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NHDES

The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

123

August 17, 2023

His Excellency, Governor Christopher T. Sununu
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into **SOLE SOURCE** contracts with the following entities in the amount of $ 89,576.00 for surficial and bedrock geologic mapping services effective upon Governor and Council approval through September 13, 2024. 100% Federal funds.

Vendor Name	Location	Vendor #	Contract Amount
John A. Brooks	Wolfeboro, NH	333573-B001	$ 14,015.00
David R. Converse	Estes Park, CO	333412-B001	$ 13,325.00
Emery and Garrett Groundwater Investigations, LLC	Meredith, NH	156756-B001	$ 15,036.00
J. Dykstra Eusden, Jr.	South Paris, ME	160229-B001	$ 25,750.00
Charles M. Kerwin	Hancock, NH	164971-B001	$ 21,450.00

Funding is available in the account as follows:

	FY 24
03-44-44-440010-3852-102-500731	$ 89,576.00

Department of Environmental Services, State Mapping Program, Contract for Program Services

EXPLANATION

The **SOLE SOURCE** contracts that are the subject of this request involve the state geological mapping program. The contractors listed in this request were specifically identified in the scope of work for the original grant proposal as required by the funding partner, the U.S. Geological Survey (USGS), under the National Cooperative Geologic Mapping Program (STATEMAP). The qualifications of the contractors are rigorously evaluated by a USGS peer review panel which is convened annually to make funding decisions for the program. The NH Geological Survey's mapping proposals routinely rate very high compared to all proposals submitted, largely due to the highly qualified contractors employed. Each of the contractors has previously produced high-quality maps that have been accepted by the USGS as deliverables for the STATEMAP program. Mapping contractors

are subject to a pre-qualification process involving evaluation by the NH Geologic Resources Advisory Committee (GRAC), based on a Statement of Qualifications (SOQ). Eligibility criteria include: (1) personal

education and experience in the discipline of field mapping, (2) recent successful geologic mapping experience, and (3) production of a geological map that has been accepted or published by the USGS in Reston, Virginia.

This STATEMAP program is designed to create or update geological maps in areas of the state where there is a critical need for geologic information. Geological map data are routinely used by hydrogeologic consultants, engineers, scientists, planners, and local officials as the basis for local master plans, groundwater availability assessments and groundwater protection initiatives, infrastructure expansion, and for evaluating geologic hazards. In addition, the mapping program contributes to our knowledge about an integral part of New Hampshire's natural history. The selection of areas for detailed mapping was reviewed and approved by GRAC, which consists of members from the consulting community, state and federal agencies, academia, industry, and the general public. The criteria used in their selection included 1) critical need, 2) contribution to the state's Geological Mapping Strategic Plan, and 3) return of information for the investment of public funds.

In summary, the New Hampshire STATEMAP program has been very successful using contractors who have performed the field mapping in the past. Contractors will work under the direction of the State Geologist, who will review and approve all work before making a payment recommendation to the Department.

The contracts have been approved by the Department of Justice as to form, content, and execution. In the event that the Federal funds become no longer available, General Funds will not be requested to support this program.

We respectfully request your approval.

Robert R. Scott
Commissioner

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 New Hampshire Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	
1.3 Contractor Name John A. Brooks		1.4 Contractor Address 335 Sewall Road Wolfeboro, NH 03894	
1.5 Contractor Phone Number (703) 623-6742	1.6 Account Unit and Class 03-44-44-440010-3852-0102	1.7 Completion Date 9/13/2024	1.8 Price Limitation $14,015
1.9 Contracting Officer for State Agency Shane Csiki, State Geologist and Director, New Hampshire Geological Survey		1.10 State Agency Telephone Number (603) 271-1975	
1.11 Contractor Signature John Brooks Date: 8/3/23		1.12 Name and Title of Contractor Signatory John A. Brooks, Professional Geologist	
1.13 State Agency Signature Date: 8/17/23		1.14 Name and Title of State Agency Signatory Robert R. Scott, Commissioner, NHDES	
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: 8/25/2023			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

Contractor Initials JB
Date 8/3/23

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 80:7 through RSA 80:7-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.

Contractor Initials

Date 8/3/23

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.

Contractor Initials JB
Date 8/3/23

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.

Contractor Initials JB
Date 8/2/23

EXHIBIT A

Special Provisions

Paragraph 14 of the General Provisions of the standard state agreement is expressly waived. This provision is being waived because this is an individual and carrying this general liability insurance would be cost prohibitive.

EXHIBIT B

Scope of Work

The State has contracted with John A. Brooks. The contractor will perform surficial geologic mapping of the northern half of the Ossipee 7.5-minute (1:24,000 scale) Quadrangle in New Hampshire, and the New Hampshire portion of the West Newfield, Maine quadrangle.

All work shall be performed in accordance with the following scope.

The mapping will include delineation of all surficial materials following the patterns, symbols, and cartography of United States Geological Survey. This includes delineating the till, glaciofluvial deposits, glaciolacustrine deposits, freshwater wetlands, bedrock exposures, shallow bedrock, alluvium, and other materials particular to the area. The New Hampshire Geological Survey (NHGS) at the New Hampshire Department of Environmental Services (NHDES) shall provide a staff geologist, to provide technical assistance in the final map cartography and digitization of the final surficial geologic map submitted under this Scope of Work. Symbols must conform to the most current Federal Geographic Data Committee digital cartographic standards.

The map shall also include pertinent observations and annotations related to the surficial geology of the map area, such as interpreted surficial materials, ice margin positions, alluvium, glacial till, and locations of meltwater channels. A classification of material textures on the final map will be determined based on mutual agreement between NHGS and the Contractor. The Contractor will incorporate existing geological information, and subsurface information provided by NHGS, to support geological interpretations and map products. All map units within the northern half of the Ossipee Quadrangle and the New Hampshire portion of the West Newfield Quad must be reconciled with the mapped surficial geology of the Great Lake East (ME) Quadrangle to the southeast, the southern portion of the Ossipee Quad to the south, Wolfeboro Quadrangle to the southwest, Tuftonboro Quadrangle to the west, and Ossipee Lake Quadrangle to the northwest, so that a seamless coverage can be created for the entire area of the adjoining quadrangles. If an edgematching discrepancy exists, the Contractor shall work with NHGS to resolve any such identified issues to the mutual agreement of both NHGS and the Contractor prior to contract completion. High-quality photographs of significant geologic features shall be provided to NHGS as raw digital image files, separate from inclusion in a Word or PDF document, accompanied by descriptive captions and cross-referenced to actual localities indicated on the map. The Contractor shall also provide a concise legend containing a detailed description of each map unit and a minimum one-page narrative description of the surficial geology of the quadrangle including interpretations regarding map unit depositional environment, and the style of glaciation and deglaciation. A version of the legend and narrative shall be submitted in Microsoft Word format, utilizing a base template

Contractor Initials JB
Date 6/12/23

provided by NHGS to the Contractor. In order to ensure seamless translation to GeMS by NHGS staff, the contractor must map both unit polygons representing map units and coincident polylines representing contacts. For each map unit, the mapper must submit an identity confidence level that conveys confidence in the map unit's identity. The mapper must also submit three confidence levels for each geologic contact: location confidence (in meters), existence confidence, and identity confidence.

NHGS staff reserve the right to accompany the Contractor in field mapping activities where such accompaniment will mutually benefit both NHGS and the Contractor. The Contractor shall be available for a one-day long field conference for the mapped quadrangle, which will incorporate attendance by NHGS staff and geologic community peers. The field conference will be arranged for a date in mid- to late-summer 2024 that mutually works for all attending parties.

A map of the northern half of the Ossipee Quadrangle and New Hampshire portion of the West Newfield quadrangle shall be prepared on a base, utilizing a template that has been created by NHGS, with content equivalent to that of the most recent USGS 7.5-minute series topographic map for the quadrangle area, and which reproduces this content without distortions in scale. The map shall include: (1) scale and contour interval, (2) north arrow and magnetic declination, (3) title, authorship, publisher, and date, (4) location index map, (5) field data or field data stations, (6) description of map units, (7) explanation of map symbols, (8) unit symbols on map, and (9) an acknowledgment statement. The acknowledgment statement text will be provided to the Contractor by the State Geologist. The Contractor shall deliver this map to the State Geologist for scientific review at least two (2) working days prior to the September 13, 2024 contract completion date. The Contractor shall submit a final, scale stable, reproducible color copy of the northern half of the Ossipee Quadrangle and New Hampshire portion of the West Newfield Quadrangle, consistent with USGS and NHGS standards, to the State Geologist to complete the contract. Provision of the final map to NHGS, in PDF electronic format, shall meet such requirements for submittal for the purpose of this contract. NHGS commits to provision of staff assistance to the Contractor to prepare the final map.

The Contractor shall adhere to the specifications outlined by DES's Standard Operating Procedures (DES-SOP #101) for accessing private lands. This includes providing NHGS with a copy of all logs indicating dates and times of contact with landowners. Guidance and assistance for operating within the SOP will be provided by NHGS.

EXHIBIT C

Contract Price and Payment Method

The total amount of all payments to this Contractor shall be $14,015. This amount will be charged for mapping the northern half of the Ossipee Quadrangle and New Hampshire portion of the West Newfield Quadrangle, and billed as the percentage of work is completed. Detailed invoices will be required for all payments.

Contractor Initials JB
Date 8/3/23

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 New Hampshire Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	
1.3 Contractor Name David R. Converse		1.4 Contractor Address 2119 McGraw Ranch Road Estes Park, CO 80517	
1.5 Contractor Phone Number (832) 646-9397	1.6 Account Unit and Class 03-44-44-440010-3852-0102	1.7 Completion Date 9/13/2024	1.8 Price Limitation $13,325
1.9 Contracting Officer for State Agency Shane Csiki, State Geologist and Director, New Hampshire Geological Survey		1.10 State Agency Telephone Number (603) 271-1975	
1.11 Contractor Signature David R Converse Date: 8/4/23		1.12 Name and Title of Contractor Signatory David R. Converse, Professional Geologist	
1.13 State Agency Signature Date: 8/17/23		1.14 Name and Title of State Agency Signatory Robert R. Scott, Commissioner, NHDES	
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: 8/25/2023			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

Contractor Initials DRC
Date 8/4/23

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.

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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 80:7 through RSA 80:7-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.

Contractor Initials DRC
Date 8/14/23

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.

Contractor Initials DRC
Date 8/4/23

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.

Contractor Initials DRC
Date 8/4/23

EXHIBIT A

Special Provisions

Paragraph 14 of the General Provisions of the standard state agreement is expressly waived. This provision is being waived because this is an individual and carrying this general liability insurance would be cost prohibitive.

EXHIBIT B

Scope of Work

The State has contracted with David R. Converse. The contractor will perform bedrock geologic mapping of the northern half of the Second Connecticut Lake 7.5-minute (1:24,000 scale) Quadrangle in New Hampshire.

All work shall be performed in accordance with the following scope.

This mapping will include delineation of all bedrock units following the patterns, symbols, and cartography of the United States Geological Survey. This includes delineating map units based on mineralogy, texture, and lithology as well as contacts between lithologic units; faults, joints, and other discontinuities with attention to such structures that may be water bearing; and point observations of structures such as bedding, foliations, and fold hinges. The New Hampshire Geological Survey (NHGS) at the New Hampshire Department of Environmental Services (NHDES) shall provide a staff geologist, to provide technical assistance in the final map cartography and digitization of the final bedrock geologic map submitted under this Scope of Work. Symbols must conform to the most current Federal Geographic Data Committee digital cartographic standards.

The map shall also include pertinent scientific observations and annotations based upon results obtained from analysis of samples for detrital zircon analysis and thin sections, for which funds are included in this contract to perform. The Contractor shall provide the data output from these analyses to NHGS as part of the submitted deliverables upon completion of the contract. The Contractor will incorporate existing geological information, and subsurface information provided by NHGS, to support geological interpretations and map products. All map units within the northern half of the Second Connecticut Lake Quadrangle must be reconciled with the mapped bedrock geology of the adjacent Cowen Hill Quadrangle. High-quality photographs of significant geologic features shall be provided to NHGS as raw digital image files, separate from inclusion in a Word or PDF document, accompanied by descriptive captions and cross-referenced to actual localities indicated on the map. The Contractor shall also provide a concise legend containing a detailed description of each map unit, a version of which shall be submitted in Microsoft Word format, and a minimum one-page narrative description of the bedrock geology of the quadrangle including interpretations regarding map unit deposition as well as the timing and style of deformation. The narrative description shall be submitted in Microsoft Word format, utilizing a base template provided by NHGS to the Contractor. In order to ensure seamless translation to GeMS by NHGS staff, the contractor must map both unit polygons representing map units and coincident polylines representing contacts. For each map unit, the mapper must submit an identity confidence level that conveys confidence in the map unit's identity. The mapper must also submit three confidence levels

Contractor Initials DRC
Date 8/29/23

for each geologic contact: location confidence (in meters), existence confidence, and identity confidence.

NHGS staff reserve the right to accompany the Contractor in field mapping activities where such accompaniment will mutually benefit both NHGS and the Contractor. The Contractor shall be available for a one-day long field conference for the mapped quadrangle, which incorporates attendance by NHGS staff and geologic community peers, as available. The field conference will be arranged for a date in summer 2024 that mutually works for all attending parties.

A map of the northern half of the Second Connecticut Lake Quadrangle shall be prepared on a base, utilizing a template that has been created by NHGS, with content equivalent to that of the most recent USGS 7.5-minute series topographic map for the quadrangle area, and which reproduces this content without distortions in scale. The map shall include: (1) scale and contour interval, (2) north arrow and magnetic declination, (3) title, authorship, publisher, and date, (4) location index map, (5) field data or field data stations, (6) description of map units, (7) explanation of map symbols, (8) unit symbols on map, and (9) an acknowledgment statement. The acknowledgment statement text will be provided to the Contractor by the State Geologist. A minimum of one geologic cross section depicting the rocks at the surface and interpretive projections of map units above and below ground will be submitted with the map. The Contractor shall deliver this map to the State Geologist for scientific review at least two (2) working days prior to the September 13, 2024 contract completion date. The Contractor shall submit a final, scale stable, reproducible color copy of the northern half of the Second Connecticut Lake Quadrangle, consistent with USGS and NHGS standards, to the State Geologist to complete the contract. Provision of the final map to NHGS, in PDF electronic format, shall meet such requirements for submittal for the purpose of this contract. NHGS commits to provision of staff assistance to the Contractor to prepare the final map.

The Contractor shall adhere to the specifications outlined by DES's Standard Operating Procedures (DES-SOP #101) for accessing private lands. This includes providing NHGS with a copy of all logs indicating dates and times of contact with landowners. Guidance and assistance for operating within the SOP will be provided by NHGS.

EXHIBIT C

Contract Price and Payment Method

The total amount of all payments to this Contractor shall be $13,325. This amount will be charged for mapping the northern half of the Second Connecticut Lake Quadrangle, and for conductance of detrital zircon analysis and thin sections, and billed as the percentage of mapping work is, and individual analyses are, completed. Detailed invoices will be required for all payments.

Contractor Initials DRC
Date 8/14/23

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 New Hampshire Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	
1.3 Contractor Name Emery and Garrett Groundwater Investigations, LLC A Division of GZA		1.4 Contractor Address 56 Main Street, P.O. Box 1578 Meredith, NH 03253	
1.5 Contractor Phone Number (603) 279-4425	1.6 Account Unit and Class 03-44-44-440010-3852-0102	1.7 Completion Date 9/13/2024	1.8 Price Limitation $15,036
1.9 Contracting Officer for State Agency Shane Csiki, State Geologist and Director, New Hampshire Geological Survey		1.10 State Agency Telephone Number (603) 271-1975	
1.11 Contractor Signature Date: 8/1/23		1.12 Name and Title of Contractor Signatory James M. Emery, Principal	
1.13 State Agency Signature Date: 8/17/23		1.14 Name and Title of State Agency Signatory Robert R. Scott, Commissioner, NHDES	
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: 8/25/2023			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

Contractor Initials JME
Date 8/1/23

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 80:7 through RSA 80:7-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.

Contractor Initials JWE
Date 8/1/23

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.

Contractor Initials JWE
Date 8/1/23

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.

Contractor Initials JMG
Date 8/1/23

EXHIBIT A

Special Provisions

Section 14.1.1 shall be modified from $2,000,000 per occurrence to $1,000,000 per occurrence and $2,000,000 on general aggregate.

EXHIBIT B

Scope of Work

The State has contracted with Emery and Garrett Groundwater Investigations, LLC. The contractor will perform surficial geologic mapping of the southern 62% of the Silver Lake 7.5-minute (1:24,000 scale) Quadrangle in New Hampshire.

All work shall be performed in accordance with the following scope.

The mapping will include delineation of all surficial materials following the patterns, symbols, and cartography of United States Geological Survey. This includes delineating the till, glaciofluvial deposits, glaciolacustrine deposits, freshwater wetlands, bedrock exposures, shallow bedrock, alluvium, and other materials particular to the area. The New Hampshire Geological Survey (NHGS) at the New Hampshire Department of Environmental Services (NHDES) shall provide a staff geologist, to provide technical assistance in the final map cartography and digitization of the final surficial geologic map submitted under this Scope of Work. Symbols must conform to the most current Federal Geographic Data Committee digital cartographic standards.

The map shall also include pertinent observations and annotations related to the surficial geology of the map area, such as interpreted surficial materials, ice margin positions, alluvium, glacial till, and locations of meltwater channels. A classification of material textures on the final map will be determined based on mutual agreement between NHGS and the Contractor. The Contractor will incorporate existing geological information, and subsurface information provided by NHGS, to support geological interpretations and map products. All map units within the southern 62% of the Silver Lake Quadrangle must be reconciled with the mapped surficial geology of the Ossipee Lake Quadrangle to the south, Tamworth Quadrangle to the southwest, and Mount Chocorua Quadrangle to the west, so that a seamless coverage can be created for the entire area of the adjoining quadrangles. If an edgematching discrepancy exists, the Contractor shall work with NHGS to resolve any such identified issues to the mutual agreement of both NHGS and the Contractor prior to contract completion. High-quality photographs of significant geologic features shall be provided to NHGS as raw digital image files, separate from inclusion in a Word or PDF document, accompanied by descriptive captions and cross-referenced to actual localities indicated on the map. The Contractor shall also provide a concise legend containing a detailed description of each map unit and a minimum one-page narrative description of the surficial geology of the quadrangle including interpretations regarding map unit depositional environment, and the style of glaciation and deglaciation. A version of each of the legend and narrative shall be submitted in Microsoft Word format, utilizing a base template provided by NHGS to the Contractor. In order to ensure seamless translation to GeMS by NHGS staff, the contractor must map both unit polygons representing map units and coincident polylines representing contacts. For each map unit, the mapper must submit an

Contractor Initials JMF
Date 8/1/23

identity confidence level that conveys confidence in the map unit's identity. The mapper must also submit three confidence levels for each geologic contact: location confidence (in meters), existence confidence, and identity confidence.

NHGS staff reserve the right to accompany the Contractor in field mapping activities where such accompaniment will mutually benefit both NHGS and the Contractor. The Contractor shall be available for a one-day long field conference for the mapped quadrangle, which will incorporate attendance by NHGS staff and geologic community peers. The field conference will be arranged for a date in mid- to late-summer 2024 that mutually works for all attending parties.

A map of the southern 62% of the Silver Lake Quadrangle shall be prepared on a base, utilizing a template that has been created by NHGS, with content equivalent to that of the most recent USGS 7.5-minute series topographic map for the quadrangle area, and which reproduces this content without distortions in scale. The map shall include: (1) scale and contour interval, (2) north arrow and magnetic declination, (3) title, authorship, publisher, and date, (4) location index map, (5) field data or field data stations, (6) description of map units, (7) explanation of map symbols, (8) unit symbols on map, and (9) an acknowledgment statement. The acknowledgment statement text will be provided to the Contractor by the State Geologist. The Contractor shall deliver this map to the State Geologist for scientific review at least two (2) working days prior to the September 13, 2024 contract completion date. The Contractor shall submit a final, scale stable, reproducible color copy of the southern 62% of the Silver Lake Quadrangle, consistent with USGS and NHGS standards, to the State Geologist to complete the contract. Provision of the final map to NHGS, in PDF electronic format, shall meet such requirements for submittal for the purpose of this contract. NHGS commits to provision of staff assistance to the Contractor to prepare the final map.

The Contractor shall adhere to the specifications outlined by DES's Standard Operating Procedures (DES-SOP #101) for accessing private lands. This includes providing NHGS with a copy of all logs indicating dates and times of contact with landowners. Guidance and assistance for operating within the SOP will be provided by NHGS.

EXHIBIT C

Contract Price and Payment Method

The total amount of all payments to this Contractor shall be $15,036. This amount will be charged for mapping the southern 62% of the Silver Lake Quadrangle, and billed as the percentage of work is completed. Detailed invoices will be required for all payments.

Contractor Initials JMC
Date 8/1/23

EMERY & GARRETT GROUNDWATER INVESTIGATIONS, LLC

SECRETARY'S CERTIFICATE

I, John C. Murphy, Senior Vice President and Manager of Emery & Garrett Groundwater Investigations, LLC (the "Company"), and its holding company GZA GeoEnvironmental, Inc. hereby certify:

> *that James M. Emery is a Vice President and Manager of the Company and, pursuant to a vote adopted by the unanimous written consent of the Board of Directors of the Company on October 8, 2020, James M. Emery is authorized to execute and deliver contracts, bonds, and other documents related to the performance of professional services for the State of New Hampshire, Department of Environmental Services in the name and on behalf of the Company, and to affix the Corporate Seal thereto, if and as required.*

I further certify that the aforesaid unanimous written consent and the authority vested thereby have not been amended or revoked and are still in full force and effect.

WITNESS my hand and seal of the Corporation this 1st day of August 2023.

John C. Murphy
Chief Operating Officer
Senior Vice President

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 EMERY & GARRETT GROUNDWATER INVESTIGATIONS, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on December 14, 2012. 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: **683610**

Certificate Number: **0006290233**

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 1st day of August A.D. 2023.

David M. Scanlan

Secretary of State

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/1/2023

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

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

PRODUCER
Risk Strategies Company
160 Federal St. 4th Floor
Boston, MA 02110

CONTACT NAME:
PHONE (A/C, No, Ext): 617-330-5700 FAX (A/C, No): 617-439-3752
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Great Divide Insurance Company	25224
INSURER B: The First Liberty Insurance Corp	33588
INSURER C:	
INSURER D: Liberty Mutual Fire Insurance Company	23035
INSURER E:	
INSURER F: Endurance American Specialty Ins Co	41718

INSURED
Emery & Garrett Groundwater Investigations, LLC
A Division of GZA
P.O. Box 1578
56 Main Street
Meredith NH 03253

COVERAGES **CERTIFICATE NUMBER:** 75591121 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	✓ COMMERCIAL GENERAL LIABILITY			GLP2007957-20	2/28/2023	2/28/2024	EACH OCCURRENCE	$2,000,000
	☐ CLAIMS-MADE ✓ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	✓ $25K Ded per Occ-BI/PD						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	✓ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			AS6-Z11-261208-013	2/28/2023	2/28/2024	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	✓ ANY AUTO						BODILY INJURY (Per person)	$
	✓ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	✓ HIRED AUTOS ONLY ✓ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
	✓ $1,000 Comp Ded $1000 Coll Ded							$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC2-Z11-261208-043	2/28/2023	2/28/2024	✓ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N / A					E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
F	Professional Liability			DPL30016418701 ($500 SIR)	2/28/2023	2/28/2024	Each Claim	1,000,000
							Aggregate	1,000,000

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

Re: Job# 33.0083014.06, Silver Lake Quadrangle, Geologic Mapping Services, Silver Lake NH.

CERTIFICATE HOLDER

33.0083014.06

New Hampshire Department of Environmental Services
29 Hazen Drive
Concord NH 03302

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

RSC Insurance Brokerage Inc.

RSC Insurance Brokerage

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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 New Hampshire Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	
1.3 Contractor Name J. Dykstra Eusden, Jr.		1.4 Contractor Address 597 East Oxford Road, South Paris, ME 04281	
1.5 Contractor Phone Number (207) 240-9150	1.6 Account Unit and Class 03-44-44-440010-3852-0102	1.7 Completion Date 9/13/2024	1.8 Price Limitation $25,750
1.9 Contracting Officer for State Agency Shane Csiki, State Geologist and Director, New Hampshire Geological Survey		1.10 State Agency Telephone Number (603) 271-1975	
1.11 Contractor Signature J. Dykstra Eusden Jr. Date: 8/8/2023		1.12 Name and Title of Contractor Signatory J. Dykstra Eusden, Jr., Professional Geologist	
1.13 State Agency Signature Date: 8/17/23		1.14 Name and Title of State Agency Signatory Robert R. Scott, Commissioner, NHDES	
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: 8/25/2023	
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number:		G&C Meeting Date:	

Contractor Initials JDE
Date 8/8/23

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 80:7 through RSA 80:7-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.

Contractor Initials JDE
Date 8/8/23

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.

Contractor Initials JDE
Date 5/8/23

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.

Contractor Initials JDE
Date 8/8/23

EXHIBIT A

Special Provisions

Paragraph 14 of the General Provisions of the standard state agreement is expressly waived. This provision is being waived because this is an individual and carrying this general liability insurance would be cost prohibitive.

EXHIBIT B

Scope of Work

The State has contracted with J. Dykstra Eusden, Jr. The contractor will perform bedrock geologic mapping of the Bethlehem East 7.5-minute (1:24,000 scale) Quadrangle in New Hampshire.

All work shall be performed in accordance with the following scope.

This mapping will include delineation of all bedrock units following the patterns, symbols, and cartography of the United States Geological Survey. This includes delineating map units based on mineralogy, texture, and lithology as well as contacts between lithologic units; faults, joints, and other discontinuities with attention to such structures that may be water bearing; and point observations of structures such as bedding, foliations, and fold hinges. The New Hampshire Geological Survey (NHGS) at the New Hampshire Department of Environmental Services (NHDES) shall provide a staff geologist, to provide technical assistance in the final map cartography and digitization of the final bedrock geologic map submitted under this Scope of Work. Symbols must conform to the most current Federal Geographic Data Committee digital cartographic standards.

The map shall also include pertinent scientific observations and annotations based upon results obtained from analysis of samples for crystallization ages and detrital zircon analysis, for which funds are included in this contract to perform. The Contractor shall provide the data output from these analyses to NHGS as part of the submitted deliverables upon completion of the contract. The Contractor will incorporate existing geological information, and subsurface information provided by NHGS, to support geological interpretations and map products. All map units within the Bethlehem East Quadrangle must be reconciled with the mapped bedrock geology of the adjacent Jefferson/Pliny West Quadrangle to the northeast, and the Mount Dartmouth Quadrangle to the east. High-quality photographs of significant geologic features shall be provided to NHGS as raw digital image files, separate from inclusion in a Word or PDF document, accompanied by descriptive captions and cross-referenced to actual localities indicated on the map. The Contractor shall also provide a concise legend containing a detailed description of each map unit, a version of which shall be submitted in Microsoft Word format, and a minimum one-page narrative description of the bedrock geology of the quadrangle including interpretations regarding map unit deposition as well as the timing and style of deformation. The narrative description shall be submitted in Microsoft Word format, utilizing a base template provided by NHGS to the Contractor. In order to ensure seamless translation to GeMS by NHGS staff, the contractor must map both unit polygons representing map units and coincident polylines representing contacts. For each map unit, the mapper must submit an identity confidence level that conveys confidence in the map unit's identity.

Contractor Initials JDE
Date 8/8/23

The mapper must also submit three confidence levels for each geologic contact: location confidence (in meters), existence confidence, and identity confidence.

For this quadrangle, NHGS will be contributing a Geologist to actively perform field mapping work in joint collaboration with the Contractor. Such joint mapping activities and collaboration will be arranged on dates and at times, and in a form, mutually agreeable to NHGS and the Contractor. The Contractor shall be available for a one-day long field conference for the mapped quadrangle, which will incorporate attendance by NHGS staff and geologic community peers, as available. The field conference will be arranged for a date in summer 2024 that mutually works for all attending parties.

A map of the Bethlehem East Quadrangle shall be prepared on a base, utilizing a template that has been created by NHGS, with content equivalent to that of the most recent USGS 7.5-minute series topographic map for the quadrangle area, and which reproduces this content without distortions in scale. The map shall include: (1) scale and contour interval, (2) north arrow and magnetic declination, (3) title, authorship, publisher, and date, (4) location index map, (5) field data or field data stations, (6) description of map units, (7) explanation of map symbols, (8) unit symbols on map, and (9) an acknowledgment statement. The acknowledgment statement text will be provided to the Contractor by the State Geologist. A minimum of one geologic cross section depicting the rocks at the surface and interpretive projections of map units above and below ground will be submitted with the map. The Contractor shall deliver this map to the State Geologist for scientific review at least two (2) working days prior to the September 13, 2024 contract completion date. The Contractor shall submit a final, scale stable, reproducible color copy of the Bethlehem East Quadrangle, consistent with USGS and NHGS standards, to the State Geologist to complete the contract. Provision of the final map to NHGS, in PDF electronic format, shall meet such requirements for submittal for the purpose of this contract. NHGS commits to provision of staff assistance to the Contractor to prepare the final map.

The Contractor shall adhere to the specifications outlined by DES's Standard Operating Procedures (DES-SOP #101) for accessing private lands. This includes providing NHGS with a copy of all logs indicating dates and times of contact with landowners. Guidance and assistance for operating within the SOP will be provided by NHGS.

EXHIBIT C

Contract Price and Payment Method

The total amount of all payments to this Contractor shall be $25,750. This amount will be charged for mapping the Bethlehem East Quadrangle, and for conductance of crystallization ages and detrital zircon analysis, and billed as the percentage of mapping work is, and individual analyses are, completed. Detailed invoices will be required for all payments.

Contractor Initials JDE
Date 8/8/23

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 New Hampshire Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	
1.3 Contractor Name Charles M. Kerwin		1.4 Contractor Address 78 Stoddard Road Hancock, NH 03449	
1.5 Contractor Phone Number (603) 716-8560	1.6 Account Unit and Class 03-44-44-440010-3852-0102	1.7 Completion Date 9/13/2024	1.8 Price Limitation $21,450
1.9 Contracting Officer for State Agency Shane Csiki, State Geologist and Director, New Hampshire Geological Survey		1.10 State Agency Telephone Number (603) 271-1975	
1.11 Contractor Signature Date: 8/8/2023		1.12 Name and Title of Contractor Signatory Charles M. Kerwin, Professional Geologist	
1.13 State Agency Signature Date: 8/17/23		1.14 Name and Title of State Agency Signatory Robert R. Scott, Commissioner, NHDES	
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: 8/25/2023	
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number:		G&C Meeting Date:	

Contractor Initials: MC
Date: 8/8/2023

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 80:7 through RSA 80:7-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.

Contractor Initials YMC
Date 8/8/2023

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.

Contractor Initials CMK
Date 8/8/2023

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.

Contractor Initials MLC
Date 8/2/2023

EXHIBIT A

Special Provisions

Paragraph 14 of the General Provisions of the standard state agreement is expressly waived. This provision is being waived because this is an individual and carrying this general liability insurance would be cost prohibitive.

EXHIBIT B

Scope of Work

The State has contracted with Charles M. Kerwin. The contractor will perform bedrock geologic mapping of the Manchester South 7.5-minute (1:24,000 scale) Quadrangle in New Hampshire.

All work shall be performed in accordance with the following scope.

This mapping will include delineation of all bedrock units following the patterns, symbols, and cartography of the United States Geological Survey. This includes delineating map units based on mineralogy, texture, and lithology as well as contacts between lithologic units; faults, joints, and other discontinuities with attention to such structures that may be water bearing; and point observations of structures such as bedding, foliations, and fold hinges. The New Hampshire Geological Survey (NHGS) at the New Hampshire Department of Environmental Services (NHDES) shall provide a staff geologist, to provide technical assistance in the final map cartography and digitization of the final bedrock geologic map submitted under this Scope of Work. Symbols must conform to the most current Federal Geographic Data Committee digital cartographic standards. The Contractor will obtain and record the location, orientation, and type of fractures in bedrock outcrops during field mapping and provide to NHGS as the data is collected.

The Contractor will incorporate existing geological information, and subsurface information provided by NHGS, to support geological interpretations and map products. All map units within the Manchester South Quadrangle must be reconciled with the mapped bedrock geology of the adjacent Candia and Pinardville Quadrangles. High-quality photographs of significant geologic features shall be provided to NHGS as raw digital image files, separate from inclusion in a Word or PDF document, accompanied by descriptive captions and cross-referenced to actual localities indicated on the map. The Contractor shall also provide a concise legend containing a detailed description of each map unit, a version of which shall be submitted in Microsoft Word format, and a minimum one-page narrative description of the bedrock geology of the quadrangle including interpretations regarding map unit deposition as well as the timing and style of deformation. The narrative description shall be submitted in Microsoft Word format, utilizing a base template provided by NHGS to the Contractor. In order to ensure seamless translation to GeMS by NHGS staff, the contractor must map both unit polygons representing map units and coincident polylines representing contacts. For each map unit, the mapper must submit an identity confidence level that conveys confidence in the map unit's identity. The mapper must also submit three confidence levels for each geologic contact: location confidence (in meters), existence confidence, and identity confidence.

Contractor Initials CMK
Date 8/8/2023

NHGS staff reserve the right to accompany the Contractor in field mapping activities where such accompaniment will mutually benefit both NHGS and the Contractor. The Contractor shall be available for a one-day long field conference for the mapped quadrangle, which incorporates attendance by NHGS staff and geologic community peers, as available. The field conference will be arranged for a date in summer 2024 that mutually works for all attending parties.

A map of the Manchester South Quadrangle shall be prepared on a base, utilizing a template that has been created by NHGS, with content equivalent to that of the most recent USGS 7.5-minute series topographic map for the quadrangle area, and which reproduces this content without distortions in scale. The map shall include: (1) scale and contour interval, (2) north arrow and magnetic declination, (3) title, authorship, publisher, and date, (4) location index map, (5) field data or field data stations, (6) description of map units, (7) explanation of map symbols, (8) unit symbols on map, and (9) an acknowledgment statement. The acknowledgment statement text will be provided to the Contractor by the State Geologist. A minimum of one geologic cross section depicting the rocks at the surface and interpretive projections of map units above and below ground will be submitted with the map. The Contractor shall deliver this map to the State Geologist for scientific review at least two (2) working days prior to the September 13, 2024 contract completion date. The Contractor shall submit a final, scale stable, reproducible color copy of the Manchester South Quadrangle, consistent with USGS and NHGS standards, to the State Geologist to complete the contract. Provision of the final map to NHGS, in PDF electronic format, shall meet such requirements for submittal for the purpose of this contract. NHGS commits to provision of staff assistance to the Contractor to prepare the final map.

The Contractor shall adhere to the specifications outlined by DES's Standard Operating Procedures (DES-SOP #101) for accessing private lands. This includes providing NHGS with a copy of all logs indicating dates and times of contact with landowners. Guidance and assistance for operating within the SOP will be provided by NHGS.

EXHIBIT C

Contract Price and Payment Method

The total amount of all payments to this Contractor shall be $21,450. This amount will be charged for mapping the Manchester South Quadrangle, and billed as the percentage of mapping work is completed. Detailed invoices will be required for all payments.

Contractor Initials CMC
Date 2/8/2023