



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

27



William Cass, P.E.
Commissioner

David Rodrigue, P.E.
Assistant Commissioner
Andre Briere, Colonel, USAF (RET)
Deputy Commissioner

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

Bureau of Right-of-Way
June 14, 2023

REQUESTED ACTION

The Department of Transportation, Bureau of Right-of-Way, requests authorization to enter into a **sole source** agreement with Maine Technical Source, Inc., Yarmouth, Maine (Vendor code 153116), in the amount of \$98,281.96 for the purpose of purchasing a total station robotic survey instrument, a Global Navigation Satellite System (GNSS) unit, data collectors, and the software licenses and peripheral equipment for the use of the instruments in the field. The use of the units provides the real-time collection of GNSS data based on the NSRS (National Spatial Reference System) and the NH SPCS (NH State Plane Coordinate System). This agreement is effective upon Governor & Council approval through June 3, 2024. Funding is 100% Highway Funds.

Funding is available based on the following:

FY 2024

04-096-096-962015-3028
Bureau of Right-of-Way
030-500307
Engineering and Survey Equipment

\$98,281.96

EXPLANATION

The request is **sole source** because Maine Technical Source, Inc. is the only authorized distributor for Leica Geosystems' high-end surveying segment consisting of GNSS, robotic surveying instruments, related field and office software, firmware and customer care plans to serve Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

The Continuously Operating Reference Stations (CORS) program is our attempt to integrate the latest GNSS technology into the Department's daily construction inspection and surveying operations. These devices utilize the same GNSS real-time data collection service called SmartNet, a subscription service available through Maine Technical Source, Inc. that allows us to use real-time accurate data on our GNSS devices.

The Customer Care Plans (CCP) and the software licensing for the CS20 data collector provide for the calibration and maintenance of the equipment for one year.

The Attorney General has approved this agreement as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services. After Governor and Council approval, the agreement will be on file at the Department of Transportation.

It is respectfully requested that authority be given to enter into this **sole source** agreement.

Respectfully,

A handwritten signature in cursive script that reads "William Cass".

William J. Cass, P.E.
Commissioner

WJC/pfc
Attachments



State of New Hampshire Purchase Order

PURCHASE ORDER NUMBER
4013692
 This number must appear on all invoices, packages, cartons, bills of lading, and packing slips.

Date: 06/01/2023
 Status: DRAFT
 Ship Via:
 FOB: Destination
 Freight Terms: Vendor Paid
 Terms: Net 30
 Due Days: 30

Bill To: NHDOT RIGHT OF WAY
 PO BOX 483
 CONCORD NH 03302-0483

MAINE TECHNICAL SOURCE
 494 US ROUTE 1
 YARMOUTH ME 04096

Ship To:
 RIGHT OF WAY
 7 HAZEN DRIVE
 CONCORD NH 03301

Vendor #: 153116 Phone: 800 322 5003 AGENCY CONTACT: PAUL CODDINGTON
 Contact: Jim Bosworth Fax: 91 207 846 3674
 In accordance with Quote S1359437

LINE	QTY	UOM	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
			Deliver on or before June 30, 2023 unless specified by line 603-271-3223 Contact: Paul Coddington Phone: (603) 271-3223		
1	1.00	EA	CARLSON 6000.120.001 RT4 BASE WITH SURVPC BASIC	3,557.14300	3,557.14
2	1.00	EA	CARLSON 6606.002.000 ROBOTIC SURVPC 6.XX	475.00000	475.00
3	5.00	EA	CARLSON 8010.056.202 COMPLETE POLE MOUNT	250.00000	1,250.00
4	1.00	EA	CHRISNIK 18CN-ID2100S HOUND DOG LOCATOR	771.97500	771.98
5	1.00	EA	LEICA 1YR VIVA GNSS CCP LA1 6003686	168.00000	168.00
6	1.00	EA	LEICA CA41 RTK ANTENNA ARM LA1 855149	242.25000	242.25
7	1.00	EA	LEICA CAPTIVATE FOR CS20 LA1 827698	853.12500	853.13
8	1.00	EA	LEICA CAPTIVATE FOR TS/MS LA1 827646	853.12500	853.13
9	1.00	EA	LEICA CS20 LTE FIELD CNTRLLR LA1 971178	4,225.00000	4,225.00
10	1.00	EA	LEICA CS20 MEASURE/STAKE LA1 827699	715.00000	715.00
11	1.00	EA	LEICA GAT2 GAINFLEX ANTENNA LA1 667243	59.31300	59.31
12	1.00	EA	LEICA GAT28 UHF ANTENNA LA1 849256	58.90600	58.91
13	1.00	EA	LEICA GDF311 BASIC TRIBRACH LA1 842061	195.00000	195.00
14	1.00	EA	LEICA GDF321 TRIBRACH LA1 777508	308.75000	308.75
15	2.00	EA	LEICA GEB242 LARGE BATTERY LA1 793975	357.50000	715.00
16	6.00	EA	LEICA GEB334 BATTERY LA1 954518	203.12500	1,218.75
17	1.00	EA	LEICA GEOCOM LICENSE LA1 827664	654.06300	654.06
18	1.00	EA	LEICA GHT63 CLAMP ARRNGMT LA1 767880	134.06300	134.06
19	1.00	EA	LEICA GHT66 CLAMP HOLDER LA1 807157	113.75000	113.75

Buyer: Andrea Olsson
 Phone: 603-271-2550
 Process Level: 09600

Total Amount: \$98,281.96

***** CONTINUED *****



State of New Hampshire Purchase Order

PURCHASE ORDER NUMBER 4013692
This number must appear on all invoices, packages, cartons, bills of lading, and packing slips.

Date: 06/01/2023
Status: DRAFT
Ship Via:
FOB: Destination
Freight Terms: Vendor Paid
Terms: Net 30
Due Days: 30

Bill To: NHDOT RIGHT OF WAY
PO BOX 483
CONCORD NH 03302-0483

MAINE TECHNICAL SOURCE
494 US ROUTE 1
YARMOUTH ME 04096

Ship To:
RIGHT OF WAY
7 HAZEN DRIVE
CONCORD NH 03301

Vendor #: 153116 Phone: 800 322 5003 AGENCY CONTACT: PAUL CODDINGTON
Contact: Jim Bosworth Fax: 91 207 846 3674
In accordance with Quote S1359437

Table with 6 columns: LINE, QTY, UOM, DESCRIPTION, UNIT PRICE, EXTENDED PRICE. Contains 40 line items for various Leica surveying equipment and training services.

Buyer: Andrea Olsson
Phone: 603-271-2550
Process Level: 09600

Total Amount: \$98,281.96

***** CONTINUED *****



State of New Hampshire Purchase Order

PURCHASE ORDER NUMBER
4013692
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 YARMOUTH ME 04096

Ship To:
 RIGHT OF WAY
 7 HAZEN DRIVE
 CONCORD NH 03301

Phone: 800 322 5003
 Fax: 91 207 846 3674

AGENCY CONTACT: PAUL CODDINGTON

Vendor #: 153116
 Contact: Jim Bosworth

In accordance with Quote S1359437

LINE	QTY	UOM	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
41	6.00	EA	SECO 2080-00 PRISM ADAPTER FOR LEICA PRISM	21.89300	131.36
42	6.00	EA	SECO 4769-02 25 FT TAPE 10THS AND INCHES	8.87100	53.23
43	6.00	EA	SECO 5192-02 TOPO SHOE ADAPTER	69.00000	414.00
44	1.00	EA	SECO 5218-02-FLY GPS POLE TROPOD WITH THUMB LOCK	193.13800	193.14
45	4.00	EA	SECO 8123-00-ORG CASE TOP LOADING BACKPACK	410.21300	1,640.85
Purchase Order Summary					
				Goods Total:	\$98,281.96
				Order Total:	\$98,281.96
DELIVERY INSTRUCTIONS					
All items are to ship to this location:					
Attention: Paul Coddington Contact at 603-271-3223 NHDOT Bureau of Right of Way 7 Hazen Drive, Concord, NH 03301					

Buyer: Andrea Olsson
 Phone: 603-271-2550
 Process Level: 09600

Total Amount: \$98,281.96

1. The State of New Hampshire engages the firm or individual ("the Vendor") to perform the services and/or sale of goods, described in the attached State Proposal and the Vendor's proposal, bid or quotation, any of which are incorporated herein by reference.

2. **COMPLIANCE BY VENDOR WITH LAWS AND REGULATIONS.** In connection with the performance of this agreement, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Vendor, including, but not limited to civil rights and equal opportunity laws. In addition, the Vendor shall comply with all applicable copyright laws.

3. **TERM.** The contract and all obligations of the parties thereunder, shall become effective on a specified date and shall be completed in their entirety prior to a specified date. Any work undertaken by the Vendor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work.

4. **CONTRACT PRICE.** The contract price, a payment schedule and a maximum limitation of price shall be as specified by the proposal or bid invitation and the Vendor's response. All payments shall be conditioned upon receipt, and approval by the State, of appropriate vouchers and upon satisfactory performance by the Vendor, as determined by the State. The payment by the State of the Contract Price shall constitute complete reimbursement to the Vendor for all expenses of any nature incurred by the Vendor in the performance by the contractor and complete payment for the Services. The State shall have no other liability to the Vendor.

5. **DELIVERY.** If the Vendor fails to furnish items and/or services in accordance with all requirements, including delivery, the state may repurchase similar items from any other source without competitive process, and the original Vendor may be liable to the state for any excess costs.

If a Vendor is unable to complete delivery by the date specified, he must contact the using branch and or agency. However, the branch and or agency is not required to accept a delay to the original delivery date. All deliveries are subject to inspection and receiving procedure rules as established by the State of New Hampshire. Deliveries are not considered accepted until compliance with these rules has been established. State personnel signatures on shipping documents shall signify only the receipt of shipment.

6. **INVOICING.** All invoices must be in triplicate showing Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted on the proposal or purchase order, payment will not be due until thirty(30) days after all services have been completed, or all items have been delivered, inspected and accepted or the invoice has been received, whichever is later.

7. **PERSONNEL**

7.1. The Vendor shall disclose in writing the names of all owners (5% or more), directors, officers, employees, agents or subcontractors who are also officials or employees of the State of New Hampshire. Any change in this information shall be reported in writing within fifteen (15) days of their occurrence.

7.2. The person signing this agreement on behalf of the State, or his or her delegatee ("Contracting Officer") shall be the State's representative for purposes of this agreement. In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.

8. **EVENT OF DEFAULT; REMEDIES.**

8.1. Any one or more of the following acts or omissions of the Vendor shall constitute an event of default hereunder ("Events of Default").

- 8.1.1. failure to deliver the goods or services satisfactorily or on schedule; or
- 8.1.2. failure to submit any report required hereunder; or
- 8.1.3. failure to perform any of the other covenants and conditions of this agreement.

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

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

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

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

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

9. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof regarding any further or other default on the part of the Vendor.

10. **VENDOR'S RELATION TO THE STATE.** In the performance of this agreement the Vendor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Vendor nor any of its officers, employees, agents or members shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

11. **ASSIGNMENT AND SUBCONTRACTS.** The Vendor shall not assign, or otherwise transfer any interest in this agreement without the prior written consent of the State. No work required by this contract shall be subcontracted without the prior written consent of the State.

12. **INDEMNIFICATION.** The Vendor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the state, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Vendor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

12.1. **PATENT PROTECTION.** The Vendor agrees to indemnify and defend the State of New Hampshire from alleged and actual patent infringements and further agrees to hold the State of New Hampshire harmless from any liability arising under RSA 382-A:2-312(3). (Uniform Commercial Code).

13. **TOXIC SUBSTANCES.** In compliance with RSA 277-A known as the Workers Right to Know Act, the Vendor shall provide Material Safety Data Sheets with the delivery of any and all products covered by said law.

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

15. **AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

16. **CONSTRUCTION OF AGREEMENT AND TERMS.** This agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

17. **ADDITIONAL PROVISIONS.** The additional provisions (if any) have been set forth as Exhibit "A" hereto.

18. **ENTIRE AGREEMENT.** This agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

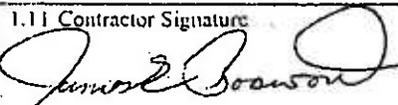
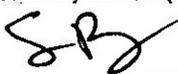
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Transportation		1.2 State Agency Address 7 Hazen Drive Concord, NH 03301	
1.3 Contractor Name Maine Technical Source, Inc.		1.4 Contractor Address 191 US Route One Yarmouth, ME 04096	
1.5 Contractor Phone Number 800-322-5003	1.6 Account Unit and Class 04-096-096-962015- 3028-030-500307	1.7 Completion Date 6/3/2024	1.8 Price Limitation \$98,281.96
1.9 Contracting Officer for State Agency William Oldenburg		1.10 State Agency Telephone Number 603-271-3222	
1.11 Contractor Signature  Date: 6-5-23		1.12 Name and Title of Contractor Signatory James Bosworth, Sales Manager	
1.13 State Agency Signature  Date: 6-7-23		1.14 Name and Title of State Agency Signatory William Oldenburg, Director, Project Development	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 8/14/23			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

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

3. **EFFECTIVE DATE/COMPLETION OF SERVICES.**

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

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

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. **CONDITIONAL NATURE OF AGREEMENT.**

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

5. **CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

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

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 30:7 through RSA 82:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

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

7. **PERSONNEL.**

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

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

9. TERMINATION.

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

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

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

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

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

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

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

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

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

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

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

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

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

Service Contract (Form P-37)

Maine Technical Source, Inc.

EXHIBIT A: Special Provisions

1. The contract is effective upon approval by the Governor and Executive Council.

EXHIBIT B: Services to be performed or provided:

1. Provide all of the equipment and software listed in Attachment #1 to this contract, specifically referencing the Maine Technical Source, Inc. quotation and bid #S1359437. The total charges will be \$98,281.96 with no shipping, installation, or activation fees. Substitutions will be allowed with the agreement of the Department of Transportation.

EXHIBIT C: Budget and Method of Payment

1. Upon completed shipment of all equipment and software, \$98,281.96, net 30 after receipt and activation of software licenses, payment by check upon receipt of an invoice.

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that MAINE TECHNICAL SOURCE, INC. is a Maine Profit Corporation registered to transact business in New Hampshire on August 09, 1990. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 171551

Certificate Number: 0006208591



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 17th day of April A.D. 2023.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan
Secretary of State

**Maine Technical Source, Inc.
Corporate Resolution**

I, Stuart F. MacDonald, III, hereby certify that I am a duly elected Officer of Maine Technical Source, Inc.

I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors, duly called and held on April 5, 2023, at which a quorum of the Directors/shareholders was present and voting.

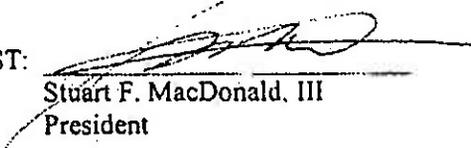
VOTED: Jim Bosworth is duly authorized to enter into contracts or agreements on behalf of Maine Technical Source, Inc. with the State of New Hampshire and any of its agencies or departments and is further authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and end effect as of the date of the contract to which this certificate is attached. This authority remains valid for one hundred twenty days from the date of this Corporate Resolution.

I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind this corporation in contract with the State of New Hampshire, all such limitations are expressly stated herein.

DATED: April 5, 2023

ATTEST:


**Stuart F. MacDonald, III
President**

