lease Areas in accordance with the MUTCD as it exists from time to time and State and local laws, ordinances and policies related to outdoor signage and advertising. The Operator will be responsible for designing the advertising logo for the aforementioned signage. The State will have final approval and may remove/change the site signage at its discretion. The Operator shall deliver to the State existing signage removed.

Per the Early Development Agreement, hereby incorporated by reference, advertising and media displays are permitted inside structures on the facilities if such advertising and displays are not visible from the traveled way of any highway.

The State reserves the right to install interior and exterior signage at its discretion and expense.

For signs within the defined Ground Lease Area, the Operator may install and maintain signs as defined below for its operations, consistent with their respective customary logos, provided that said signs shall comply with all applicable Federal, State and local regulations, and provided further that the location and size thereof shall first have been approved in writing by the State. No other additional signs will be erected or installed by the Operator except with the specific written approval of the State. All signs shall become property of State at the end of the lease period.

F-13.3.5 Staffing

The Operator must provide adequate staffing levels necessary to provide high quality service during normal and peak periods.

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The supervision and maintenance of the Leased Premises shall be under 24 hours per day, 7 days per week constant and direct supervision of a trained, qualified and experienced manager employed by the Operator to respond quickly and decisively in all matters affecting the operation of the premises.

The Facilities Management Plan shall include specific policies and procedures relating to the safety and security of all patrons and staff of the facilities.

F-13.3.6 Transit-Related Fees

The Operator shall adhere to the transit-related fee structure submitted with its Proposal. Significant deviation shall require the Operator to submit a written request to NHDOT, and shall require State approval prior to implementation.

F-13.3.7 Utilities

The Operator shall make all necessary arrangements with governmental authorities and public utilities, provide and pay directly (and assume all risk of service interruptions) for all utilities and like services (including, without limitation, permitting, installation, maintenance, use and servicing), including, without limitation, water, sewer, oil, gas, electric, cable and telephone, used at the Leased Premises and otherwise in connection with the improvements and all deposits or bonds in connection therewith. The Operator is responsible for securing all permitting required to install and operate all utility services to the sites.

Exceptions to the above include:

- Utility consumption for operation of vending machines. This service shall be metered separately at the Operators expense and service paid for by operator of the vending machines.

F-13.3.8 Dangerous Materials

The Operator shall not keep any article or thing of a dangerous, inflammable, or explosive character on premises that might unreasonably increase the danger of fire on the premises or that might be considered hazardous or extra hazardous.

F-13.3.9 Menu Item Control

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The State reserves the right to limit, restrict and confine the type of food concept and category acceptable for the term of the Ground Lease Contract. Nationally recognized brand operations must conform to their standards. The Operator must request in writing State approval for changes and receive approval prior to making any changes.

In the event a concept ceases to be viable in the State's judgment, the Operator must replace that concept in an agreed time frame, not to exceed one year, with a current marketplace concept mutually agreed upon by the State and the Operator.

F-13.3.10 Goods & Services

All goods and merchandise must first be reviewed by the State for sale by the Operator.

The Operator shall submit a written merchandise list of all items/merchandise intended for sale on or before January 1st of each calendar year. The State reserves the right to review the list and prohibit items that are not wholesome and pure. Items such as magazines that display nudity and X-rated movies, as well as dangerous items such as knives, guns, fireworks, etc. are not considered wholesome and pure and are prohibited from sale.

F-13.3.11 Hours of Operation

At a minimum, seating and indoor waiting areas, restrooms, vending areas, public telephone locations, entrance lobbies and common areas shall remain open a minimum of 16 hours per day weekdays, including peak commuting times, and 12 hours per day weekends/holidays. These areas shall be heated and air conditioned during said operating hours.

F-13.3.12 No Smoking Policy

The inside of all buildings are to be designated as "No Smoking Areas". Smoking may be permitted in outdoor areas if they can be effectively segregated from a building's no smoking area in accordance with RSA 155 and local regulations.

F-13.3.13 Lottery Ticket Sales

The Operator is permitted to sell lottery tickets in the bus terminal buildings. The State must approve the location of any signs and promotional materials.

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F-13.3.14 Public Telephones

Public telephones are permitted for installation by the Operator. The State must approve the location of the equipment and any signs and promotional materials.

F-13.3.15 Alcoholic Beverages

The Operator shall not, at any time, sell, serve or otherwise furnish, within the limits of the facilities, any form of alcoholic beverage.

F-13.3.16 Vending Machines

The State reserves the exclusive right to contract for food and beverage vending machines, provided by others under separate contract with the State in accordance with RSA 186-B:13.

A minimum single vending area shall be provided to reasonably accommodate two (2) vending machines at each of the facilities. Vending machines may be located against a wall or along a corridor, however they may not be located in areas where flow of foot traffic or provision of other services will be impacted. If this does happen, the State will request relocation to an approved location. Failure to provide for vending services by others and in an approved location will be grounds for default.

The Operator is precluded from providing any vending machines or services of this nature. The vending machines will be required to remain in the facilities regardless of the fact that they may conflict with sales from other concessions at the facilities.

F-13.3.17 Amusement Machines

The State requires written consent for the installation of amusement machines. If written consent is granted, the Operator will submit a listing of said games to the State which contains a description of each game, dimensions, a diagram showing the proposed location, price-per-play and any other pertinent data requested by the State. The State may at any time, require the relocation, replacement, withdrawal or removal of such machines. The amusement machines shall be placed in an enclosed area. At no time shall an amusement machine be installed that is considered violent or sexual in nature.

F-13.3.18 Emergency Generator

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Existing emergency generator(s) shall be operated and maintained at the Operators costs. Proper maintenance operations and records shall be retained and provided in accordance with the Facility Maintenance Plan.

All costs and maintenance responsibilities shall be borne by the Operator for new generators installed as part of a renovation or new construction of the sites. The State reserves the right to specify the brand/type of the emergency generator(s) implemented at the site(s). If generators are proposed, the Operator shall submit the make, model and all manufacturers literature for the generator to the State for approval. Such installations shall conform to DES requirements as they exist at the time.

F-13.3.19 Litter/Debris Removal

The Operator shall police the parking facilities, sidewalks, adjacent areas, landscape and grass areas for litter and debris removal.

F-13.3.20 Site Lighting

The Operator will be responsible for all maintenance, luminaire replacement and utility costs for all site lighting. Lighting shall comply with all Federal, State, and local regulations.

F-13.3.21 Preventive Maintenance

The Operator will be financially responsible for all maintenance, repair, replacement and upgrade of all buses, transport equipment, facility equipment and/or systems throughout the facilities during the entire life of the Ground Lease Contract. Operator shall surrender the facilities and non-proprietary equipment to the State at the completion or termination of this Ground Lease Contract in good condition and good working order.

The Operator shall submit to the State a Facilities Management Plan for preventive maintenance that provides for the periodic examination and repair of all major equipment at the sites by qualified personnel. The Plan shall include, but not be limited to, a schedule of all HVAC, compressors, motors, alarm systems, emergency generators and other major building, structural, mechanical or electrical equipment requiring periodic maintenance or operational checks. These maintenance or operational checks will be performed according to the manufacturer specifications subject to State review and approval. Serial numbers, model numbers and other descriptive information of said equipment shall be provided to the State. The Plan, including an O&M schedule that shall, among other things, take into account the changing repair and replacement requirements of the equipment over

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the time period covered by its service life, shall be agreed to by the State and Operator at the completion of each site and be incorporated herein. This information shall be made available to the State through a database system created and maintained by the Operator. Both the State and Operator must mutually approve any material changes to the plan, such approvals are not to be unreasonably withheld or delayed. Operator shall provide a complete set of O&M Manuals to the State and maintain one at each site. Operator shall keep maintenance records, for the term of this Ground Lease Contract and make them available for the State inspection, as required. The Operator will immediately repair or replace defective equipment or components that are identified during preventive maintenance checks. In the event that the Operator fails to comply with these terms, the State will perform such maintenance or repairs in accordance with the provisions of Appendix F-15.

F-13.3.22 Restrooms

Operator shall be responsible for cleaning, repairing and maintaining a high level of standard for all restrooms.

Restrooms are to be refurbished upon assessment of the State during the annual facility and equipment audits and at the Operator's expense. The Operator may present evidence to the State supporting a delay to complete refurbishment. The design, construction and contractor must be approved by the State. The Operator shall not install or permit others to install facilities for pay toilets. The State places strong emphasis on the upkeep and cleanliness of restroom facilities.

F-13.3.23 Building Exterior

The Operator is responsible for maintaining the exterior of all buildings, including, but not be limited, to painting (every three (3) years), roof repair, gutters, downspouts, power washing etc. To the extent that the Operator desires to paint less frequently than three years, the prior approval of the State shall be necessary, but such approval shall not be unreasonably withheld, conditioned or delayed.

F-13.3.24 Evolving Services

The Operator will develop its facilities and operations to anticipate and meet changing service trends, new market formations and changing patterns evolving throughout the transit and transportation service industry. The Operator shall be required to periodically consider and/or propose and/or initiate ideas (at least every three years, at a minimum) for varying methods of services. The State will assist the Operator to the extent possible in promoting new and innovative ideas. This is

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not intended to require the Operator to change a successful concept every three (3) years.

F-13.4 Operations Review

The Operator shall review its operations and maintenance requirements with the designated representatives of the State annually and at such other times as such representatives may request.

F-14 EQUIPMENT

State-owned equipment in use at the facilities as of the Effective Date of the Ground Lease Contract will be provided to the Operator for use at the facilities. Disposal of all State-owned equipment shall be per an NHDOT-approved process. Replacement of any State-owned equipment shall be the responsibility of the Operator.

Throughout the lease term, the Operator, any lessees or groups completing any operations from the facilities shall furnish all equipment. This shall include buses, customer transport vehicles, facility maintenance equipment (i.e., lawn mowers, weed eaters, snow blowers, etc.), as well as any equipment to support ticket sales, food concessions or other needs as necessary to fulfill the services required by this Ground Lease and any written amendments or attachments thereto.

The Operator shall be responsible, at its expense, for any replacement of such equipment for any reason including but not limited to changes in operations. The State will not fund, subsidize, provide grants or otherwise compensate for any equipment needed to support the operations at the facilities.

Prior to execution of the Ground Lease Contract and occupancy of the facility by the Operator, the Operator shall identify any and all equipment and inventory to include cost of the same furnished by it to support the operations. This inventory and equipment list shall be updated and provided by the Operator on a yearly basis and signed by both parties. All of said equipment shall be maintained in good operating condition and repair by the Operator during the term of this lease.

The Operator will be responsible for maintaining security and life and fire safety/prevention equipment (i.e., fire extinguishers, automatic external defibrillators (AED's), etc.) in the facility, as required by the appropriate laws of the State of New

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F-15 FACILITY SUSTAINMENT AND REINVESTMENT RESERVE FUND

The Operator is responsible for all facility operating expenses and capital expenditures. Operating expenses include, but are not limited to, utilities, regularly scheduled inspections, preventive maintenance, recurring maintenance and repair, emergency response and service calls for minor repairs, and major repairs to or replacement of building systems and their components that are expected to occur periodically throughout the facility life-cycle. These repairs include, but are not limited to, regular roof replacement, refinishing wall surfaces, repairing or replacing floor coverings, repairing or replacing HVAC systems or components, electrical system components, septic systems, etc. Capital expenditures/improvements shall include retrofits/modernization/upgrades, renovation, and new additions. The Operator assumes responsibility of the facilities in the current condition at the term of the lease. The State will not be performing any improvements to the facilities prior to execution of the ground lease. The Operator shall take into account the existing condition of the facilities in the development of its maintenance and operations plan.

The Operator shall pay \$4,000 each month to the State for deposit into a separate interest-bearing fund account, known as the Facility Sustainment and Reinvestment Reserve Fund (Reserve Fund). This Reserve Fund is owned and controlled by the State. Interest earned in this account shall accrue to the account and count towards the balance requirements stated herein. The State will be the sole entity making decisions on use of this Reserve Fund. The Reserve Fund will not be an asset of the Operator.

The purpose of this account is to provide funding for the State for facility maintenance, repair, and capital improvement projects in the event the Operator fails to uphold the facility performance standards established in the terms of the Agreement. The Operator is to understand that if the State deems a need to utilize this fund for improvements not implemented by the Operator, it will constitute a failure to meet the requirements in the Ground Lease Contract and cause default on the Operators behalf.

The need for major maintenance, repair, or capital improvements will be determined jointly by the Operator and the State annually, generally following the required annual facility condition assessment. During the annual assessment, the Operator and the State will establish and validate the need for work at each of the sites and agree to a schedule for completion of the work. If the Operator fails to perform this work in a quality and

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timely manner, the State may deem the Operator to be in a state of Default and will use this fund to perform this work. All State costs, including administration costs, will be decreased from the Reserve Fund.

All expenditures funded from this fund shall be for capital items reasonably required to keep the facility in a most up-to-date and effective condition. All renovation improvements shall be subject to the standards and requirements of this Ground Lease Contract and the attachments hereto.

The Reserve Fund will have a cap of \$1,000,000. If the Reserve Fund reaches this limit, contributions can be discontinued.

If use of funding is required to address facility needs not being met by the Operator, requiring the fund to fall below \$1,000,000, the Operator shall resume payments into the account at the same rate, as stated above, until the fund is restored.

Within five years of the Ground Lease Contract expiration, the State may begin disbursing funds from the account for reinvestment in the sites. At the end of the Ground Lease Contract, any money that remains in the Reserve Fund shall be retained by the State. If early termination of this Ground Lease Contract occurs, by either the State, or the Operator, for any reason, the State will retain the monies in the Reserve Fund.

If the ground lease contract is extended beyond the original 30-year term, the Operator shall pay \$5,000 per month into the Reserve Fund every month during each successive five (5) year extension.

F-16 COMPLIANCE WITH LAWS AND REGULATIONS: EQUAL EMPLOYMENT OPPORTUNITY

In connection with the performance of this Ground Lease Contract, the Operator shall comply with all statutes, laws, regulations, orders of Federal, State, county or municipal authorities which impose any obligation or duty upon the Operator, including, but not limited to, civil rights and equal opportunity laws. The Operator shall also comply with all applicable local, State, and Federal licensing requirements and standards necessary in the performance of the Ground Lease Contract. In addition, the Operator shall comply with all applicable copyright laws.

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During the term of this Ground Lease Contract, the Operator shall not discriminate against employees or applicants for employment in violation of applicable State or Federal laws, including but not limited to non-discrimination because of race, color, religion, creed, age, sex, disability, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

The Operator 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 Operator further agrees to permit the State, or United States, access to any of the Operator’s books, records, and accounts for ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of the Ground Lease Contract.

F-17 PERSONNEL

The Operator warrants that all personnel engaged in the Ground Lease Contract services shall be qualified to perform the services and shall be properly licensed and otherwise authorized to do so under all applicable laws.

The Operator’s selection of a Construction Project Manager (CPM) and a Site/Operations Manager (SOM) will be subject to prior approval of the State. The State’s approval process may include, at the State’s discretion, review of the proposed CPM and SOM’s resumes and qualifications, and an interview. Both must have full authority to make binding decisions under the Ground Lease Contract and shall function as the Operator’s representative for all administrative and management matters during any construction improvements (if any) and long-term operations. The CPM and SOM must be available to promptly respond within two (2) hours to inquiries from the State, and at the site as needed. The Operator’s SOM must be qualified to perform the obligations required of the position under the Ground Lease Contract and shall be an employee of the Operator.

The Operator shall not change key Operator Staff, Construction Project Manager or Site/Operations Manager commitments (collectively referred to as “Project Staff”) without prior written approval of the State. Replacement Project Staff shall have comparable or greater skills with regard to performance of the Project as the staff being replaced and be subject to the provisions of this Ground Lease Contract.

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The State reserves the right to require removal or reassignment of any of the Operator's Project Staff found unacceptable to the State.

The State may conduct reference and background checks on the Operator's Project Staff. The State reserves the right to reject the Operator's Project Staff as a result of such reference and background checks.

Notwithstanding anything to the contrary, the State shall have the option to terminate this Ground Lease Contract, at its discretion, if it is dissatisfied with the Operator's replacement Project Staff. Failure to abide by the provisions of this section shall be considered an Event of Default.

Unless otherwise authorized in writing, during the term of this Ground Lease Contract, and for a period of six (6) months after the Completion Date of this Ground Lease Contract, the Operator 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 Ground Lease Contract. This provision shall survive termination of this Ground Lease Contract.

F-18 EMERGENCY CLOSING

In the event of an emergency, the State reserves the right to close or divert patrons away from the sites when such action in the view of the designated representatives of the State is in the best interest of the health and safety of patrons. The Operator agrees that it shall have no claim against the State. The Operator shall not be relieved of its obligation to pay Gross Sales Rent nor reimbursed for lost profits in the event of such a closure or diversion.

F-19 RECORDS RETENTION AND ACCESS REQUIREMENTS

The Operator shall abide by the conditions of all applicable State laws and regulations, which are incorporated herein by this reference, regarding retention and access requirements relating to all records relating to this Ground Lease Contract.

The Operator shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all revenue associated with this Ground Lease Contract. The Operator shall retain all such records

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for three (3) years after the end of the final Lease Year of this Ground Lease Contract. Records relating to any litigation matters regarding this Ground Lease Contract shall be kept for one (1) year following the termination of litigation, including the termination of all appeals or the expiration of the appeal period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and Federal officials so authorized by law, rule, regulation or Ground Lease Contract, as applicable. During the term of this Ground Lease Contract, access to these items will be provided within Strafford and Rockingham Counties of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records will be at no cost to the State during the three (3) year period following termination of the Ground Lease Contract, and one (1) year term following litigation relating to the Ground Lease Contract, including all appeals or the expiration of the appeal period. The Operator shall include the record retention and review requirements of this section in any of its subcontracts/subleases.

In the event of a conflict between the law and these provisions, the more stringent requirements shall apply.

Accounting Requirements

The Operator shall maintain an accounting in accordance with generally accepted accounting principles (GAAP). The revenue and costs applicable to the Ground Lease Contract shall be ascertainable from the accounting and the Operator shall maintain records pertaining to the services, costs, expenditures and revenue.

The Operator shall require its subcontractors and sublessees to meet the terms and conditions of this section.

The Operator is also directed to Section E 7.3: *Gross Sales Rent*, specifically regarding the annual financial audit to be completed by the State or its agent in confirming proper recordkeeping and reporting of Gross Sales Rent.

F-20 DISPUTE RESOLUTION

The NHDOT Bureau of Rail and Transit Administrator, or successor, shall be the State's representative. In the event of any dispute governing the interpretation of this

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Ground Lease Contract other than the Event of Default, the Administrator’s decision shall be final for the State as defined below.

Prior to the filing of any formal proceedings with respect to a dispute, the party believing itself aggrieved (the “Invoking Party”) shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party’s right to any other remedy permitted by this Agreement.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Dispute Resolution Responsibility and Schedule Table.

LEVEL	<OPERATOR>	THE STATE	CUMULATIVE ALLOTTED TIME
Primary	<TITLE>	State Project Manager	5 Business Days
First	<TITLE>	NHDOT Bureau of Rail and Transit Administrator	10 Business Days
Second	<TITLE>	NHDOT Assistant Commissioner	15 Business Days

The allotted time for the first level negotiations shall begin on the date the Invoking Party’s notice is received by the other party. Subsequent allotted time is business days from the date that the original Invoking Party’s notice is received by the other party.

F-21 INDEMNIFICATION FROM LIABILITY

To the fullest extent permitted by law, the Operator covenants and agrees to defend, indemnify and save harmless the State, its officers, employees and agents, from any and all claims, demands, suits, actions, judgments, recoveries and expenses, including

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but not limited to the reasonable fees and expenses of attorneys, against or incurred by the State, its officers, employees and agents, for or on account of infringement of patent rights or copyrights of others, or for or on account of damage or injury (including personal injury resulting in death) to the property or person of the Operator, its officers, employees or agents, or the State, its officers, employees or agents, or any other person or persons, and including injuries to employees of the Operator, caused by or arising out of or claimed to arise out of or related to any of the covenants or obligations assumed hereunder by the Operator or in any manner arising out of, or claimed to arise out of, or related to the Operator's operations or construction activities under this Ground Lease Contract, except those due solely to the negligence or willful acts of the State, its agent, or employees. This indemnity obligation shall not be limited in any way by benefits payable under a Workers' Compensation Act. Nothing contained in this section or elsewhere in this Ground Lease Contract shall be deemed to constitute a waiver of the defenses and sovereign immunity of the State, which immunity is hereby reserved to the State.

In addition, the Operator releases the State's officers, employees and agents from any and all claims of the Operator arising out of this Ground Lease Contract, except that this provision shall not extend to property damage or personal injury caused by the sole active negligence of any such officers, employees and agents.

This section shall survive termination or conclusion of this Ground Lease Contract.

The Operator shall insure its agreement to indemnify the State.

F-22 INSURANCE AND BONDS

F-22.1 Insurance and Bonds Required During Construction (if any)

During any construction whether onsite or offsite in conjunction with operations and services provided at the facilities, the Operator or its construction manager/general contractor shall provide the following insurances. Proof of insurances shall be provided prior to construction or start of operations, as appropriate. Such insurance shall be primary insurance and per project aggregate endorsement shall apply:

Insurances

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- A. Workers' Compensation Insurance with Statutory Limits of the applicable Worker's Compensation law, and Employer's Liability with minimum limits of \$500,000 each accident, \$500,000 for Bodily Injury by disease each employee, and \$500,000 policy limit for Bodily Injury by disease policy limit. If the Operator or its construction manager/general contractor is a qualified worker's compensation self-insurer, then (i) prior to its commencement of the construction the Operator or construction manager/general contractor shall certify to the State that it is in compliance with, or exempt from the requirements of N.H. RSA 281-A, and (ii) the construction manager/general contractor waives any right of recovery it may have or acquire against the State by reason of the Operator or construction manager/general contractor's having paid worker's compensation benefits as a self-insurer.
- B. Commercial General Liability Insurance, covering all operations of Operator and its construction manager/general contractor, written on an occurrence basis, with the following minimum limits: \$1,000,000 each occurrence \$2,000,000 general aggregate (which limit shall apply separately to the construction project); and \$2,000,000 products and completed operations aggregate. Coverage shall include (by the terms of the policy or by appropriate endorsements) premises and operations (including coverage for explosion, collapse and underground hazards), products and completed operations, contractual liability coverage, (with no exclusions for third party action over related suits), broad form property damage liability (including completed operations of subcontractors), and personal and advertising injury liability coverage. The State shall be included as additional insured, and the policy shall include an endorsement that waives the insurer's rights of subrogation against the State.
- C. Business Automobile Liability Insurance, covering all vehicles, whether owned, non-owned, hired, or borrowed, used by Operator and its construction manager/general contractor for any operations both on and off the Premises, with a minimum limit of \$1,000,000 combined single limit per accident for Bodily Injury and Property Damage. The State shall be included as additional insured.
- D. Umbrella Liability Insurance excess of the primary liability policies described above. The limits of liability provided will not be less than \$10,000,000 each occurrence, \$10,000,000 products and completed operations, and \$10,000,000 general aggregate. The aggregate shall apply per project or per location. The State shall be included as additional insured.
- E. Pollution Liability Insurance, covering third-party injury and property damage claims, including cleanup costs, as a result of pollution conditions arising from the operations and completed operations of the Operator or its construction manager/general contractor or its subcontractors, with coverage limits of not less than \$5,000,000 per incident. The State shall be included as additional insured.

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- F. Professional Liability Insurance covering professional design services to be performed by consultants, designers, architects or engineers by or on behalf of Operator and/or its construction manager/general contractor, with limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate.
- G. Commercial property or builders' risk insurance on an "all risk" or equivalent policy for, including, without limitation, insurance against the perils of fire (with extended coverage), theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, and debris removal. Such insurance shall (i) cover all equipment, machinery, supplies and other property intended to be permanently incorporated into the project, (ii) apply to such property while it is located at the Premises or located at temporary off-site or staging areas, or while in transit to the Premises, and (iii) have limits not less than 100% of the replacement value of the improvements. The policy will include an endorsement that waives the insurer's rights of subrogation against the State. Business income coverage shall include, but is not limited to, loss of lease payments, rental income, and other types of income that may be applicable.

Completion Bond

- H. The Operator shall furnish the State with a Completion Bond, with the State as Obligee, in an amount equal to the estimated construction cost(s) (if any) of improvements prior to the start of construction. The Operator shall bear the full expense of both the initial cost and the annual premiums for the Completion Bond. If such is not provided, the award may be nullified. The Operator may secure separate bonds for each site or improvement, as appropriate. Should the Operator progress construction of both sites concurrently, then the Operator may furnish the State a Completion Bond equal to the full amount of the estimated construction cost for both sites.

The Completion Bond shall be in a form and substance satisfactory to the State. The Completion Bond shall be issued and maintained by the Operator in full force and effect until completion of all construction. The Operator or any of its sureties shall not be released from their obligations under the Completion Bond from any change or extension of time, or termination of this Ground Lease Contract. The Completion Bond shall contain a waiver of notice of any changes to this Ground Lease Contract.

The underwriter of the Completion Bond must have a rating of no less than B+ based upon the current A.M. Best (credit rating agency in the insurance industry) rating guide and with a Department of Treasury listing sufficient to cover an obligation equal to, at a minimum, the total construction cost plus 10%.

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The Completion Bond shall secure the performance of the Operator, including without limitation performance of the design and construction phases in accordance with this Ground Lease Contract and shall secure any damages, cost or expenses resulting from the Operator's default in performance or liability caused by the Operator. The Completion Bond shall become payable to the State for any outstanding damage assessments made by the State against the Operator if there is a termination for default or failure of the Operator to complete construction operations. An amount up to the full amounts of the Completion Bond may also be applied to the Operator's liability for any administrative costs and/or excess costs incurred by the State in obtaining similar services to replace those terminated as a result of the Operator's default. In addition to this stated liability, the State may seek other remedies.

The State reserves the right to review the Completion Bond and to require the Operator to substitute a more acceptable Completion Bond in such form(s) as the State deems necessary prior to acceptance of the Completion Bond.

Payment bond

- I. The Operator or its general contractor/construction manager shall provide the State with a copy of a payment bond guaranteeing payment in full of all bills and accounts for subcontractors, own labor and/or materials used in the construction.

If such is not provided, the Operator will be determined to be in a state of default. The Operator may secure separate bonds for each site or improvement, as appropriate. Should the Operator progress construction of both sites concurrently, then the Operator may furnish the State with the requisite bonds for both sites.

The Payment Bond shall be in a form and substance satisfactory to the State. The bond shall be issued and maintained by the Operator or its general contractor/construction manager in full force and effect until completion of all construction. Any sureties shall not be released from their obligations under the bond requirements from any change or extension of time, or termination of this Ground Lease Contract. The Payment Bond shall contain a waiver of notice of any changes to this Ground Lease Contract.

The underwriter of the Payment Bond must have a rating of no less than B+ based upon the current A.M. Best (credit rating agency in the insurance industry) rating guide and with a Department of Treasury listing sufficient to cover an obligation equal to, at a minimum,

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the total construction cost plus 10%.

The Payment Bond shall secure the performance of the Operator or its general contractor/construction manager, including without limitation performance of the design and construction phases in accordance with this Ground Lease Contract and shall secure any damages, cost or expenses resulting from the Operator's default in performance or liability caused by the Operator. The Payment Bond shall become payable to the State for any outstanding damage assessments made by the State against the Operator if there is a termination for default or failure of the Operator to complete construction operations. The bond shall also be applied to the Operator's liability for any administrative costs and/or excess costs incurred by the State in obtaining similar services to replace those terminated as a result of the Operator's default. In addition to this stated liability, the State may seek other remedies.

The State reserves the right to review the Payment Bond and to require the Operator to substitute a more acceptable Payment Bond in such form(s) as the State deems necessary prior to acceptance of the Payment Bond itself.

F-22.2 Insurance and Bond Required After Completion of Construction

Prior to commencing operations at the sites, and for the remaining term of this Ground Lease Contract, the Operator shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or sublessee to obtain and maintain in force, the insurance in the same form and limits as listed above in Section 21.1, A-G, in addition to the financial guarantee bond described below. Such insurance shall be primary and per location aggregate endorsement shall apply.

Financial Guarantee Bond

- A. In addition to the insurance required above, prior to commencing operations at the sites, the Operator will furnish to the State as obligee, a financial guarantee bond issued by a company licensed to do business in the State of New Hampshire with a rating of no less than B+ based on the current A.M. Best rating guide, and with a Department of Treasury listing sufficient to cover up to a \$500,000 (five hundred thousand dollars) obligation, assuring the Operator's prompt payment of rent which is due to the State hereunder during the first five (5) years of the Ground Lease Contract.

The penal sum of such bond shall not be less than the aggregate rent due hereunder during such initial five (5) year period. The Operator shall pay the premium on the bond.

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This financial guarantee bond shall be issued for each successive five-year period of the Ground Lease Contract until expiration of the Ground Lease Contract. The Operator shall pay the premium on any such successor bond. If by January 1 of each successive five-year period, the Operator has not provided a similar bond for the next five years of the Ground Lease Contract in an amount not less than the anticipated aggregate rent for that same five-year period, the State shall have the right, by written notice given to the Operator not later than 30 days from time of required issuance, to initiate the termination of this lease as the Operator will be determined to be in a state of default.

The State reserves the right to review the Financial Guarantee Bond and to require the Operator to substitute a more acceptable Financial Guarantee Bond in such form(s) as the State deems necessary prior to acceptance of the Completion Bond.

In the event the bond company fails or becomes insolvent, Operator shall provide the State with a new bond meeting the terms and conditions of this Section, as soon as practicable.

F-22.3 Renewal Certificates

The Operator and/or its general contractor/construction manager shall furnish to the State certificates of insurance for all renewals of the insurance required under this Ground Lease Contract no later than thirty (30) days prior to the expiration date of each of the insurance policies.

F-22.4 Form of Policies and Certificates

The insurance policies required hereunder shall be the standard policy forms and endorsements approved for use in the State of New Hampshire by the New Hampshire Department of Insurance.

The Operator and/or its general contractor/construction manager shall furnish to the State the certificates of insurance for all insurance required under this Ground Lease Contract. All policies of insurance shall be endorsed to provide that the insurance company shall endeavor to provide written notice to the State at least thirty (30) days prior to the effective date of any cancellation or adverse material change of such policies (ten (10) days in the event of non-payment). The certificates of insurance and any renewals thereof shall be attached to the Ground Lease Contract and are incorporated therein by reference.

The insurance certificate should list the Certificate Holder in the lower left-hand block as:

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State of New Hampshire
Department of Transportation, Bureau of Rail and Transit
7 Hazen Drive
Concord, NH 03301

F-22.5 Deductibles or Self-Insured Retentions

All deductibles and self-insured retentions are the sole responsibility of the Operator or its general contractor/construction manager. Deductibles or Self-Insured Retentions must be shown on the Certificate of Insurance. No retention (deductible) shall be more than \$75,000.

F-22.6 Waiver of Rights of Recovery and Waiver of Rights of Subrogation

The Certificate of Insurance must evidence a Waiver of Recovery and Waiver of Subrogation in favor of the State where applicable on all policies.

The Operator waives all rights of recovery against the State for loss or damage covered by any of the insurance maintained by the Operator pursuant to this Ground Lease Contract.

The Operator hereby waives, and shall cause its insurance carriers to waive, all rights of subrogation against the State for loss or damage covered by any of the insurance maintained by the Operator pursuant to this Ground Lease Contract, and the policies shall be so endorsed.

F-22.7 Claims Made Policy Forms

Should any of the required liability coverages be on a “claims made” Basis, coverage must be available for the duration of the Ground Lease Contract and for a minimum of three (3) years following the completion of the Ground Lease Contract.

F-22.8 Review of Insurance Requirements by the Covered Party’s Insurance Representative

The Operator warrants that this Ground Lease Contract has been thoroughly reviewed by the Operator’s insurance agent(s)/broker(s), who have been instructed by the Operator to procure the insurance coverage required by this Ground Lease Contract.

The amount of insurance provided in the aforementioned insurance coverages, shall not be construed to be a limitation of the liability on the part of the Operator.

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Any type of insurance or any increase in limits of liability not described above which the Operator requires for its own protection or on account of statute shall be its own responsibility and at its own expense.

The carrying of insurance described herein shall in no way be interpreted as relieving the Operator of any responsibility or liability under the Ground Lease Contract.

In the event of a failure of the Operator to furnish and maintain said insurance and to furnish satisfactory evidence thereof, the State shall have the right (but not the obligation) to take out and maintain the same for all parties on behalf of the Operator who agrees to furnish all necessary information thereof and to pay the cost thereof immediately upon presentation of an invoice.

In no event shall the Operator or any subcontractor/sublessee begin Work until Certificates of Insurance showing coverage in the aforementioned amounts required for the Ground Lease Contract is received and approved by the State. Any Work performed without having the Certificates of Insurance received and approved by the State is at the Operator's and subconsultants'/sublessees' own and sole risk.

F-22.9 Insurance and Bonds Required Prior to Renovations

To the extent that renovations are required and authorized under this Ground Lease Contract, prior to commencing any renovation estimated to cost more than \$50,000, the Operator, or its general contractor/construction manager shall provide the State with a performance bond, naming the State as dual Obligee, having a penal sum equal to the amount of the renovation project. Operator shall also provide the State with a copy of a payment bond guaranteeing payment in full of all bills and accounts for materials and labor used in the renovation project.

F-23 BANKRUPTCY

If there shall be filed against the Operator in any court, pursuant to any statute either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the Operator's property, or if the Operator shall voluntarily file any such petition or make an assignment for the benefit of creditors or petition for or enter into such an arrangement, this Ground Lease Contract, at the option of the State, may be cancelled and terminated, in which event neither the Operator nor any person claiming through or under the Operator by virtue of any statute or of an order of any court shall be entitled to acquire or remain in possession of the Leased

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Premises, and the State shall have no further liability hereunder to the Operator and any such person, if in possession, shall forthwith quit and surrender the Leased Premises. If this Ground Lease Contract shall be so cancelled or terminated, the State, in addition to the other rights and remedies of the State by virtue of any other provision herein or elsewhere in this Ground Lease Contract contained or by virtue of any statute or rule of law, may retain as liquidated damages any Rent or moneys received by the State from the Operator or others in behalf of the Operator.

It is stipulated and agreed that in the event of the termination of this Ground Lease Contract pursuant to Appendix F-30 hereof, the State shall forthwith, notwithstanding any other provisions of this Ground Lease Contract to the contrary, be entitled to recover from the Operator as and for liquidated damages an amount equal to the difference between the following:

“(x) the sum of (a) the Gross Sales Rent for the balance of the term, and (b) the average annual Gross Sales Rent payable hereunder for the three Lease Years immediately preceding (or for the entire preceding portion of the term if less than three Lease Years) multiplied by the number of years and fraction of a year then constituting the unexpired portion of the term, and (y) the rental value of the Leased Premises at the time of termination for such unexpired term or portion thereof, both discounted at the rate of 4% per annum to present worth.”

If the Leased Premises or any part thereof be relet by the State for the unexpired term, or any part thereof, before presentation of proof of such liquidated damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall be deemed prima facie to be the fair and reasonable rental value for the part of the whole of the Leased Premises so relet during the term of the reletting.

Nothing herein contained shall limit or prejudice the right of the State to prove and obtain as liquidated damages by reason of such termination an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater than, equal to or less than the amount of the difference referred to above.

F-24 DESTRUCTION OF OR DAMAGE TO FACILITIES

In the event that any building constructed or occupied by the Operator hereunder is completely destroyed by fire or other hazard, the State in its sole discretion may direct the

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Operator at its own expense to rebuild such buildings or terminate operations at that location.

If the decision by the State is to rebuild, the Operator shall, at its own expense, proceed promptly with the repair or restoration of the portions of such buildings and improvements on the Leased Premises. All work of restoration by the Operator shall be done in conformity with the provisions of Appendix F-10 hereof.

In the event that destruction of said building by fire or other hazard is partial, the State shall have complete and sole discretion as to whether operations shall continue or be suspended for such period as is necessary to repair the damaged premises. Whenever operations are terminated under this section, all responsibilities and obligations of the Operator, as hereinabove and hereinafter set forth, shall cease as to the building or buildings affected, and in case of suspension of operations, as aforesaid, shall cease only for the period of such suspension. The Operator shall not be required to pay Gross Sales Rent or Base Rent during the period of termination or suspension for the building or buildings affected. Term of the Ground Lease Contract shall not be extended if facilities are damaged or destroyed and operations terminated or suspended as described in this Section.

F-25 ASSIGNMENT, DELEGATION AND SUBCONTRACTS/SUBLEASES

- A. The Operator shall not assign, delegate, subcontract, sublease or otherwise transfer any of its interest, rights, or duties under the Ground Lease Contract without the written approval of the State. Such consent will not be unreasonably withheld and should be provided within 30 days of receipt of written notice. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void.

- B. The Operator shall remain wholly responsible for performance of the entire Ground Lease Contract regardless of whether assignees, delegates, subcontractor or other transferees are used, unless otherwise agreed to in writing by the State and the Successor fully assumes in writing any and all obligations and liabilities under the Ground Lease Contract. In the absence of a written assumption of full obligations and liabilities of the Ground Lease Contract, any permitted assignment, delegation, subcontractors/sublessees or other transfer shall neither relieve the Operator of any of its obligations under the Ground Lease Contract nor shall it affect any remedies available to the State against the Operator that may arise from any Event of Default of the provisions of the Ground Lease Contract. The State will consider the Operator to be the sole point of contact with regard to all contractual matters,

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including payment of any and all charges resulting from the Ground Lease Contract unless assumed by Successor.

F-26 WARRANTIES AND REPRESENTATIONS

The Operator hereby warrants and represents to the State as follows:

F-26.1 Organization and Standing

The Operator is a corporation duly organized, validly existing and in good standing under the laws of the State of New Hampshire and is duly authorized to transact business in the State of New Hampshire.

A Certificate of Good Standing issued by the New Hampshire Secretary of State is attached hereto and shall be renewed by the Operator each year in accordance with State Law. The Operator has the corporate power to own or lease its properties and to carry on its business as now being conducted. The Operator has all requisite powers necessary for the execution, delivery and performance of its obligations under this Ground Lease Contract and shall provide a certificate to that effect concurrent with its execution of the Ground Lease Contract.

F-26.2 Binding Effect

The Operator has taken all necessary action required to execute and deliver this Ground Lease Contract and the related bonds described in Appendix F-22 and to make the documents and instruments executed therewith the valid and enforceable obligations they purport to be. When executed and delivered by the parties hereto, this Ground Lease Contract and the surety bonds will each constitute a valid and binding obligation of the Operator enforceable in accordance with its terms.

F-26.3 Financial Statements

The Operator has furnished to the State the Operator's Consolidated Financial Statements for the year ending in 2019. All such financial statements are correct and complete and present fairly the financial position of the Operator as of the dates covered and the results of operations for the periods covered and were prepared in accordance with generally accepted accounting principles consistently applied except as may be noted therein.

F-26.4 Compliance with Law, etc.

The Operator is not in material violation of any term or provision of any mortgage, loan

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agreement, lease, franchise agreement or other agreement which is material to its business or assets, or of any judgment, decree, governmental order, statute, rule or regulation by which it is bound or to which it or any of its assets is subject. The execution, delivery and performance of and compliance with this Ground Lease Contract and the surety bonds will not violate or constitute a default under any term or provision of any such mortgage, loan agreement, lease, franchise agreement or other agreement or of any such judgment, decree, governmental order, statute, rule or regulation by which the Operator is bound or to which any material portion of its assets is subject. Except for obtaining necessary approval from state and local officials with respect to construction and renovations and customary licensure of food and/or beverage service operations, no approval by, authorization of or filing with any Federal, State, municipal or other governmental commission, board or agency or governmental State is necessary in connection with the execution and delivery of this Ground Lease Contract and the surety bonds by the Operator.

F-26.5 Franchises

A. The Operator has signed franchise or licensing agreements with all of the corporations whose food or beverage service concepts and brands are included in this Ground Lease Contract hereto, which give Operator the right to provide services of the applicable brand at the sites. Said franchise agreements are not subject to any restrictions or conditions which would limit the full operation of the services as contemplated by such agreements and this Ground Lease Contract. There are no material complaints or proceedings pending or threatened by any of the respective franchisors relating to the due performance of the Operator under such franchise agreements or any other franchise agreements between the Operator and the franchisors. The franchise agreements are all in good standing and the Operator is in full compliance with all of the terms and provisions thereof.

B. The Operator warrants and represents that it has provided the State with complete and up-to-date copies of all franchise agreements and standards of operations applicable to the Operator's conduct of existing franchise operations in the Leased Premises and covenants and agrees to timely provide copies of all amendments, modifications or replacements of such materials and all franchise agreements and standards of operations for any future franchises. The State and the Operator shall negotiate in good faith the portions of such materials relating to financial matters or other proprietary information that may be redacted from the copies provided under this section without adversely affecting the ability of the State to ascertain that the Operator's operations in the Leased Premises are being conducted in accordance with applicable franchise requirements.

The State will allow letters of intent or approval letters from interested franchisees if

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franchise agreements cannot be provided.

F-26.6 Brokerage Commissions

There is no broker or finder or other person who would have any valid claim against the State for a commission, finder's fee or brokerage fee in connection with this Ground Lease Contract by virtue of any actions taken by the Operator or any persons acting on its behalf.

F-26.7 Complete Disclosure

No representation or warranty made by the Operator in this Ground Lease Contract and no statement made by the Operator in any proposal to the State or any schedule, exhibit or certificate referred to in this Ground Lease Contract contains any untrue statement of a material fact or omits to state any material fact necessary to make such representation or warranty or any such statement not misleading.

F-27 TITLE TO PROPERTY

A. Subject to the provisions of the Contract which provide that certain leasehold improvements are to be owned by the Operator during the Term of the Contract, and except as otherwise provided in subsection (b) below, for all real property at each Service Area, including all land, buildings, structures, and improvements situated thereon, together with all building materials purchased for inclusion therein, except the Fuel Service Equipment, and all Plans and Specifications, are and will at all times during and after the Term, be owned absolutely by the State without further act or deed on the part of any Person, free and clear of any liens, encumbrances or security interests. To avoid doubt, the Contract grants to the Operator the exclusive right to use, operate, and manage the Leased Premises and construct and own certain improvements thereon and, except as otherwise expressly provided in subsection (b) below, shall not be interpreted to convey to or allow to exist in favor of any sublessee any further rights with respect to, or any title, estate or other interest in and to, any of the aforesaid property. In furtherance of, but without limiting the foregoing, the Operator hereby conveys, assigns, transfers and sets over to the State, and covenants and agrees to require each sublessee pursuant to each sublease to convey, assign, transfer and set over to the State, any and all such right, title, estate or interest in any such property that is to be owned by the State pursuant to the terms of the Contract.

B. All machinery, equipment, leasehold improvements and buildings constructed or erected by the Operator, all furniture now or hereafter located at or affixed to the Leased Premises or otherwise used or usable in connection therewith, all Equipment and Fixtures, Fuel Service Equipment, all contract rights, general intangibles and other tangible and intangible property or rights used on or at the Leased Premises is and shall remain the property of the Operator or the appropriate sublessee at all times during the Term of the Contract. At the expiration of the Term all such property permanently affixed to the buildings, structures and improvements on the Leased Premises and, except as provided in subsection (c) below,

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all Equipment and Fixtures of the Operator and all Equipment and Fixtures of each sublessee permanently affixed to the buildings, structures and improvements on the Leased Premises shall be owned by the State except for the Fuel Service Equipment, together with all warranties related thereto (other than, for the avoidance of doubt, any information technology systems and any software and related intellectual property related thereto).

C. Notwithstanding anything to the contrary, the Operator and each applicable sublessee shall retain ownership of and be entitled to remove (i) Equipment and Fixtures on which there is trade dress or trademarked or proprietary information and/or symbols, or is otherwise subject to trade secret protection regardless of whether the same are generally visible from the I-93 Service Areas under the Contract to consumers on the Leased Premises, (ii) all brand name signage panels located on fixtures, and (iii) certain minor Equipment and Fixtures or expendables for which ownership and removal has been approved by the State, in writing. The State agrees, upon the request of the Operator, to execute and deliver such documents and instruments, as the Operator shall reasonably request to evidence or confirm the Operator's or each applicable sublessee's ownership interest in any such Equipment and Fixtures or portions thereof.

F-28 SURVIVAL OF CERTAIN PROVISIONS

Except as otherwise set forth herein, upon termination or expiration of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party; provided, however, that the following provisions shall survive the termination or expiration of the Contract except as otherwise provided herein:

A. any and all indemnity and payment and Remediation obligations of the Operator arising hereunder and under applicable Legal Requirements.

B. the State's remedies following an Event of Default and the Operator's remedies following a breach by the State,

C. any other provisions hereof which expressly provide that such provision survives the expiration or earlier termination of the Contract.

F-29 LEASEHOLD MORTGAGES

F-29.1 Definitions

The following words and phrases, wherever used in the Contract, shall have the meanings set forth below.

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"Bankruptcy Termination Option" means the Operator's right to treat the Contract as terminated under 11 U.S.C.A. § 365 or any comparable provision of law.

"Operator Default" means any default or breach by the Operator under the Contract.

"Operator Default Notice" means the State's Notice of an Operator Default, which notice shall describe such Operator Default in reasonable detail.

"Fee Estate" means the State's fee interest in the Premises, including the State's reversionary interest, all subject to the Contract.

"Foreclosure Event" means any: (a) foreclosure sale, trustee's sale, assignment of the Contract in lieu of foreclosure, sale under 11 U.S.C.A. §363, or similar transfer affecting the Contract or (b) the Leasehold Mortgagee's exercise of any other right or remedy under a Leasehold Mortgage or applicable law as a result of which the Operator is divested of its interest in the Contract.

"Including" shall mean, as the context requires, the phrases "including without limitation" and "including, but not limited to."

"Incurable Operator Default" means any Operator Default that the Leasehold Mortgagee or New Operator cannot reasonably cure.

"Lease Impairment" means the Operator's: (a) canceling, modifying, surrendering, or terminating the Contract, including upon a Loss; (b) waiving any term of the Contract; (c) subordinating the Contract to any other estate or interest in the Premises; or (d) exercising a Bankruptcy Termination Option.

"Lease Termination Notice" means a notice stating that the Contract has terminated, and describing in reasonable detail all uncured Operator Defaults.

"Leasehold Mortgage" means a mortgage, deed of trust, collateral assignment, or other lien (as modified from time to time) encumbering the Contract and the Operator's rights under the Contract, including the Operator's leasehold interest.

"Leasehold Mortgagee" means a holder of a Leasehold Mortgage and its successors and assigns, provided that: (a) it is not an affiliate of the Operator; and (b) the State has received notice of its name and address and a copy of its Leasehold Mortgage.

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"Loss" means any casualty or condemnation affecting the Premises.

"Loss Proceeds" means any insurance proceeds or condemnation award paid or payable for a Loss.

"New Lease" means a new lease of the Premises (as amended from time to time in compliance with its terms) and related customary documents such as a memorandum of lease and a deed of improvements. Any New Lease shall: (a) be on the same terms, and have the same priority, as the Contract; (b) commence immediately after the Contract has terminated; (c) continue for the entire remaining term of the Contract, as it existed before termination; (d) give the New Operator the same rights to improvements that the Operator had under the Contract; and (e) require the New Operator to cure, with reasonable diligence and continuity, and within a reasonable time, all Operator Defaults (except Incurable Operator Defaults) not previously cured or waived, but in no event shall such opportunity to cure exceed sixty (60) days from the date the New Operator assumes control of the Leased Premises, unless extended in writing by the State. Such extension will not be unreasonably withheld, conditioned or delayed so long as such New Operator proceeds with reasonable diligence.

"New Operator" means the Leasehold Mortgagee or its designee or nominee, and any of their successors and assigns.

"Premises" means the land described in Exhibit 10 attached hereto, as improved by the Operator.

"Remaining Premises" means any Premises that the State continues to own after a Total Loss.

"Termination Option Loss" means any (a) Loss that occurs during the last one hundred twenty (120) months of the Term; (b) condemnation that affects all or substantially all the Premises; (c) partial condemnation after which the Operator cannot reasonably restore the Remaining Premises for use for its previous purpose; (d) Loss that would cost more than Five Million Dollars (\$5,000,000) (beyond available Loss Proceeds) to restore; or (e) Loss that affects more than Fifty Percent (50%) of the area of a Service Area building excluding the NHLC liquor store portion of such building. The Operator, acting reasonably, shall determine whether a "Termination Option Loss" has occurred under clause "c" or clause "d," or clause "e," but the Operator's determination that such a "Termination Option Loss" has occurred shall not be effective without the Leasehold Mortgagee's

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consent, which will not be unreasonably withheld, conditioned or delayed.

F-29.2 Leasehold Mortgages

Without the State's consent, from time to time, but subject to all other terms of this Contract not inconsistent with this Section: (a) provided that any Event of Default has been, or simultaneously is, cured, the Operator may grant Leasehold Mortgage(s); (b) a Leasehold Mortgagee may initiate and complete any Foreclosure Event; (c) in connection with any Foreclosure Event a Leasehold Mortgagee may assign this Contract to such Leasehold Mortgagee and appoint a receiver to operate the Leased Premises, such receiver to be subject to the prior approval of the State, such approval to be provided or denied within seven (7) days of request therefor and not to be unreasonably withheld or conditioned; and (d) subject to the provisions of Appendix F, any New Operator through a Foreclosure Event, and its successors and assigns, may assign this Contract.

F-29.3 Fee Mortgages

Every Fee Mortgage (if any) shall be, and shall state that it is, subject and subordinate to the Contract and any New Lease. Any Leasehold Mortgage shall attach solely to the Operator's leasehold estate under the Contract. Any Foreclosure Event under a Leasehold Mortgage shall: (a) transfer only the Operator's interest in the Contract; and (b) not impair any estate or rights under any Fee Mortgage.

F-29.4 Lease Impairments

Any Lease Impairment made without the Leasehold Mortgagee's consent shall be null, void, and of no force or effect, and not bind the Leasehold Mortgagee or the New Operator, but such consent shall not be unreasonably withheld, conditioned or delayed.

F-29.5 Notices

No notice that the State gives the Operator shall be effective unless the State has given a copy of it to the Leasehold Mortgagee at such address as provided by the Operator or the Leasehold Mortgagee. If any Operator Default occurs for which the State intends to exercise any remedies, the State shall promptly give the Leasehold Mortgagee a copy of such Operator Default Notice.

F-29.6 Opportunity to Cure

The Leasehold Mortgagee shall have an opportunity to cure any Operator Default at any time until sixty (60) days after both: (a) the Operator and the Leasehold Mortgagee have received the Operator Default Notice; and

(b) the Operator's cure period for the Operator Default has expired or from the date the

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Operator provides notice it does not intend to cure, whichever is sooner. If the Leasehold Mortgagee cannot reasonably cure the Operator Default within such period, the Leasehold Mortgagee may request from the State such further time as it shall reasonably need so long as it proceeds with reasonable diligence to cure. Such extension will not be unreasonably withheld, conditioned or delayed so long as the Leasehold Mortgagee proceeds with reasonable diligence. If the Leasehold Mortgagee cannot reasonably cure the Operator Default without possession of the Premises, or in the event of an Incurable Operator Default, the Leasehold Mortgagee shall be entitled to such additional time as it shall reasonably need to consummate a Foreclosure Event and obtain such possession, provided the Leasehold Mortgagee timely exercises its cure rights for all other Operator Defaults. If the Leasehold Mortgagee consummates a Foreclosure Event, the State shall waive all Incurable Operator Defaults against the Leasehold Mortgagee or, if applicable, the New Operator.

F-29.7 Cure Rights Implementation

At any time when the Leasehold Mortgagee's cure rights have not expired, and as long as the Leasehold Mortgagee is making reasonable efforts to cure, the State shall do nothing to terminate the Contract or accelerate any Rent, or otherwise interfere with the Operator's or the Leasehold Mortgagee's possession and quiet enjoyment of the Premises. The Leasehold Mortgagee may at its option enter the Premises to seek to cure an Operator Default. This right or its exercise shall not be deemed to give the Leasehold Mortgagee possession of the Premises. The Leasehold Mortgagee need not cure any the Operator Default arising from any lien or encumbrance that attaches solely to the Contract (and not to the Fee Estate) but is junior to its Leasehold Mortgage, provided that the Leasehold Mortgagee endeavors with reasonable diligence to consummate a Foreclosure Event.

F-29.8 New Lease

If the Contract terminates for any reason (except with the Leasehold Mortgagee's consent or because of a Total Loss), even if the Leasehold Mortgagee failed to timely exercise its cure rights for an Operator Default, then the State shall promptly give the Leasehold Mortgagee a Lease Termination Notice. Upon the Leasehold Mortgagee's request to enter into a New Lease, the State's review of the request shall be the same as described under Section 47 of the Contract for a change of ownership. Any such request must be made, if at all, at any time before the day that is ninety (90) days after the Leasehold Mortgagee has received the State's Lease Termination Notice. Unless waived at the State's sole discretion, any New Lease shall be subject to the conditions that the New Operator shall (in accordance with the Lease Termination Notice): (a) cure all remaining uncured Operator Defaults that the New Operator can then reasonably cure; and (b) pay the State's reasonable costs and expenses (including reasonable attorneys' fees and expenses) in terminating the Contract, recovering the Premises, and entering into the New Lease. The New Operator need not cure any Incurable Operator Default.

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F-29.9 New Lease Implementation

If the Leasehold Mortgagee timely requests a New Lease in conformity with the conditions and requirements of the Contract, then from termination of the Contract until execution and delivery of a New Lease: (a) the New Operator shall comply with all terms and conditions of the Contract, including but not limited to Rent; (b) the New Operator shall be entitled to all net income of the Premises; and (c) the State shall not terminate any subleases except for a sublessee's default, or enter into any lease affecting any of the Premises except with the New Operator. When the parties sign a New Lease, the State shall cooperate with the New Operator to transfer to the New Operator all subleases (including any security deposits the State held), service contracts, and operations of the Premises. The State shall cause every Fee Mortgagee (if any) to unconditionally subordinate to any New Lease.

F-29.10 Operator's Rights Under Lease

The Leasehold Mortgagee may exercise any or all of the Operator's rights under the Contract. So long as the Leasehold Mortgagee's cure rights under the Contract have not expired, the Leasehold Mortgagee may exercise any such rights even if the Operator is in default under the Contract, notwithstanding anything to the contrary in the Contract. The Operator irrevocably assigns to the Leasehold Mortgagee, to the exclusion of the Operator and any other person, any right to exercise any Bankruptcy Termination Option.

F-29.11 Certain Proceedings

If the State or the Operator initiates any appraisal, arbitration, litigation, or other dispute resolution proceeding affecting the Contract, then the parties shall simultaneously notify the Leasehold Mortgagee. The Leasehold Mortgagee may participate in such proceedings on the Operator's behalf, or exercise any or all of the Operator's rights in such proceedings. At the Leasehold Mortgagee's option, any actions of the Leasehold Mortgagee under the preceding sentence shall be to the exclusion of the Operator. Any settlement shall not be effective without the Leasehold Mortgagee's consent.

F-29.12 No Merger

If the Contract and the Fee Estate are ever commonly held, they shall remain separate and distinct estates (and not merge) without consent by the Leasehold Mortgagee and Fee Mortgagee (if any).

F-29.13 No Personal Liability

No Leasehold Mortgagee or New Operator shall have any liability under this Ground Lease Contract beyond its interest in the Contract, even if it becomes the Operator. Any such liability shall: (a) not extend to any Operator Defaults that occurred before such Operator took title to the Contract (or a New Lease), except any identified in an Operator Default

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Notice or Lease Termination Notice; and (b) terminate if and when any such Operator assigns (and the assignee assumes) or abandons the Contract (or a New Lease). Once the Leasehold Mortgagee or New Operator become the Operator under the Contract, it will assume all duties and liabilities under the Contract from that date forward.

F-29.14 Multiple Leasehold Mortgagees

If at any time the Operator has identified multiple simultaneous Leasehold Mortgagees: (a) any consent by or notice to Leasehold Mortgagee refers to all the Leasehold Mortgagees; (b) except under clause "a," the most senior Leasehold Mortgagee may exercise all rights of the Leasehold Mortgagee(s), to the exclusion of junior Leasehold Mortgagee(s); (c) to the extent that the most senior Leasehold Mortgagee declines to do so, any one other Leasehold Mortgagee may exercise those rights, in order of priority, and (d) if the Leasehold Mortgagees do not agree on priorities, a written determination of priority issued by a title insurance company licensed in the State shall govern.

F-29.15 Further Assurances

Upon request from the Operator or any Leasehold Mortgagee (prospective or current), the State shall promptly and in writing, under documentation reasonably satisfactory to the State and the requesting party: (a) certify that the Contract is in full force and effect, whether it is subject to any Lease Impairment, that to the State's knowledge no Operator Default exists, the date through which Rent has been paid, and such other similar matters as may be reasonably requested, all subject to any then exceptions reasonably specified in such certificate; (b) agree directly with the Leasehold Mortgagee that it may exercise against the State all of the Leasehold Mortgagee's rights and liabilities going forward under the Contract; (c) acknowledge any sublessee's non-disturbance and recognition rights (provided sublessee joins in such agreement); and (d) provided that the Operator reimburses the State's reasonable attorneys' fees and expenses, enter into any modification of the Contract that any current or prospective Leasehold Mortgagee requests, if, in the State's sole discretion, it does not adversely affect the State in any material respect or reduce any payment the Contract requires.

F-29.16 Miscellaneous

Notwithstanding anything to the contrary in the Contract, the Leasehold Mortgagee: (a) may exercise its rights through an affiliate assignee, designee, nominee, subsidiary, or other Person, acting in its own name or in the Leasehold Mortgagee's name (and anyone so acting shall automatically have the same protections, rights, and limitations of liability as the Leasehold Mortgagee); (b) shall never be obligated to cure any Operator Default; (c) may abandon such cure at any time with notice to the State, and (d) may withhold its consent or approval for any reason or no reason, except where the Contract states otherwise. Any such consent or approval must be written. To the extent any Mortgagee's rights under the Contract apply after the Contract terminates, they shall survive.

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F-30 TERMINATION

This section shall survive termination or Ground Lease Contract conclusion.

F-30.1 Termination for Default

F-30.1.1 In addition to any other Event of Default, any one or more of the following acts or omissions of the Operator shall constitute an Event of Default hereunder (“Event of Default”).

- a. Failure to perform any of the services identified in the Ground Lease Contract satisfactorily or on schedule;
- b. Failure to submit any report required;
- c. Failure to perform any other covenant, term or condition of the Ground Lease Contract;
- d. Failure to maintain Essential Services;
- e. Failure to provide adequate replacement Project Staff;
- f. Failure to provide an adequate construction Project Work Plan;
- g. Failure to pay taxes;
- h. Failure to furnish bonds noted.

Unless otherwise provided in the Ground Lease Contract, the State agrees to allow the Operator and Surety thirty (30) days’ notice and opportunity to cure any breach before declaring an Event of Default, provided that no such notice and opportunity to cure is required for each breach, which by its nature cannot be cured. If a breach is curable but by its nature cannot be cured within 30 days, as determined by the State, the State agrees not to declare an Event of Default provided that the Operator commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion; provided, however, that in no event will such cure period exceed 60 days in total. Notwithstanding the foregoing, if the State believes a condition affecting the Rest Area poses an immediate and imminent danger to public health or safety, the State may, without notice and without awaiting lapse of any cure period, rectify the condition at the Operator’s cost, and so long as the State undertakes such action in good faith, even if under a mistaken belief in the occurrence of such default, such action shall not expose the State to liability to the Operator and shall not entitle the Operator to any other remedy, it being acknowledged that the State has a paramount public interest in providing and maintaining safe public use of and access to the Rest Areas. The State’s

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good faith determination of the existence of such danger shall be deemed conclusive in the absence of clear and convincing evidence to the contrary.

F-30.1.2 Upon the occurrence of any Event of Default, the State may take any one or more, or all, of the following actions:

- Treat the Ground Lease Contract as breached and pursue any of its remedies at law or in equity, or both.
- Take ownership of all facilities and equipment in the sites at no cost to the State and free from all encumbrances except for subleases noted below.
- Procure services that are the subject of the Ground Lease Contract from another source and pay for such replacement services and all administrative costs directly related to the replacement, including but not limited to competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs, through the Facility Sustainment and Reinvestment Reserve Fund (Appendix F-15).
- No remedy conferred under the Ground Lease Contract is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy in the Ground Lease Contract. The State's election or non-election of any or more remedies shall not constitute a waiver of its right to pursue other available remedies.
- Subject to applicable laws and regulations, in no event shall the Operator be liable for any consequential, special, indirect, incidental, punitive or exemplary damages. Notwithstanding the foregoing, this limitation of liability shall not apply to the Operator's obligations under Appendix F-21: *Indemnification from Liability*.
- 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 termination or Ground Lease Contract conclusion.
- In the event of termination for an Event of Default, the State shall assume the balance of all subleases with all sublessees for the balance of the term of the subleases. The Operator's subleases shall require that in the Event of Default, the sublessee shall honor the remaining term of the sublease, and the sublessee may request written termination of the sublease with the State. Such termination

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may be granted by the State and will become effective on a date to be determined by the State.

F-30.2 Termination Procedure

F-30.2.1 Upon termination of the Ground Lease Contract, the State, in addition to any other rights provided in the Ground Lease Contract, shall require the Operator to deliver to the State any property. This request includes without limitation, all written policies, procedures, manuals, access codes, security information, and the like associated with equipment, operations, and maintenance of the facilities, for such part of the Ground Lease Contract that has been terminated.

F-30.2.2 After receipt of a notice of termination, and except as otherwise directed by the State, Operator shall:

- Stop work under the Ground Lease Contract on the date, and to the extent specified, in the notice;
- Promptly, but in no event longer than thirty (30) days after termination, notify its subcontracts and sublessees of termination. The State shall assume the balance of the subleases as identified in Appendix F-27.1.2;
- Take such action as the State directs, or as necessary to preserve and protect the property related to the Ground Lease Contract which is in the possession of the Operator and in which the State has an interest;
- Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to State and which has been accepted or requested by the State; and
- Provide written Certification to the State that Operator has surrendered to the State all said property.

This section shall survive termination or Ground Lease Contract conclusion.

F-31 VACATING UPON EXPIRATION OR TERMINATION

The Operator shall peaceably vacate the Leased Premises at the expiration of the Term or termination of the Contract. The Operator shall be fully and solely responsible for complying with any and all applicable Legal Requirements relating to the closing of its operations at the Service Areas and otherwise with respect to employees. Without limiting the generality of the foregoing, the Operator shall timely provide all required notices and

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information required under applicable Legal Requirements to Employees and the Operator shall be and remain solely responsible for all salary, benefits, fines and penalties owed on account of any compliance or non-compliance by the Operator with such Legal Requirements. In addition, at the expiration of the Term or termination of the Contract, the Operator shall terminate or assign all of its contractual agreements with vendors providing goods and/or services to the Service Areas (including all subleases) and shall be solely responsible for all amounts owed under or on account of such agreements up to the time of termination or assignment (including any early termination penalties). No such failure by the Operator to comply with any of its obligations under this Section shall extend the Term hereof. Without limiting the foregoing, the Operator hereby makes such termination or assignment effective as of such expiration or termination.

F-32 TRANSITION TO NEW PERSON

In connection with any transition in operation of the Leased Premises from the Operator to a new Person or Persons, the Operator shall, both prior to and for a period of one (1) year following termination or expiration of the Term, cooperate reasonably with such new operator and the State to ensure an orderly transition of comparable services at the Service Areas by such new operator, at no cost or expense to the Operator. Such cooperation (where applicable) shall include each of the following:

A. The Operator shall provide the State and such new operator with access to the Leased Premises at reasonable times upon reasonable advance notice.

B. The Operator, together with the State and new operator, shall jointly catalogue all fixtures and equipment and fuel service equipment. If the State desires to purchase any item owned by the Operator or any sublessee, the State shall have a right of first refusal on such purchase. If the Operator does not remove any item(s) for which ownership and removal has been approved by the State within ten (10) days from termination or expiration of the Contract, such item(s) shall be deemed to have been abandoned, and either may be retained by the State as its sole property (without the execution of any further instrument and without payment of any money or other consideration therefor) or may be disposed of in such manner as the State may see fit. Upon the request of the State, the Operator agrees, and agrees to require any sublessee, to execute and deliver such documents and instruments as the State shall reasonably request to evidence or confirm the State's ownership interest (as set forth herein) in any portion or all of the improvements or fixtures and equipment affixed to the improvements.

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C. The Operator shall furnish to the State or new operator a list of those employees that are involved in providing the services required by the Contract, including their job titles and length of employment with the Operator and salaries, waive any contractual arrangement, including non-competition agreements, made with such employees to the extent practicable and not prohibited by law, and allow the State and/or such new operator to interview such employees for new employment positions (without any obligation on their part to hire same for any position).

D. The Operator shall either terminate or assign all of its contractual agreements with vendors providing goods and/or services to the Service Areas (including all Subcontracts). If such agreements are terminated, the Operator shall furnish to the State or new operator the names, telephone numbers and account numbers of all vendors providing goods and/or services to the Service Areas (including utilities, cleaning, garbage disposal and the like).

E. In the event that the Operator shall fail to cooperate with the State or such new operator as aforesaid, then the State shall so notify the Operator in writing (which notice shall include a reasonably detailed explanation of the State's basis for the Operator's noncompliance). In the event that the Operator shall fail to cure such non-compliance within thirty (30) days following receipt of such notice, the Operator shall pay to the State upon demand, as Additional Payment, all of the State's damages, costs and expenses arising from such breach; provided that nothing herein shall obligate the Operator to incur any cost or expense with respect to the cooperation set forth in this Section F-32.

F-33 DEFAULT OF STATE

If the Operator finds the State in default, the Operator shall provide the State with written notice of default, and the State shall remedy the default within a reasonable period of time, not to exceed 30 days.

F-34 HOLDING OVER

In the event the Operator shall hold over and remain in possession of the Leased Premises, or any part thereof, after the expiration or earlier termination of this Ground Lease Contract, without any renewal or extension thereof, such hold over shall not be deemed to operate as a renewal or extension of this Ground Lease Contract but shall only create a tenancy from month to month which may be terminated at any time by the State. The Rent during such period shall be the Gross Sales Rent last in effect under this Ground Lease Contract plus Gross Sales Rent computed on a monthly basis in the manner provided in Appendix F-7 hereof plus Base Rent as defined in Appendix F-7.

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F-35 NEGOTIATED AGREEMENT

The Operator and the State have been represented by independent counsel in entering into this Ground Lease Contract. Each of the parties affirms to the other that it has consulted and discussed the provisions of this Ground Lease Contract with its counsel and fully understands the legal effect of each provision. There shall not be a presumption that the terms of this Ground Lease Contract are to be construed.

F-36 TIME IS OF ESSENCE

It is understood and agreed between the parties hereto that time is of the essence in all terms and provisions of this Ground Lease Contract.

F-37 NOTICES

All notices under this Ground Lease Contract shall be served or given only by registered or certified mail. In the case of an emergency, notices shall be confirmed by registered or certified mail. When intended for the State all notices shall be addressed to the address stated below, or to such other address as may be designated by the State by written notice to the Operator:

State of New Hampshire
Department of Transportation
Bureau of Rail and Transit Administrator
7 Hazen Drive
Concord, NH, 03301
(603) 271-2468

Any notice to the Operator shall be addressed as follows, or to such other address as may be designated by the Operator by notice to the State in writing:

<<D/O Corporate Contact>>

With Copies to:

<<D/O Legal Contact>>

and

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<<D/O Local General Manager>>

F-38 FORCE MAJEURE

Neither Operator nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, block outs, riots, and acts of War, escalation of hostilities, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

F-39 INTERPRETATION

In the event of a conflict between the terms and provisions of this Ground Lease Contract and any of the Attachments hereto, the terms of this Ground Lease Contract shall control.

Any consent, approval or authorization of the State that is required or contemplated in this Ground Lease Contract may be granted, withheld, withdrawn or conditioned in the sole discretion of the State, unless otherwise expressly provided for in this Ground Lease Contract.

Any provision of this Ground Lease Contract that calls for the Operator to provide or be responsible for a particular action, service, product or installation, shall be complied with by the Operator at Operator's sole cost and expense without any right of reimbursement or contribution from the State, unless otherwise expressly provided in this Ground Lease Contract.

F-40 PARTIAL INVALIDITY

If any term, covenant, condition or provision of this Ground Lease Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

F-41 WAIVER OF BREACH

No assent by either party, whether express or implied, to a breach of covenant, condition or obligation by the other party, shall act as a waiver of a right of action for damages as a result of such breach, or shall be construed as a waiver of any subsequent breach of the covenant, condition, or obligation.

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F-42 GROUND LEASE CONTRACT MODIFICATIONS

This Ground Lease Contract may be amended only by an instrument in writing signed by the parties hereto and only after approval of such amendment by the Governor and Executive Council of the State of New Hampshire in accordance with the Governor and Executive Council regulations as they may exist from time to time.

F-43 THIRD PARTIES

The parties hereto do not intend to benefit any third parties and this Ground Lease Contract shall not be construed to confer any such benefit.

F-44 HEADINGS

The headings throughout the Ground Lease Contract 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 the Ground Lease Contract.

F-45 VENUE AND JURISDICTION

Any action on the Ground Lease Contract may only be brought in the State of New Hampshire Strafford or Rockingham County Superior Court.

F-46 SURVIVAL

The terms, conditions and warranties contained in the Ground Lease Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Ground Lease Contract shall so survive.

F-47 ENTIRE AGREEMENT

The Ground Lease Contract, 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 contracts and understandings pertaining to the Project.

F-48 CONFLICT OF INTEREST

The State may terminate the Ground Lease Contract by written notice if it determines

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that a conflict of interest exists, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of ground lease contracts.

In the event the Ground Lease Contract is terminated as provided above pursuant to a violation by the Operator, the State shall be entitled to pursue the same remedies against the Operator as it could pursue in the Event of a Default of the Ground Lease Contract by the Operator.

F-49 CHANGE OF OWNERSHIP

The Operator shall notify the State if there is any change in the ownership of the Operator, including but not limited to a sale of all or substantially all of the Operator's assets or ownership interests, merger, or acquisition by another entity. In the event of a change of ownership of the Operator for any reason whatsoever, the State shall have the option of continuing under this Ground Lease Contract with the Operator or its successors or assigns for the full remaining term of this Ground Lease Contract, continuing the Ground Lease Contract with the Operator or its successor or assigns for such period of time as determined by the State, or immediately terminating this Ground Lease Contract. Within 30 days of receiving notice of the change in ownership, the State shall notify the Operator whether the State intends to terminate the Ground Lease Contract, continue for a period of time, or continue it for the full term. If the State terminates the Ground Lease Contract as a result of a change in ownership by the Operator, the State will have no liability to the Operator, its successors, or assigns.

F-50 RELATIONS TO THE STATE

In the performance of the Ground Lease Contract, the Operator is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Operator nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

F-51 CONFIDENTIAL INFORMATION

F-46.1 In performing its obligations under the Ground Lease Contract, the Operator may gain access to confidential information of the State ("Confidential Information"). Subject to applicable Federal or State laws and regulations, Confidential Information shall not include information which: (i) shall have otherwise become publicly available

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other than as a result of disclosure by the receiving party in breach hereof; (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the Operator, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the State. The Operator shall not use or disclose such information, except as is directly connected to and necessary for the Operator's performance under the Ground Lease Contract.

F-51.2 The Operator agrees to maintain the confidentiality of and to protect from unauthorized use, disclosure, publication, and reproduction, all Confidential Information of the State that becomes available to the Operator in connection with its performance under the Ground Lease Contract, regardless of its form. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

F-51.3 Any disclosure of the State's Confidential Information shall require prior written approval of the State. The Operator shall immediately notify the State if any request, subpoena or other legal process is served upon the Operator regarding the State's Confidential Information, and the Operator shall cooperate with the State in any effort it undertakes to contest the subpoena or other legal process.

F-51.4 In the event of unauthorized use or disclosure of the State's Confidential Information, the Operator shall immediately notify the State, and the State shall immediately be entitled to pursue any remedy by law, including, but not limited to injunctive relief.

F-51.5 Insofar as the Operator seeks to maintain the confidentiality of its confidential or proprietary information, the Operator must clearly identify in writing the information it claims to be confidential or proprietary. The Operator acknowledges that the State is subject to the Right to Know law, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified information insofar as it is consistent with applicable laws or regulations, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by the Operator as confidential, the State shall notify the Operator and specify the date the State will be releasing the requested information. Any effort to prohibit or enjoin the release of the information shall be the Operator's sole responsibility and at the Operator's sole expense. If the

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Operator fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to the Operator without any State liability to the Operator.

F-51.6 This section shall survive termination or Ground Lease Contract Conclusion.

F-52 CHOICE OF LAW

This Ground Lease Contract is to be construed according to the Laws of the State of New Hampshire.

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**F-53 SAMPLE CERTIFICATE OF VOTE (REQUIRED AT TIME OF GROUND
LEASE CONTRACT)**

CERTIFICATE

(Corporation without Seal)

I, _____, Clerk/Secretary of the

_____, do hereby certify that:

(1) I am the duly elected and acting Clerk/Secretary of the _____,
a

_____ Corporation (State of incorporation) (the "Corporation");

(2) I maintain and have custody and am familiar with the minute books of the Corporation;

(3) I am duly authorized to issue certificates with respect to the contents of such books;

(4) The following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the _____ day of _____, 20____, which meeting was duly held in accordance with _____ (State of incorporation) law and the by-laws of the Corporation:

RESOLVED: That this Corporation enter into a Ground Lease Contract with the State of New Hampshire, acting by and through the <AGENCY/DIVISION NAME> of the <DEPARTMENT NAME>, providing for the performance of certain IT Consulting services, and that the President (and Vice President) (and the Treasurer) (or any of them acting singly) be and hereby (is) (are) authorized and directed for and on behalf of this Corporation to enter into the said Ground Lease Contract with the State and to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) and (she) (he) (any of them) may deem necessary, desirable or appropriate to accomplish the same;

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RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

(5) the foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever and remain in full force and effect as of the date hereof;

(6) the following person(s) (has) (have) been duly elected to and now occupy the office(s) indicated below:

_____ President

_____ Vice President

_____ Treasurer

and;

(7) the corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk/Secretary of the Corporation this _____ day of _____, 20_____.

Clerk/Secretary

STATE OF _____

COUNTY OF _____

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APPENDIX G: TERMS AND DEFINITIONS

The following terms and definitions apply to this RFP and any resulting Ground Lease Contract:

AASHTO	American Association of State Highway and Transportation Officials is a standards setting body which publishes specifications, test protocols and guidelines which are used in highway design and construction throughout the United States.
ADA	American with Disabilities Act of 1990.
All Other Receipts	Gross receipts such as cash or credit received from the sale of services and goods.
American with Disabilities Act Accessibility Guidelines	A document prepared to assist individuals and entities with rights or duties under Title II, and Title III of the ADA in applying the requirements of the ADA Guidelines to buildings and facilities subject to the law.
ATM	Automated Teller Machine
Base Rent	Monthly payment made by the Operator to the State for each month of the Ground Lease Contract.
Bureau of Rail and Transit	The Bureau of Rail and Transit is responsible for the operation and maintenance of the Portsmouth and Dover bus terminals/park-and-rides.
Bureau of Turnpikes	The Bureau of Turnpikes is responsible for the operation and maintenance of the New Hampshire Turnpike System.
CD	Compact disc
Certificate of Authority/Good Standing	Business entities use a Certificate of Good Standing (also known as a "Certificate of Existence" or "Certificate of Authorization") to prove they are incorporated and authorized to transact business in a certain state (or "jurisdiction"). The "good standing" status signifies an entity is current with the filing requirements of that jurisdiction's secretary of state's office, as well as being current with any corporate franchise taxes in that jurisdiction.
Certificate of Occupancy	Is a document issued by a local government agency or building department certifying a building's compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupancy.

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Certification	The Operator's written Certification and full supporting and written documentation (including without limitation test results as applicable) that the Operator has completed development of the Deliverable.
C.F.R.	Code of Federal Regulations
Completion Bond	A fidelity bond posted by a contractor or operator to guarantee that a particular project will be completed according to plans and specifications, on time, and without any liens incurred as a result of unpaid bills to subcontractors and suppliers; usually required as a condition of performing government work.
Completion Date	The date that the Operator completes construction and certifies such completion in writing to the State and such certification is accepted by the State.
Confidential Information	Information required to be kept Confidential from unauthorized disclosure such as revenue and pricing information.
Contract Conclusion	Refers to the conclusion of ground lease contracts, for any reason, including but not limited to, the Ground Lease Contract completion, termination for convenience, or termination for default.
Contractor	An entity that provides a work effort on the Premises. This may be used interchangeably with subcontractor.
CPI	Consumer Price Index is a major inflation measure computed by the US Department of Commerce.
Cure Period	Is a contractually designated timeframe during which a borrower, or party to a contract, can fix a default.
DBE	Disadvantaged Business Enterprise
Deficiencies/Defect	A failure, deficiency, or defect in a Deliverable resulting in a Deliverable not conforming to its Specifications.
Deliverables	A deliverable is any Deliverable (letter, report, manual, book, other), provided by Operator to the State or under the terms of a ground lease contract requirement.
Department	An agency of the State of New Hampshire.
Design Deliverables	Design deliverable documentation (letter, report, manual, book, other) provided by Operator either in paper or electronic format.
Documentation	All information that describes the development, design, construction and operation of the sites.

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Effective Date	The date on which an agreement, such as a ground lease contract, takes effect. The Effective Date may be conditioned based upon required notices or discontinuance of existing contract timeframes.
Essential Services	Parking, bus and transit services, lot lighting, utilities (electric, water, sewer, etc.) and restrooms.
Event of Default	A term used in commercial loan documentation. It refers to the occurrence of an event which allows the lender to demand repayment of the loan in advance of its normal due date (also known as <i>accelerating</i> the loan).
FEID	Federal Employer Identification Number
Fiscal Year	July 1 through June 30
GAAP	Generally Accepted Accounting Principles. GAAP is a term used to refer to the collection of common set of accounting principles, standards and procedures issued by the Financial Accounting Standards Board for financial accounting used in any given jurisdiction in the United States; commonly accepted ways of recording and reporting accounting information.
Governor	New Hampshire Governor at that time
Governor and Executive Council	The State of New Hampshire Governor and Executive Council. The Executive Council of the State of New Hampshire (commonly known as the Governor's Council) is the executive body for the State of New Hampshire.
Governor and Executive Council Award	Process by which RFP will be awarded and approved prior to signing of the Ground Lease Contract.
Gross Sales	As defined in Section F-8 .
Gross Sales Rent	An amount paid by the Operator to the State equal to a portion or ratio of gross sales generated from the leased premises as proposed by the Operator.
Ground Lease Contract	Ground lease contracts, like other lease contracts, are an exchange of the use of property for rent payments. The agreement will describe the land and buildings to be leased and the amount and timing of the rental payments
Lease Agreement	State of New Hampshire standard Ground Lease Contract.
Lease Year	July 1 through June 30
Leased Premises	Area legally defined that will be leased to the Operator.

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LLC	A Limited Liability Company is a flexible form of enterprise that blends elements of partnership and corporate structures. It is a legal form of company that provides limited liability to its owners in the vast majority of United States jurisdictions.
Long-Range Capital Planning and Utilization Committee (LRCPUC)	NH Legislative Committee responsible for overseeing the physical needs and financial resources of the State.
MUTCD	The Manual on Uniform Traffic Control Devices is a document issued by the Federal Highway Administration of the United States Department of Transportation to specify the standards by which traffic signs, road surface markings, and signals are designed, installed, and used.
NH RSA	New Hampshire Revised Statutes Annotated
NHDES	New Hampshire Department of Environmental Services
NHDOT	New Hampshire Department of Transportation
NPV	Net Present Value; the value in the present of a sum of money, in contrast to some future value.
O&M	Operations and Maintenance
Operator	Any individual, firm, or corporation invited to submit a Proposal to plan, develop, fund, construct and operate the sites satisfying State specified requirements.
PDF	Portable Document Format is an open standard for document exchange.
Point of Contact	State Contact as identified in the RFP for all contact in responses to the RFQ and RFP.
Project	The planned undertaking regarding the entire subject matter of a Ground Lease Contract and the activities of the parties related hereto.
Project Staff	The Operator's Construction Project Manager, site/operations manager and key staff.
Project Team	The group of State employees and consultants responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Project Plan on time, on budget and to the required specifications and quality.
Project Management Plan	A document that describes the processes and methodology to be employed by the Operator to ensure a Project.

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Project Manager(s)	The person(s) identified who shall function as the State’s and Operator’s representative with regard to Review and Acceptance of the Ground Lease Contract Deliverables and review and approval of change requests.
Project Work Plan	The overall plan of activities for the Project created in accordance with the Ground Lease Contract. Each revision to the Work Plan accepted by the State shall be incorporated herein by reference upon its Acceptance by the State.
Proposal	The submission from an Operator response to the RFP.
Rent	Base Rent and Gross Sales Rent
Review	The process of Reviewing Deliverables for acceptance.
RFP	A “Request-for-Proposal” which solicits Operator proposals to satisfy State functional requirements by providing services and/or resources according to specific terms and conditions.
Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Ground Lease Contract.
Services	The work or labor to be performed by the Operator on the Project as described in the Ground Lease Contract.
Specifications	Defined as the 2016 NHDOT Specifications for Road & Bridge Construction and New Hampshire Division of Public Works and industry standards for building construction, other applicable State and Federal policies, laws and regulations, State technical standards, subsequent Agency-approved Deliverables, and other specifications and requirements described in the Ground Lease Contract Documents.
State	STATE is defined as: State of New Hampshire Department of Transportation 7 Hazen drive Concord, NH 03301 Reference to the term “State” shall include applicable Agencies.
State Project Manager	State’s representative with regard to project management and technical matters. State Project Manager is responsible for leading the Project with the Operator and State’s Project Team.
Subcontractor	A person, partnership, or company not in the employment of or owned by The Operator, which is performing Services under

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	this Ground Lease Contract under a separate contract with or on behalf of The Operator.
Substantial Completion	As determined by an inspection of the NHDPW that the work or a portion thereof is substantially complete, in accordance with the Contract Documents, such that the State may occupy or utilize the work for its intended use without the disruption of interference by the Operator in completing or correcting any remaining unfinished or acceptable work.
Turnpike	A turnpike is a privately or publicly built roadway system for which a driver pays a toll (a fee) for use.

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APPENDIX H: FORMS

The following pages provide the referenced forms from the RFP document and Ground Lease Contract. Note that Form 9 is provided for information purposes only and not required to be completed as part of the RFP submission.

List of Forms Included

- Form 1: Operator and Subcontractor Information Statement
- Form 2: Operator's Schedule
- Form 3: Commitment to Assign Identified Resources to the Project
- Form 4: Capital Costs
- Form 5: Annual Costs - Year of Operation
- Form 6: State of New Hampshire Proposal Transmittal Form Letter
- Form 7: Annual Rent Payments
- Form 8: Gross Sales Rent
- Form 9: Operator Inquiry Form
- Form 10: Sample P-37 Form

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Form 1: Operator and Subcontractor Information Statement

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FORM 1: OPERATOR and SUBCONTRACTOR INFORMATION STATEMENT

OPERATOR shall use this (or a facsimile) to document information for the prime OPERATOR and all SUBCONTRACTORS. Please copy this form as needed to comply with the requirements outlined in the RFP.

Prime Operator's Name: _____

	PRIME OPERATOR	SUBCONTRACTOR/SUBLESSEE #1
Legal Name of Company*		
Company's FEID Number		
Company Contact Name		
Company Address		
City, State, Zip Code		
Company Telephone No.		
Company Fax Number		
Company E-mail address		
Legal Name of Principal(s)		
Address of Principal(s)		
City, State, Zip Code		
Telephone No. of Principal(s)		
Fax Number of Principal(s)		
E-mail address of Principal(s)		
Corporate Number (if any)		
License Number(s) (as applicable)		
Status of License/Representation		
Work to be Performed		
DBE Certification# & Exp. Date		

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*Exactly as Registered with the State of New Hampshire (i.e., LLC, Inc., P.A., etc.). Please duplicate this page as necessary to provide the requested information. This Prime & Subcontractor Information Statement will become a part of the Ground Lease Contract Documents. Changes made to this Subcontractor Information Statement must be submitted in writing to the State for approval prior to that subcontractor/sublessee performing the Work.

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FORM 1, PAGE 2: PRIME & SUBCONTRACTOR INFORMATION STATEMENT

	SUBCONTRACTOR #2	SUBCONTRACTOR #3
Legal Name of Company*		
Company's FEID Number		
Company Contact Name		
Company Address		
City, State, Zip Code		
Company Telephone No.		
Company Fax Number		
Company E-mail address		
Legal Name of Principal(s)		
Address of Principal(s)		
City, State, Zip Code		
Telephone Number of Principal(s)		
Fax Number of Principal(s)		
E-mail address of Principal(s)		
Corporate Number (if applicable)		
License Number		
Status of License or Representation		
Work to be Performed		
DBE Certification# & Exp. Date		

*Exactly as Registered with the State of New Hampshire (i.e., LLC, Inc., P.A., etc.). Please duplicate this page as necessary to provide the requested information. This Prime & Subcontractor Information Statement will become a part of the Ground Lease Contract Documents. Changes made to this Subcontractor Information Statement must be submitted in writing to the Bureau for approval prior to that Subcontractor performing the Work. Signatures and additional information to be provided on the following page.

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FORM 1, PAGE 3: SIGNATURES

By: _____
President or Vice President

Signature: (1) _____
Co-Partner or General Partner

Attest: _____
Secretary (or Assistant Secretary)

Signature: (2) _____
Co-Partner or General Partner

Signature

Witness: (1) _____

(Affix
Print Name
Corporate
Seal)
Signature

Witness: (1) _____

Witness: (2) _____

Print Name

Witness: (2) _____

INDIVIDUAL OR FIRM TRADING AS:

_____ Principal (Proposer)

Signature: _____ Individual or Owner

Witness: _____

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(If Partnership, list names and address of each partner on a separate sheet)

STATE OF: _____
COUNTY OF: _____

On this date, before me personally appeared known to me to be the person(s) whose name(s) is subscribed to the foregoing instrument and acknowledged to me that they executed the same.

WITNESS my hand and seal, this _____ day of _____, 20_____.
(SEAL)

NOTARY PUBLIC
My Commission Expires: _____

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Form 2: Operator's Schedule

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FORM 2: OPERATOR’S SCHEDULE

Complete the schedule forms or provide the requested information in a suitable format for implementation of the parking controls at both facilities and /or other proposed construction, if applicable. The Operator has the option of either constructing the Portsmouth or Dover improvements separately or at the same time.

The beginning of work shall be based on an official NTP from the NH Bureau of Rail and Transit. All times shall be listed in calendar days. The times of review by the State that are required must be reasonable and indicated in the schedule. Known restrictions in the progress of the project are indicated below.

Schedule for Portsmouth facility

<u>Activity</u>	<u>Time from NTP Cumulative</u>
Submission of 30% design plans	_____
Review and Approval of 30% design plans by State (Max.30 days)	_____
Submission of 80% design plans	_____
Approval of 80% design plans by State (Max. 30 days)	_____
Submission of 100% design plans	_____
Approval of 100% design plans by State (Max. 30 days)	_____
Start of Construction	_____
Substantial Completion of Portsmouth improvements	_____
Obtain Certificate of Completion	_____
Completion of Portsmouth improvements	_____

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Schedule for Dover facility

<u>Activity</u>	<u>Time from NTP Cumulative</u>
Submission of 30% design plans	_____
Review and Approval of 30% design plans by State (Max.30 days)	_____
Submission of 80% design plans	_____
Approval of 80% design plans by State (Max. 30 days)	_____
Submission of 100% design plans	_____
Approval of 100% design plans by State (Max. 30 days)	_____
Start of Construction	_____
Substantial Completion of Dover improvements	_____
Obtain Certificate of Completion	_____
Completion of Dover improvements	_____

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Form 3: Commitment to Assign Identified Resources to the Project

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FORM 3: COMMITMENT TO ASSIGN IDENTIFIED RESOURCES TO PROJECT

Operators Name: _____

Understanding the State's concern that the personnel resources specifically represented and listed in this Proposal are actually assigned to the Contract (if awarded to this Operator) and are not also committed to other Projects, _____ (Name of Operator) commits that the personnel resources shown in the Proposal will be available to the extent within this Operator's control. If awarded the Contract, staff will be available full or part time, whichever is required to meet the Contract requirements, and that the key staff personnel will be committed to the Project to fulfill the responsibilities as described in the Contract. During the execution of the Contract, all changes in key staff personnel will be with personnel of equal credentials, experience, and capability and will only occur after written agreement from the State.

In making this commitment, we include the following reservations: (If made without reservation, enter "NONE").

Signed: _____

Printed Name: _____

Title: _____

Date: _____

(To be executed by the Operator's designated Project Principal)

END OF FORM 3

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Form 4: Capital Costs

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**FORM 4: BUS TERMINAL AND PARK-AND-RIDE CAPITAL COSTS
(in dollars)**

PORTSMOUTH FACILITY

ITEM DESCRIPTION	AMOUNT
Building and	
Parking Controls and Equipment	
Parking Expansion, if any	
Building Improvements or Enhancements, if any	
Site Work, Paving and Sidewalks, if any	
Additional Improvements, if any	
<i>Portsmouth Subtotal</i>	

DOVER FACILITY

ITEM DESCRIPTION	AMOUNT
Building and	
Parking Controls and Equipment	
Parking Expansion, if any	
Building Improvements or Enhancements, if any	
Site Work, Paving and Sidewalks, if any	
Additional Improvements, if any	
<i>Dover Subtotal</i>	

GRAND TOTAL

ITEM DESCRIPTION	AMOUNT
Portsmouth	
Dover	
GRAND TOTAL	

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Form 5: Estimated Annual Costs – Year of Operation

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**FORM 5: ESTIMATED ANNUAL COSTS – YEAR OF OPERATION
(in dollars)**

Operating Year	Operations and Maintenance Costs	Capital Maintenance Costs	All Other Costs Excluding Depreciation	Total
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				

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17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
TOTALS				

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Form 6: State of New Hampshire Proposal Transmittal Form Letter

DRAFT

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FORM 6: STATE OF NEW HAMPSHIRE PROPOSAL TRANSMITTAL FORM LETTER

Company Name _____

Address _____

To: Shelley Winters
Administrator, Bureau of Rail and Transit
New Hampshire Department of Transportation

Physical Address
7 Hazen Drive
Concord, NH 03301

Mailing Address
PO Box 483
Concord, NH 03302-0483

RE: Proposal Invitation Name: Long Term Lease/Concession Agreement of the
Dover and Portsmouth Bus Terminals
Proposal Number: DOT 2019-01
Proposal Opening Date/Time: May 15, 2020 at 2:30 PM

Dear Ms. Winters:

Company Name: _____ hereby offers its Proposal to the State of New Hampshire as indicated in Request for Proposals New Hampshire Department of Transportation 2020-01, LONG-TERM LEASE/CONCESSION AGREEMENT OF THE DOVER AND PORTSMOUTH BUS TERMINALS, in complete accordance with all conditions of this RFP.

Company Signatory: _____ is authorized to legally obligate
Company Name: _____.

We attest to the fact that:

The company has reviewed and agreed to be bound by all RFP terms and condition, including but not limited to the Goals and Desired State outcome identified in this RFP. All information used in this RFP shall form the basis of any Facilities Lease/Concession Agreement resulting from this process.

This proposal is effective for a period of 180 days following the deadline for submission of Proposals in Section 1.3: *Schedule*, or until the Effective Date of any resulting Facilities Lease/Concession Agreement, whichever is later.

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The Operator has read, signed, and included this RFP and any subsequent addendum

(a). Our official point of contact is _____,

Title _____

Telephone _____, Email _____

Authorized Signature Printed _____

Authorized Signature _____

Important Note: Facility Operators are provided an electronic version of the RFP Transmittal Letter. Any electronic alteration to this Transmittal Letter template is prohibited. Any such changes will result in a Proposal being rejected.

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Form 7: Base Rent Payments

The Operator shall provide all information necessary to support the Base Rent, if proposed. Form 7 is provided as a separate Microsoft Excel spreadsheet, as the first tab of “Forms 7 & 8.xlsx”, which the Operator shall utilize for submission to the State.

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Form 8: Gross Sales Rent Payments

The Operator shall provide all information necessary to support the Gross Sales Rent, if proposed. Form 8 is provided as a separate Microsoft Excel spreadsheet, as the second tab of “Forms 7 & 8.xlsx”, which the Operator shall utilize for submission to the State.

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Form 9: Operator Inquiry Form

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Form 9: Operator Inquiry Form

Proposer: _____

Sheet No. _____ of _____ Sheets

<i>Item No.</i>	<i>Section</i>	<i>Page</i>	<i>Inquiry</i>	<i>Reserved for Response</i>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

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Duplicate as needed.

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Form 10: Sample P-37 Form

DRAFT

**STATE OF NEW HAMPSHIRE
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FORM NUMBER P-37 (version 1/09)

Subject: _____

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

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory	
1.13 Acknowledgement: State of _____, County of _____ On _____, 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]			
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (<i>if applicable</i>) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: _____ On: _____			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

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The following Exhibits are available in electronic format and will be obtained via the NHDOT Bureau of Rail and Transit's website (<https://www.nh.gov/dot/org/aerorailtransit/railandtransit/index.htm>). Directions for obtaining the Exhibits are found below.

Exhibits:

- 1) Current Operator/NHDOT Agreements
- 2) Historic facility operating costs
- 3) Parking utilization data
- 4) Historic operations and maintenance costs
- 5) RSA's for Park & Ride facilities
- 6) Site Plans
- 7) Building Plans
- 8) Applicable FHWA and FTA requirements
- 9) Early Development Agreement (EDA)
- 10) Drawing of Leased Premises; Legal Description

No additional materials are anticipated to be available on the State's website.

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**FORM 7: BASE RENT PAYMENTS
(in dollars)**

Operator to fill in highlighted Monthly Base Rent cells. Scoring will be based on Net Present Value per summary table below.

OPERATOR:

Year	Monthly Base Rent	Total Annual Base Rent	Cumulative Base Rent
1		\$ -	\$ -
2		\$ -	\$ -
3		\$ -	\$ -
4		\$ -	\$ -
5		\$ -	\$ -
6		\$ -	\$ -
7		\$ -	\$ -
8		\$ -	\$ -
9		\$ -	\$ -
10		\$ -	\$ -
11		\$ -	\$ -
12		\$ -	\$ -
13		\$ -	\$ -
14		\$ -	\$ -
15		\$ -	\$ -
16		\$ -	\$ -
17		\$ -	\$ -
18		\$ -	\$ -
19		\$ -	\$ -
20		\$ -	\$ -
21		\$ -	\$ -
22		\$ -	\$ -
23		\$ -	\$ -
24		\$ -	\$ -
25		\$ -	\$ -
26		\$ -	\$ -
27		\$ -	\$ -
28		\$ -	\$ -
29		\$ -	\$ -
30		\$ -	\$ -
TOTALS		\$ -	

Grand Total of 30-Year Base Rent	Proposed	Net Present Value
	\$ -	\$ -
	Discount Rate >	3.00%

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FORM 8: GROSS SALES RENT
(in dollars)

Operator:

	Sources of estimated gross sales revenues proposed for sharing	Percentage (%) of Rent Share
1		
2		
3		
4		

Instructions

- ← Operator to identify proposed sources of Gross Sales Rent as well as percentage proposed for sharing
- ← Fill in only those that they propose to share with NHDOT; if more than four sources of revenue are proposed for sharing, contact NHDOT.
- ↓ Fill in the highlighted cells for estimated gross annual revenues associated with each proposed source. Fill in any cells that are not used with "0"s.
- ↓ Scoring will be based on Net Present Value per summary table

Year	gross sales	Rent 0.0%	gross sales	Rent 0.0%	gross sales	Rent 0.0%	gross sales	Rent 0.0%
1		\$ -		\$ -		\$ -		\$ -
2		\$ -		\$ -		\$ -		\$ -
3		\$ -		\$ -		\$ -		\$ -
4		\$ -		\$ -		\$ -		\$ -
5		\$ -		\$ -		\$ -		\$ -
6		\$ -		\$ -		\$ -		\$ -
7		\$ -		\$ -		\$ -		\$ -
8		\$ -		\$ -		\$ -		\$ -
9		\$ -		\$ -		\$ -		\$ -
10		\$ -		\$ -		\$ -		\$ -
11		\$ -		\$ -		\$ -		\$ -
12		\$ -		\$ -		\$ -		\$ -
13		\$ -		\$ -		\$ -		\$ -
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16		\$ -		\$ -		\$ -		\$ -
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27		\$ -		\$ -		\$ -		\$ -
28		\$ -		\$ -		\$ -		\$ -
29		\$ -		\$ -		\$ -		\$ -
30		\$ -		\$ -		\$ -		\$ -
TOTALS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Year	Total Annual Gross Sales Rent	Cumulative Total Rent
1	\$ -	\$ -
2	\$ -	\$ -
3	\$ -	\$ -
4	\$ -	\$ -
5	\$ -	\$ -
6	\$ -	\$ -
7	\$ -	\$ -
8	\$ -	\$ -
9	\$ -	\$ -
10	\$ -	\$ -
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26	\$ -	\$ -
27	\$ -	\$ -
28	\$ -	\$ -
29	\$ -	\$ -
30	\$ -	\$ -
TOTALS	\$ -	\$ -

Grand Total of 30-Year Gross Sales Rent	Proposed	Net Present Value
	\$ -	\$ -