# THE STATE OF NEW HAMPSHIRE
## DEPARTMENT OF TRANSPORTATION

33

*William Cass, P.E.*
*Commissioner*

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

Bureau of Materials and Research
August 28, 2023

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

## REQUESTED ACTION

Authorize the Department of Transportation to enter into an Agreement with GZA GeoEnvironmental, Inc., Bedford, New Hampshire, Vendor #174515, for an amount not to exceed $1,000,000, for On-Call Geotechnical Engineering Services for various transportation projects located throughout the State, effective upon Governor and Council approval through October 31, 2027.

Funds to support this request are available in the following account in State FY 2024 and FY 2025, and are contingent upon the availability and continued appropriation of funds in FY 2026 and FY 2027, with the ability to adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified:

| 04-096-96-963515-3054 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| Consolidated Federal Aid | | | | |
| 046-500464 Gen Consultants Non-Benefit | $250,000 | $250,000 | $250,000 | $250,000 |

The Consolidated Federal Fund, AU 3054, is utilized at this time to encumber funds for this request. Actual funding sources will be determined by each particular project incurring expenses as a result of this request.

## EXPLANATION

The Department requires on-call geotechnical engineering and related technical services during the design and/or construction phase of Department projects located throughout the state.

The consultant selection process employed by the Department for this qualifications-based contract is in accordance with RSAs 21-I:22, 21-I:22-c, 21-I:22-d, 228:4 and 228:5-a, and all applicable Federal laws and the Department's "Policies and Procedures for Consultant Contract Procurement, Management, and Administration" dated August 25, 2017. The Department's Consultant Selection Committee is a standing committee that meets regularly to administer the process and make determinations. The Committee is comprised of the Assistant Director of Project Development (Chair), the Chief Project Manager, the Administrators of the Bureaus of Highway Design, Bridge Design, Environment, and Materials and Research, and the Municipal Highways Engineer.

The consultant selection process for this qualifications-based contract was initiated by a solicitation for consultant services for three (3) Statewide On-Call Geotechnical Engineering Services contracts. The assignment was listed as a "Project Soliciting for Interest" on the Department's website on February 3, 2023, asking for letters of interest from qualified firms. From the list of firms that submitted letters of interest, the Committee prepared a long and then short list of Consultants on March 23, 2023, for consideration and approval by the Assistant Commissioner. Upon receipt of that approval, six (6) shortlisted firms were notified on April 4, 2023, through a technical "Request For Proposal" (RFP). Committee members individually rated the firms' technical proposals on May 25, 2023, using a written ballot to score each firm on the basis of comprehension of the assignment, clarity of the proposal, capacity to perform in a timely manner, quality and experience of the project manager and the team, and overall suitability for the assignment. (A compilation of the completed individual rating ballots and the ranking summary form is attached.) The individual rankings were then totaled to provide an overall ranking of the six (6) firms, and the Committee's ranking was submitted to the Assistant Commissioner for consideration and approval. Upon receipt of the Assistant Commissioner's approval, the short listed firms were notified of the results and the three (3) highest-ranking firms were selected for further contract negotiations.

The long list of thirteen (13) consultant firms that were considered for this assignment, with the six (6) short-listed firms shown in bold, is as follows:

| ***Consultant Firm*** | ***Office Location*** |
|---|---|
| **GEI Consultants, Inc.** | **Woburn, MA** |
| GM2, Inc. | Concord, NH |
| **GZA GeoEnvironmental, Inc.** | **Bedford, NH** |
| **Haley & Aldrich, Inc.** | **Bedford, NH** |
| HDR, Inc. | Manchester, NH |
| Jacobs Engineering Group, Inc. | Bedford, NH |
| Kleinfelder Group, Inc. | Manchester, NH |
| Landslide Technology | Portland, OR |
| **Nobis Group** | **Concord, NH** |
| Pare Corporation | Foxborough, MA |
| **Sanborn, Head & Associates, Inc.** | **Concord, NH** |
| SLR International Corporation | Bedford, NH |
| **WSP USA, Inc.** | **Manchester, NH** |

The firm of GZA GeoEnvironmental, Inc. has been recommended for one of the three contracts. This firm has an excellent reputation and has demonstrated their capability to perform the required services in previous similar contracts with the Department.

GZA GeoEnvironmental has agreed to furnish the on-call services for an amount not to exceed $1,000,000. The cost for individual Task Orders assigned under this contract will be negotiated and use of a cost plus fixed fee or lump sum method of compensation will be determined based on the complexity and scope of engineering and technical services required. No new tasks may be assigned after the above-noted completion date, however, completion of previously assigned work begun prior to the completion date shall be allowed, subject to the written mutual agreement of both parties, which shall include a revised date of completion.

This Agreement (Statewide On-Call Geotechnical Engineering Services, 44171A) has been approved by the Attorney General as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully-executed Agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

It is respectfully requested that authority be given to enter into an Agreement for consulting services as outlined above.

Sincerely,

William J. Cass, P.E.
Commissioner

Attachments

JOHN O. MORTON BUILDING • 7 HAZEN DRIVE • P.O. BOX 483 • CONCORD, NEW HAMPSHIRE 03302-0483
TELEPHONE: 603-271-3734 • FAX: 603-271-3914 • TDD: RELAY NH 1-800-735-2964 • INTERNET: WWW.NHDOT.COM

**Statewide Geotechnical Engineeirng On-Call Services** May 25, 2023

**DESCRIPTION:**

Three (3) Statewide On-Call Geotechnical Engineering Services Agreements, anticipated to have a maximum value of $1,000,000 over a 4-year term, are needed to provide on-call geotechnical engineering and related technical services during the design and/or construction phase of Department projects located throughout the state.

**SERVICES REQUIRED:** GEOT. HAZ

**EVALUATION OF TECHNICAL PROPOSALS**

| Rating Considerations | Scoring of Firms | | | | | | |
|---|---|---|---|---|---|---|---|
| Statewide Geotechnical Engineering On-Call Services | WEIGHT | GEI | GZA | Haley-Aldrich | Nobis | Sanborn-Head | WSP USA |
| Comprehension of the Assignment | 20% | 18% | 19% | 19% | 17% | 18% | 19% |
| Clarity of the Proposal | 20% | 18% | 18% | 19% | 16% | 16% | 18% |
| Capacity to Perform in a Timely Manner | 20% | 17% | 16% | 17% | 15% | 15% | 18% |
| Quality & Experience of Project Manager/Team | 20% | 18% | 17% | 19% | 16% | 16% | 18% |
| Previous Performance | 10% | 7% | 9% | 9% | 7% | 7% | 8% |
| Overall Suitability for the Assignment | 10% | 7% | 9% | 9% | 7% | 7% | 8% |
| Total: | 100% | 85% | 88% | 92% | 78% | 79% | 89% |

Ranking of Firms: 1 Haley-Aldrich
2 WSP USA
3 GZA
4 GEI
5 Sanborn-Head
6 Nobis

**SERVICES REQUIRED:** GEOT. HAZ

**EVALUATION OF TECHNICAL PROPOSALS**

| Rating Considerations | Scoring of Firms | | | | | | |
|---|---|---|---|---|---|---|---|
| Statewide Geotechnical Engineering On-Call Services | WEIGHT | GEI | GZA | Haley-Aldrich | Nobis | Sanborn-Head | WSP USA |
| Comprehension of the Assignment | 20% | 17% | 20% | 20% | 18% | 17% | 19% |
| Clarity of the Proposal | 20% | 17% | 19% | 20% | 17% | 17% | 18% |
| Capacity to Perform in a Timely Manner | 20% | 17% | 19% | 20% | 17% | 16% | 19% |
| Quality & Experience of Project Manager/Team | 20% | 16% | 19% | 20% | 16% | 17% | 19% |
| Previous Performance | 10% | 8% | 9% | 10% | 7% | 8% | 9% |
| Overall Suitability for the Assignment | 10% | 8% | 9% | 10% | 7% | 8% | 9% |
| Total: | 100% | 83% | 93% | 100% | 84% | 83% | 93% |

Ranking of Firms: 1 Haley-Aldrich
2 GZA
3 WSP USA
4 GEI
5 Nobis
6 Sanborn-Head

**SERVICES REQUIRED:** GEOT. HAZ

**EVALUATION OF TECHNICAL PROPOSALS**

| Rating Considerations | Scoring of Firms | | | | | | |
|---|---|---|---|---|---|---|---|
| Statewide Geotechnical Engineering On-Call Services | WEIGHT | GEI | GZA | Haley-Aldrich | Nobis | Sanborn-Head | WSP USA |
| Comprehension of the Assignment | 20% | 18% | 20% | 19% | 16% | 17% | 18% |
| Clarity of the Proposal | 20% | 17% | 18% | 20% | 17% | 15% | 18% |
| Capacity to Perform in a Timely Manner | 20% | 17% | 18% | 19% | 16% | 17% | 19% |
| Quality & Experience of Project Manager/Team | 20% | 18% | 19% | 19% | 15% | 17% | 18% |
| Previous Performance | 10% | 9% | 8% | 10% | 7% | 8% | 8% |
| Overall Suitability for the Assignment | 10% | 8% | 8% | 9% | 7% | 8% | 9% |
| Total: | 100% | 87% | 91% | 96% | 78% | 80% | 90% |

Ranking of Firms: 1 Haley-Aldrich
2 GZA
3 WSP USA
4 GEI
5 Sanborn-Head
6 Nobis

**SERVICES REQUIRED:** GEOT. HAZ

**EVALUATION OF TECHNICAL PROPOSALS**

| Rating Considerations | Scoring of Firms | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 0078 A-C SR Geotechnical On-Call Services DED | WEIGHT | GEI | GZA | H&A | NOBIS | SHA | WSP | | | | | |
| Comprehension of the Assignment | 20% | 18% | 18% | 18% | 18% | 17% | 17% | | | | | |
| Clarity of the Proposal | 20% | 17% | 17% | 18% | 18% | 17% | 18% | | | | | |
| Capacity to Perform in a Timely Manner | 20% | 16% | 18% | 18% | 17% | 17% | 17% | | | | | |
| Quality & Experience of Project Manager/Team | 20% | 16% | 17% | 19% | 17% | 17% | 18% | | | | | |
| Previous Performance | 10% | 7% | 8% | 8% | 7% | 7% | 7% | | | | | |
| Overall Suitability for the Assignment | 10% | 7% | 8% | 8% | 7% | 7% | 8% | | | | | |
| Total: | 100% | 81% | 86% | 89% | 84% | 82% | 85% | 0% | | 0% | 0% | 0% |

Ranking of Firms: 1 H&A
2 GZA
3 WSP
4 NOBIS
5 SHA
6 GEI
7
8
9
10

**SERVICES REQUIRED:** GEOT. HAZ

**EVALUATION OF TECHNICAL PROPOSALS**

| Rating Considerations | Scoring of Firms | | | | | | |
|---|---|---|---|---|---|---|---|
| Statewide Geotechnical Engineering On-Call Services | WEIGHT | GEI | GZA | Haley-Aldrich | Nobis | Sanborn-Head | WSP USA |
| Comprehension of the Assignment | 20% | 15% | 18% | 18% | 16% | 14% | 18% |
| Clarity of the Proposal | 20% | 15% | 17% | 18% | 15% | 14% | 16% |
| Capacity to Perform in a Timely Manner | 20% | 16% | 17% | 17% | 16% | 16% | 17% |
| Quality & Experience of Project Manager/Team | 20% | 17% | 17% | 17% | 17% | 17% | 17% |
| Previous Performance | 10% | 7% | 8% | 8% | 7% | 7% | 8% |
| Overall Suitability for the Assignment | 10% | 5% | 7% | 8% | 5% | 4% | 6% |
| Total: | 100% | 75% | 84% | 86% | 76% | 72% | 82% |

Ranking of Firms: 1 Haley-Aldrich
2 GZA
3 WSP USA
4 Nobis
5 GEI
6 Sanborn-Head

**SERVICES REQUIRED:** GEOT. HAZ

**EVALUATION OF TECHNICAL PROPOSALS**

| Rating Considerations | Scoring of Firms | | | | | | |
|---|---|---|---|---|---|---|---|
| Statewide Geotechnical Engineering On-Call Services | WEIGHT | GEI | GZA | Haley-Aldrich | Nobis | Sanborn-Head | WSP USA |
| Comprehension of the Assignment | 20% | 17% | 20% | 20% | 18% | 19% | 18% |
| Clarity of the Proposal | 20% | 17% | 19% | 20% | 16% | 18% | 19% |
| Capacity to Perform in a Timely Manner | 20% | 16% | 20% | 20% | 17% | 18% | 17% |
| Quality & Experience of Project Manager/Team | 20% | 17% | 20% | 19% | 16% | 16% | 19% |
| Previous Performance | 10% | 8% | 10% | 10% | 9% | 10% | 9% |
| Overall Suitability for the Assignment | 10% | 6% | 10% | 9% | 6% | 7% | 9% |
| Total: | 100% | 81% | 99% | 98% | 82% | 88% | 91% |

Ranking of Firms: 1. GZA
2. Haley-Aldrich
3. WSP USA
4. Sanborn-Head
5. Nobis
6. GEI

| | | | | | | | | TOTAL | RANK |
|---|---|---|---|---|---|---|---|---|---|
| GEI | 5 | 4 | 6 | 4 | 4 | 6 | | 29 | 4 |
| GZA | 2 | 2 | 2 | 2 | 3 | 1 | | 12 | 2 |
| Haley-Aldrich | 1 | 1 | 1 | 1 | 1 | 2 | | 7 | 1 |
| Nobis | 4 | 6 | 4 | 5 | 6 | 5 | | 30 | 5 |
| Sanborn-Head | 6 | 5 | 5 | 6 | 5 | 4 | | 31 | 6 |
| WSP USA | 3 | 3 | 3 | 3 | 2 | 3 | | 17 | 3 |

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**STATEWIDE ON-CALL**
**GEOTECHNICAL ENGINEERING SERVICES**
**44171A**

# AGREEMENT
# FOR PROFESSIONAL SERVICES

**PREAMBLE**

THIS AGREEMENT made this 25th day of September in the year 2023 by and between the STATE OF NEW HAMPSHIRE, hereinafter referred to as the STATE, acting by and through its COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the COMMISSIONER, acting under Chapter 228 of the Revised Statutes Annotated, and GZA GeoEnvironmental, Inc., with principal place of business at 5 Commerce Park North, Suite 201, in the Town of Bedford, State of New Hampshire, hereinafter referred to as the CONSULTANT, witnesses that:

The Department of Transportation, State of New Hampshire, hereinafter referred to as the DEPARTMENT, requires on-call geotechnical engineering and related technical services during the design and/or construction phase of Department projects located throughout the state.

This AGREEMENT becomes effective upon approval by the Governor and Council.

## ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED

NOW THEREFORE, in consideration of the undertakings of the parties hereinafter set forth, the DEPARTMENT hereby engages the CONSULTANT, who agrees to render services to the DEPARTMENT which shall include, but not be restricted to, the following items, in accordance with conditions and terms hereinafter set forth:

### A. DESCRIPTION OF SERVICES

The types of services required under the terms of this AGREEMENT shall generally include, but are not necessarily limited to:

1. Professional geotechnical engineering and related technical services during the design and/or construction phase of DEPARTMENT projects at any location in the State.

### B. SCOPE OF WORK

1. Perform geotechnical site reconnaissance and site evaluations.
2. Develop subsurface exploration programs and plans.
3. Subcontract for subsurface exploration services.
4. Identify all utilities that may be affected by proposed subsurface explorations to prevent property damage by conducting plan reviews, and contacting Dig Safe and non-participating utility owners to have utilities marked on the ground.
5. Prepare a wetland permit application or make written notification to the NH Department of Environmental Services per their wetland regulations prior to performing subsurface explorations in jurisdictional wetlands.
6. Identify private parcel owners that will be impacted by subsurface explorations and make a reasonable attempt to give verbal notification to the impacted parcel owner prior to entering the parcel. If verbal permission to enter the parcel is not obtained or granted by the owner, a written notice made 10 days in advance to the parcel owner will be required per RSA 498-A:10. The DEPARTMENT, upon notification by the CONSULTANT, will issue the notification letter per Section F.8. The cost to repair damage made to private property by the entry of the CONSULTANT or any of its subcontractors will be the responsibility of the CONSULTANT with no cost to the DEPARTMENT.
7. Provide on-site management and field inspection during subsurface explorations that are: subcontracted by the CONSULTANT, performed by exploration contractors hired directly by the State, or performed by State crews; and that are in areas with known or suspected hazardous materials.
8. Perform various in situ geotechnical and geophysical testing in the field using AASHTO, ASTM or other test standards acceptable to the DEPARTMENT.

9. Install and maintain geotechnical instrumentation, perform periodic measurements of the instrumentation and provide an analysis of the data.
10. Install groundwater monitoring wells, perform periodic measurements, obtain groundwater samples, and conduct in situ infiltration testing to the NH Department of Environmental Services alteration of terrain regulations.
11. Perform various geotechnical laboratory testing of soil and rock samples using AASHTO, ASTM or other test standards acceptable to the DEPARTMENT in an AASHTO certified laboratory.
12. Complete all subsurface exploration logs in a gINT software format acceptable to the DEPARTMENT. The electronic log format and data file shall be provided to the DEPARTMENT upon completion of an assignment.
13. Perform geotechnical engineering analyses and technical evaluations, using accepted methods and standards of the profession, for roadways, soil slopes, embankment fills, bridges, walls, drainage structures, sound barrier walls, buildings, and other structures or features as assigned.
14. Perform slope designs, evaluations, and determine remediation measures for new or existing rock slopes. Evaluate blasting methods, blasting plans and other rock removal methods.
15. Do other professional geotechnical engineering, technical tasks, drafting and administrative work as may be required for assigned projects.
16. Prepare geotechnical information and/or geotechnical design reports, with supporting documents included, describing existing subsurface conditions as it relates to the project, quantifying subsurface material properties, discussing geotechnical issues and problems, providing engineering solutions and design recommendations to current DEPARTMENT standards and AASHTO design standards including Allowable Stress and Load and Resistance Factor Design methods, as required.
17. Write specifications for geotechnical specialty items.
18. Perform field inspection of geotechnical related items during project construction.
19. Investigate geotechnical problems encountered during the construction or service life of State-owned facilities.
20. Perform studies, document processes, and develop guidelines for the practice of geotechnical engineering consistent with industry standards.
21. Provide paper copies of reports and other documents in the number requested, and PDF versions of all reports and other documents, including original electronic file formats per Section I.

## C. STAFFING

The CONSULTANT shall submit the DEPARTMENT's **Salary Rate Calculation Form** listing the name, classification and hourly rate of all personnel anticipated to be assigned to the Task Order. The average classification rates calculated by this form will be used to develop the Negotiated Task Order Cost

for Task Orders under this AGREEMENT. The CONSULTANT shall utilize the personnel approved by the DEPARTMENT during negotiations for this AGREEMENT for the performance of the work. If at any time the CONSULTANT is unable to use the personnel specified, it shall request approval from the DEPARTMENT to use other personnel. To obtain DEPARTMENT approval, the CONSULTANT shall request the personnel changes in writing and provide resumes for the new individuals at least 14 days in advance of the proposed personnel changes, for review by the DEPARTMENT.

**D. QUALITY CONTROL**

The CONSULTANT shall be the Engineer-of-Record for this work, as such the CONSULTANT shall be responsible to ensure that the design and supporting documentation is accurate, checked, and thoroughly reviewed prior to each submission. DEPARTMENT staff will review the CONSULTANT'S submissions to ensure that DEPARTMENT objectives are being met and standard practices and procedures are adhered to. It is the CONSULTANT's and the Engineer-of-Record's responsibility to ensure the design is complete, accurate and meets all DEPARTMENT requirements.

The DEPARTMENT will reject any data that does not comply with the above. The DEPARTMENT will decide when the data and services have fully met the project requirements. The CONSULTANT will not be paid for insufficient work.

The CONSULTANT's designated Quality Control personnel shall sign-off on each submission prior to transmittal to the DEPARTMENT. The CONSULTANT shall, upon request, provide to the DEPARTMENT any and/or all QC documentation pertaining to work efforts on the project.

**E. TASK ORDERS**

As needs arise, the DEPARTMENT will issue specific Task Orders to the CONSULTANT. A Task Order is an individually funded request with a unique scope of work. The Task Order scope of work is issued against the basic contract scope of work, and terms and conditions, to carry out a specific project for the DEPARTMENT. These Task Orders will be initiated by a Request for Proposal (RFP) letter or email to the Consultant Project Manager that may include a detailed description of the project or elements of work, an outline of the services required, responsibilities of the parties, materials to be supplied by the DEPARTMENT, specified accuracy requirements, and other information necessary to complete the work for the Task Order. The letter or email will trigger a meeting with the DEPARTMENT staff requesting the Task Order and The CONSULTANT to assist in developing the scope of work necessary for the Task Order. The CONSULTANT will then submit to the DEPARTMENT for approval a scope of work and fee proposal and a tentative work schedule and completion date for each Task Order assigned. The DEPARTMENT will review the CONSULTANT'S proposal and schedule negotiations, if necessary, to clarify the proposed scope of work, the number of work hours needed, and any other associated proposed costs in order to establish the final not-to-exceed or lump-sum amount for the Task Order. Upon approval

of the CONSULTANT'S proposal by the DEPARTMENT, the DEPARTMENT will issue a Task Order Authorization to Proceed Letter. The CONSULTANT shall sign the Authorization to Proceed Letter and return it to the DEPARTMENT. Costs associated with the CONSULTANT'S preparation of a scope of work and fee for a Task Order are non-reimbursable.

**F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION**

The DEPARTMENT will furnish the CONSULTANT with the appropriate materials, in electronic and/or hardcopy format, as needed to perform the assigned work.

**G. WORK SCHEDULE AND PROGRESS REPORTS**

The CONSULTANT shall be aware that the services to be performed under this AGREEMENT will be on an as-needed basis. In addition, the CONSULTANT shall realize that emergency situations may arise that will require immediate response/action.

Following approval of the contract by the Governor and Council, the CONSULTANT shall be available to begin performance of the services designated in the Contract promptly upon receipt from the DEPARTMENT of a Notice to Proceed Letter. Upon receipt of a Task Order Authorization to Proceed Letter, the CONSULTANT shall complete the services required for each Task Order without delay unless unable to do so for causes not under the CONSULTANT'S control.

It is imperative that close coordination between the CONSULTANT and the DEPARTMENT be maintained at all times so as to ensure compliance with the DEPARTMENT'S requirements for specific Task Orders.

The CONSULTANT'S sequence of operation and performance of the work under the terms of this AGREEMENT shall be varied at the direction of the DEPARTMENT to give priority in critical areas so that schedules and other STATE commitments, either present or future, can be met.

The CONSULTANT shall report progress monthly for each active Task Order with activity during the billing period, in accordance with the DEPARTMENT'S Standardized Invoicing.

**H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS**

Each submission shall be supplemented with such drawings, illustrations and descriptive matter as are necessary to facilitate a comprehensive review of proposed concepts. Any and all CAD/D-related work during the course of this project shall be performed in conformance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT, which will be coordinated on each assignment.

Upon completion of the AGREEMENT, the CONSULTANT shall turn over all documentation, including, but not limited to, all reports, test results, drawings, plans, and all financial supporting documentation in their original format and in the format submitted to the DEPARTMENT.

## ARTICLE I

### I. DELIVERABLES

All work and supporting documents under this AGREEMENT shall be developed by the CONSULTANT and delivered to the DEPARTMENT according to the following formats:

**Electronic Transfer of Data:** The DEPARTMENT requires the following to ensure compatibility with software used by the DEPARTMENT and to ensure the efficient and timely exchange of computer files between the DEPARTMENT and the CONSULTANT.

All files submitted must be fully compatible with the formats listed in this document without any conversion or editing by the DEPARTMENT. Any files requiring conversion and/or editing by the DEPARTMENT will not be accepted. All files shall be virus free. All files shall use the DEPARTMENT'S file naming convention.

**Computer Aided Design/Drafting (CAD/D) files:** All CAD/D files shall be in accordance with the Deliverable Requirements described in the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time this AGREEMENT was executed, or any later version. All files submitted must be fully compatible with the current version of MicroStation being used by the DEPARTMENT. (The DEPARTMENT'S CAD/D Procedures and Requirements document can be found on the CAD/D website by following the "Downloads" link at www.nh.gov/dot/cadd/.)

**Word Processing, Spreadsheet, and Database Files:** For each Phase, all relevant files shall be provided in a format fully compatible, as appropriate, with the following:

| | |
|---|---|
| Word Processing: | Microsoft Word 2016 or NHDOT compatible version |
| Spreadsheets: | Microsoft Excel 2016 or NHDOT compatible version |
| Databases: | Microsoft Access 2016 or NHDOT compatible version |

These specifications will be updated as necessary to reflect changes in DEPARTMENT software such as adding new software or updating to new versions of existing software. In such instances, the CONSULTANT will be promptly notified.

**Computer File Exchange Media:** Electronic files shall be exchanged between the DEPARTMENT and the CONSULTANT using the following media as appropriate for Windows Operating Systems:

File Transfer Sites: Bluebeam, SharePoint.

Email: Files 20 MB or smaller may be transferred via email. If compressed, the files should be self-extracting and encrypted based on content.

**Copies:** The CONSULTANT shall provide hard copies and electronic copies of the deliverables for each Phase of Work. For all deliverables, provide electronic copies in two electronic versions: an electronic version in the original electronic file format (i.e., MicroStation (*.dgn), Microsoft Word (*.docx, Microsoft Excel (*.xlsx), etc.) and an electronic version in Adobe Acrobat (*.pdf) file format.

**Website Information:**

a. Website Content: All external NHDOT websites created under this AGREEMENT shall meet the ADA Section 508 requirements as stated in the NH DoIT Website Standards. Those standards are outlined in Vendor Resources and Procurement | NH Department of Information Technology.

b. Website Documents: All documents posted to a website created under this AGREEMENT, or that are submitted to be posted to a NHDOT website, shall meet ADA Section 508 accessibility requirements. Compliance requirements can be found at: https://www.section508.gov/create/.

Upon completion of the AGREEMENT, the CONSULTANT shall turn over all documentation, including, but not limited to, all reports, test results, drawings, plans, and all financial supporting documentation in the formats described above.

**Bridge Design Submissions:** The plan submissions for bridge structures shall follow, in general, the NHDOT Bridge Design Manual and the "Instructions for Consulting Engineers Concerning Routine Procedures on Bridge Design Projects" formats prepared by the DEPARTMENT.

## J. DATE OF COMPLETION

The date of completion for the professional services rendered under this AGREEMENT is October 31, 2027, unless terminated earlier upon the depletion of the total amount payable under this AGREEMENT, or extended as allowed by the following provision:

No new tasks may be assigned after the above noted completion date; however, the CONSULTANT shall complete any tasks begun prior to the completion date, but not yet completed, in accordance with the methods of compensation specified in Article II and all other applicable portions and contractual requirements of this AGREEMENT. This shall be subject to the written mutual agreement of both parties, which shall include a revised Date of Completion to allow completion of the previously assigned work.

## ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES

### A. AGREEMENT GENERAL FEE

In consideration of the terms and obligations of this AGREEMENT, the STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation for the combined total cost of all work, expenses, and profit for Task Orders issued under this AGREEMENT, an amount not to exceed **$1,000,000.00**. (The CONSULTANT shall note that no payments will be made for work, expenses, or profit, whether authorized or not, exceeding the **$1,000,000.00** total amount.)

### B. METHOD OF COMPENSATION FOR TASK ORDERS

The method of compensation for Task Orders issued under this agreement will either be a **Cost-Plus-Fixed-Fee** format with method of payment as described in Section C, or a **Lump-Sum** format with method of payment as described in Section D. A **Task Order Fee Summary** will be included in the DEPARTMENT-issued Authorization to Proceed for a Task Order.

### C. COST-PLUS-FIXED-FEE FORMAT

1. **Task Order Cost Development** - The negotiated not-to-exceed cost of each cost-plus-fixed-fee format Task Order will be computed as follows:

   Labor Costs [hours x average rates* + indirect cost rate x (hours x rates)]
   + Fixed Fee (negotiated amount)
   + Direct Expenses (estimated amount)
   + Subconsultant Costs (estimated amount or lump sum)

   = Negotiated Task Order Cost

   * The average rates are the Average NHDOT Allowed Rates from the most-current version of the **Salary Rate Table** (see Article I Section C - Staffing).

2. **Task Order Cost Reimbursement** - In consideration of the terms and obligations of this AGREEMENT, the STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation for all services rendered to the satisfaction of the DEPARTMENT for each Task Order an amount equal to the sum of the following costs (a)+(b)+(c)+(d)+(e):

   a. Actual salaries* approved by the DEPARTMENT paid to technical and other employees by the CONSULTANT, including salaries to principals, for the time such employees are directly utilized on work necessary to fulfill the terms of this AGREEMENT.

   b. Overhead costs applicable to the direct salary costs. The audited indirect cost rate, as submitted to and approved by the DEPARTMENT, on file at the time of task order development will be applied to the direct salary costs. The CONSULTANT agrees that the indirect cost rate shall be extended at that rate for the duration of the Task Order in

accordance with 23 CFR 172.11 (b)(1)(vi). An overtime premium of one and one half times the direct labor rate for non-exempt employees working beyond the standard 40 hours per workweek may be allowed for special circumstances when approved by the DEPARTMENT in writing in advance. The overhead portion of non-exempt employees' salary rates shall not be adjusted. Engineers are not eligible for overtime premium rates.

c. A fixed fee amount based on the estimated risk, at time of task order development, to be borne by the CONSULTANT [maximum 10.00% of Labor Costs (including overhead costs)] for profit and non-reimbursed costs.

d. Reimbursement for direct expenses, including, but not limited to, subconsultants with a subcontract value of less than $200,000, printing, reproductions and travel not included in normal overhead expenses. The reimbursable costs for mileage and for per diem (lodging and meals) shall be that allowed by the CONSULTANT'S established policy but shall not exceed that allowed in the Federal Acquisition Regulation (Subpart 31.205-46) and in the Federal Travel Regulation. Mileage and per diem costs shall be subject to approval by the DEPARTMENT. Subconsultants with a subcontract value of less than $200,000 shall be invoiced as direct expenses and do not require individual invoices.

e. Reimbursement for actual cost of subconsultants.

The amount payable under categories (a), (b), (d), and (e) may be reallocated within the not-to-exceed Task Order amount upon mutual agreement of the DEPARTMENT and CONSULTANT. The fixed fee (c) shall only change when there has been a significant increase or decrease in the scope of work. The estimated amounts for (a), (b), (d), and (e) and the actual amount for (c) are listed in the Fee Summary section of the Authorization to Proceed for each Task Order.

3. **Task Order Limitation of Costs** – The total amount to be paid for any Task Order shall not exceed the sum of the amounts shown in the Task Order Fee Summary limits contained in the Authorization to Proceed Letter. It is expected that the CONSULTANT agrees to use best efforts to perform the work specified in the Task Order Scope of Work and all obligations under this contract within such limiting amount.

4. **Task Order Payments** - Monthly payments on account may be made upon submission of invoices by the CONSULTANT to the DEPARTMENT. The CONSULTANT shall follow the DEPARTMENT'S Standardized Invoicing format. The fixed fee shall be invoiced during the billing period based upon the overall percent complete calculated within the approved progress report found in the DEPARTMENT'S Standardized Invoicing.

**D. LUMP-SUM FORMAT**

Task Order Cost Reimbursement - The negotiated total amount of each lump-sum format Task Order will be considered full compensation for all services for the Task Order performed to the satisfaction of the DEPARTMENT. Said lump-sum amount includes all labor, overhead, profit (maximum 15.00% of total labor + total overhead; based on the estimated risk to be borne by the CONSULTANT), direct expenses, and subconsultant costs. The CONSULTANT shall follow the DEPARTMENT'S Standardized Invoicing format. The lump-sum amount may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the lump-sum amount shall be documented in writing by a DEPARTMENT Bureau-level amendment. For a substantial lump-sum Task Order, the DEPARTMENT'S Lump Sum Article II for standalone agreements will be furnished to the CONSULTANT for additional reference information.

**E. SUBCONSULTANT SUPPORTING SERVICES**

Subconsultant Supporting Services were not anticipated during negotiations for this AGREEMENT.

Note: Subconsultants can be engaged at any time if needed for a Task Order, whether they were included in the CONSULTANT'S Technical Proposal or not. Subconsultant costs may be either negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost or negotiated as a lump-sum amount. See Article IV.G – SUBLETTING for subconsultant Professional Liability Insurance information.

**F. TASK ORDER AMENDMENTS**

If revisions to a Task Order scope of work, and/or the fee summary or completion date included in the Task Order Authorization to Proceed is/are required, it shall be documented in writing by a DEPARTMENT Bureau-level amendment. The amendment will be filed with the Authorization to Proceed in the AGREEMENT.

**G. ANNUAL INDIRECT COST RATE SUBMISSIONS**

The CONSULTANT and all subconsultants with a subcontract value of $200,000 or greater shall submit their audited indirect cost rate and related documents annually for the life of this AGREEMENT as follows:

To comply with the Federal Acquisition Requisitions (FAR), the CONSULTANT'S Indirect Cost Rate Audit must meet the following requirements:

- Be conducted by an independent Certified Public Accountant (CPA), a Federal government agency, or another state transportation agency.
- Be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the U.S. Government Accountability Office (GAO) and with the cost principles and procedures set forth in Part 31 of the FAR.

- Follow the guidance of the most recent American Association of State Highway Transportation Officials Uniform Audit and Accounting Guide for Audits of Architectural and Engineering Consulting Firms (AASHTO Audit Guide).

In addition to the Indirect Cost Rate Audit, CONSULTANTS shall submit the following documentation:

- AASHTO Internal Control Questionnaire (ICQ) for Consulting Engineers form with the required attachments.
- Certification of Final Indirect Costs as required pursuant to 23 CFR 172.11 and FHWA Order 4470.1A.
- Complete copy of the CONSULTANT'S annual audited financial statements.
- Analysis of reasonableness of executive compensation as outlined in the AASHTO Audit Guide.
- Cognizant letter, if available.
- A listing of all contracts, with dollar amounts, the CONSULTANT has currently with the DEPARTMENT as a prime consultant or subconsultant.

Annual indirect cost rate submissions are due within 6 months of the CONSULTANT'S fiscal year end and shall be submitted to the DEPARTMENT'S Internal Audit Office electronically to DOT-InternalAudit@dot.nh.gov or in writing.

The CONSULTANT shall use the current approved Indirect Cost Rate at the time of Task Order development and shall supply the DEPARTMENT with the approval letter supporting the proposed rate. THE CONSULTANT AGREES THAT THE AUDITED INDIRECT COST RATE SUBMITTED IN THEIR TASK ORDER AGREEMENT FEE PROPOSAL AND ACCEPTED BY THE DEPARTMENT SHALL BE EXTENDED AT THAT RATE FOR THE DURATION OF THE TASK ORDER AGREEMENT IN ACCORDANCE WITH 23 CFR 172.11 (B)(1)(VI) AND SHALL NOT BE SUBJECT TO CHANGE AS A RESULT OF THE FINAL AUDIT.

**H. RECORDS, REPORTS, AND FINAL AUDIT**

The CONSULTANT shall maintain adequate cost records for all work performed under this AGREEMENT and all items charged on this project. All records and other evidence pertaining to cost incurred shall be made available at all reasonable times during the AGREEMENT period, and for three (3) years from the date final payment is made and all other pending matters are closed, for examination by the STATE, Federal Highway Administration, or other authorized representatives of the Federal Government, and copies thereof shall be furnished if requested. Applicable cost principles are

contained in the Federal Acquisition Regulation (FAR) in Title 48 of the Code of Federal Regulations (Subpart 31.2 and Subpart 31.105).

**For Cost-Plus-Fixed-Fee Task Orders only**: All costs are to be determined by actual records kept during the term of the AGREEMENT, which are subject to Final Audit by the STATE and Federal Governments. The final payment, and all partial payments made, may be adjusted to conform to this Final Audit. In no case will any adjustments exceed the negotiated amount for any Task Order. All Subconsultant costs may also be subject to Final Audit by the STATE and Federal Governments.

## ARTICLE III - GENERAL PROVISIONS

### A. HEARINGS, ETC.

(Not applicable to this AGREEMENT)

### B. CONTRACT PROPOSALS

(Not applicable to this AGREEMENT)

## ARTICLE IV - STANDARD PROVISIONS

### A. STANDARD SPECIFICATIONS

The CONSULTANT agrees to follow the provisions of the Design Manuals, Standard Specifications for Road and Bridge Construction, and Standard Plans for Road and Bridge Construction of the DEPARTMENT; A Policy on Geometric Design of Highways and Streets and LRFD Bridge Design Specifications of the American Association of State Highway and Transportation Officials (AASHTO), and amendments thereto, and/or other professional codes or standards applicable to the services to be performed under this AGREEMENT. When a publication (including interim publications) is specified, it refers to the most recent date of issue in effect at the time of execution of this AGREEMENT.

### B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS

It is mutually agreed that all portions of the work covered by this AGREEMENT shall be subject to the inspection of duly-authorized representatives of the STATE and Federal agency of the United States Department of Transportation, at such time or times as the STATE or Federal agency deems appropriate.

The location of the office where the work will be available for inspection by STATE and Federal agency representatives is 5 Commerce Park North, Suite 201, Bedford, NH.

It is further mutually agreed that any party, including the duly-authorized representatives of the Federal agency, may request and obtain conferences, visits to the site, and inspection of the work at any reasonable time.

### C. EXTENT OF CONTRACT

1. Contingent Nature of AGREEMENT

   Notwithstanding anything in this AGREEMENT to the contrary, all obligations of the STATE, including, without limitation, the continuance of payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the STATE be liable for any payments in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the STATE shall have the right to terminate this AGREEMENT.

2. Termination

   The DEPARTMENT shall have the right at any time, and for any cause, to terminate the work required of the CONSULTANT by this AGREEMENT, by written notice of such termination provided to the CONSULTANT by the DEPARTMENT, and, in the event of such a termination of this AGREEMENT, without fault on the part of the CONSULTANT, the CONSULTANT shall be entitled to compensation for all work theretofore satisfactorily performed, pursuant to this AGREEMENT, such compensation to be fixed, insofar as possible, based upon the work

performed prior to termination. If no contract or contracts for construction of the project contemplated by this AGREEMENT is (are) entered into within two (2) years after satisfactory completion of the services outlined in Article I, all of the services contemplated by this AGREEMENT shall be deemed to have been completed. It shall be a breach of this AGREEMENT if the CONSULTANT shall fail to render timely the services required under this AGREEMENT, in accordance with sound professional principles and practices, to the reasonable satisfaction of the DEPARTMENT, or shall be in such financial condition as to be unable to pay its just debts as they accrue, or shall make an assignment for the benefit of creditors, or shall be involved in any proceeding, voluntary or involuntary, resulting in the appointment of a receiver or trustee over its affairs, or shall become dissolved for any cause. In the event of the happening of any one or more of the foregoing contingencies, or upon the substantial breach of any other provisions of this AGREEMENT by the CONSULTANT, its officers, agents, employee, and subconsultants, the DEPARTMENT shall have the absolute right and option to terminate this AGREEMENT forthwith, and, in addition, may have and maintain any legal or equitable remedy against the CONSULTANT for its loss and damages resulting from such breach or breaches of this AGREEMENT; provided, however, that as to all plans, drawings, tracings, estimates, specifications, reports, proposals, sketches, diagrams and calculations, together with all material and data theretofore furnished to the DEPARTMENT by the CONSULTANT, of a satisfactory nature in accordance with this AGREEMENT, which plans, drawings, tracings, etc., are of use to the DEPARTMENT, the CONSULTANT shall be entitled to a credit, based on the contract rate for the work so performed in a satisfactory manner and of use and benefit to the DEPARTMENT.

**D. <u>REVISIONS TO REPORTS, PLANS OR DOCUMENTS</u>**

The CONSULTANT shall perform such additional work as may be necessary to correct errors in the work required under the AGREEMENT, caused by errors and omissions by the CONSULTANT, without undue delays and without additional cost to the DEPARTMENT.

Furthermore, prior to final approval of plans, specifications, estimates, reports or documents by the DEPARTMENT, the CONSULTANT shall make such revisions of them as directed by the DEPARTMENT, without additional compensation therefor except as hereinafter provided:

1. If, after its written approval thereof, the DEPARTMENT shall require changes to the plans or documents that revise engineering or other factors specifically approved, thereby necessitating revisions of the contract plans or documents, or,
2. When applicable, if during the term of this AGREEMENT, a revision of the alignment is ordered to the extent that the revised alignment will lie completely or partially outside the limit

of the survey data plotted by the CONSULTANT (this does not apply to those adjustments and refinements to the alignments anticipated under the scope of work), or,

3. If, after approval by the DEPARTMENT of the final contract plans or documents, the CONSULTANT shall be ordered in writing by the DEPARTMENT to make revisions, or to perform services other than those necessary in order to adapt said plans, reports or documents to conditions observed during field inspections and encountered during construction; the CONSULTANT shall be entitled to compensation therefor in accordance with Article II, Section B, such compensation to be in addition to the fee specified in Article II, Section A, for its original work on the plans, reports or documents.

**E. ADDITIONAL SERVICES**

If, during the term of this AGREEMENT, additional professional services are required due to a revision in the limits of the project, or it becomes necessary to perform services not anticipated during negotiation, the DEPARTMENT may, in writing, order the CONSULTANT to perform such services, and the CONSULTANT shall be paid a fee in accordance with the provisions of Article II, Section B.

If, during the term of this AGREEMENT, additional professional services are performed by the CONSULTANT due to the fact that data furnished by the DEPARTMENT are not usable or applicable, the STATE will, upon written approval of the DEPARTMENT, reimburse the CONSULTANT for such additional design services in accordance with the provisions of Article II, Section B.

If additional services are performed by the CONSULTANT through its own acts, which are not usable or applicable to this project, the cost of such additional services shall not be reimbursable.

**F. OWNERSHIP OF PLANS**

All data, plans, drawings, tracings, estimates, specifications, proposals, sketches, diagrams, calculations, reports or other documents collected, prepared, or undertaken either manually or electronically by the CONSULTANT, under the provisions of this AGREEMENT, immediately shall become the property of the DEPARTMENT, and, when completed, shall bear the CONSULTANT'S endorsement. The CONSULTANT shall surrender to the DEPARTMENT, upon demand at any time, or submit to its inspection, any data, plan, drawing, tracing, estimate, specification, proposal, sketch, diagram, calculation, report or document which shall have been collected, prepared, or undertaken by the CONSULTANT, pursuant to this AGREEMENT, or shall have been hitherto furnished to the CONSULTANT by the DEPARTMENT. The CONSULTANT shall have the right, with the written approval of the DEPARTMENT, to use any of the data prepared by it and hitherto delivered to the DEPARTMENT at any later stage of the project contemplated by this AGREEMENT.

## G. SUBLETTING

The CONSULTANT shall not sublet, assign or transfer any part of the CONSULTANT'S services or obligations under this AGREEMENT without the prior approval and written consent of the DEPARTMENT.

All subcontracts shall be in writing and those exceeding $10,000 shall contain all provisions of this AGREEMENT, including "Certification of CONSULTANT/Subconsultant". For subconsultants working on design, hazardous materials, geotechnical services, etc., the minimum limits of their professional liability (errors and omissions) insurance coverage shall be not less than $2,000,000 in the aggregate, with a deductible of not more than $75,000. For subconsultant contracts with less risk, e.g., wetland evaluations, materials inspection and testing, structural steel fabrication inspection, underwater bridge inspection, research, bridge deck condition surveys, land surveying, mapping, noise studies, air-quality studies, etc., the minimum limits of their professional liability (errors and omissions) insurance coverage shall be not less than $1,500,000 in the aggregate, with a deductible of not more than $50,000. For subconsultant contracts with no risk, e.g., archaeology, cultural resources, data gathering, traffic counting etc., professional liability insurance shall not be required. Subconsultants completing field exploration for geotechnical, hazardous materials/environmental, and subsurface exploration shall also have pollution liability insurance coverage not less than $2,000,000 in the aggregate, with a deductible of not more than $75,000. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. A copy of each subcontract shall be submitted for the DEPARTMENT'S files.

## H. GENERAL COMPLIANCE WITH LAWS, ETC.

The CONSULTANT shall comply with all Federal, STATE and local laws, and ordinances applicable to any of the work involved in this AGREEMENT and shall conform to the requirements and standards of STATE, municipal, railroad and utility agencies whose facilities and services may be affected by the construction of this project. The services shall be performed so as to cause minimum interruption to said facilities and services.

## I. BROKERAGE

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the STATE shall have the right to annul this Contract without liability, or,

at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

J. CONTRACTUAL RELATIONS

1. Independent Contractor

The CONSULTANT agrees that its relation to the STATE is as an independent contractor and not as an agent or employee of the STATE.

2. Claims and Indemnification

a. Non-Professional Liability Indemnification

The CONSULTANT agrees to defend, indemnify and hold harmless the STATE and all of its officers, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any (i) acts or omissions of the CONSULTANT or its subconsultants in the performance of this AGREEMENT allegedly resulting in property damage or bodily injury and/or (ii) misconduct or wrongdoing of the CONSULTANT or its subconsultants in the performance of this AGREEMENT.

b. Professional Liability Indemnification

The CONSULTANT agrees to indemnify and hold harmless the STATE and all of its officers, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any negligent acts or omissions of the CONSULTANT or its subconsultants in the performance of professional services covered by this AGREEMENT.

c. These covenants shall survive the termination of the AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the STATE, which immunity is hereby reserved by the STATE.

3. Insurance

a. Required Coverage

The CONSULTANT shall, at its sole expense, obtain and maintain in force the following insurance:

1. Commercial or comprehensive general liability insurance including contractual liability coverage, for all claims of bodily injury, death or property damage, in policy amounts of not less than $250,000 per occurrence and $2,000,000 in the aggregate (STATE to be named as an additional insured); and
2. Business automobile liability insurance covering all motor vehicles, including owned, hired, borrowed and non-owned vehicles, for all claims of bodily injury, death or

property damage, in policy amounts of not less than $500,000 combined single limit; and

3. Professional liability (errors and omissions) insurance coverage of not less than $2,000,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than $75,000; and
4. workers' compensation and employer's liability insurance as required by law.

b. Proof of Insurance

The policies described in paragraph (a) of this section and Section G shall be in the standard form employed in the STATE, issued by underwriters licensed or approved by the Department of Insurance of the STATE. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 30 days, or 10 days in cases of non-payment of premium, after written notice thereof has been received by the STATE. The CONSULTANT shall provide to the STATE a certificate of insurance evidencing the required coverages, retention (deductible) and cancellation clause prior to submittal of the AGREEMENT to Governor and Council for approval and shall have a continuing duty to provide new certificates of insurance as the policies are amended or renewed.

4. No Third-Party Rights

It is not intended by any of the provisions of the AGREEMENT to make the public or any member thereof a third-party beneficiary of the AGREEMENT, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract. The duties, obligations and responsibilities of the parties to this AGREEMENT with respect to third parties shall remain as imposed by law. No portion of this AGREEMENT shall be understood to be a waiver of the STATE'S sovereign immunity.

5. Construction of AGREEMENT

This AGREEMENT is executed in a number of counterparts, each of which is an original and constitutes the entire AGREEMENT between the parties. This AGREEMENT shall be construed according to the laws of the STATE.

## K. AGREEMENT MODIFICATION

The assignment of the CONSULTANT, generally established by the scope of work in this AGREEMENT, shall not be modified in any way without prior approval of the Governor and Council.

**L. EXTENSION OF COMPLETION DATE(S)**

If, during the course of the work, the CONSULTANT anticipates that one or more of the completion dates specified in this AGREEMENT cannot be met, it shall be the CONSULTANT'S responsibility to notify the DEPARTMENT in writing at least ninety (90) days prior to the completion date(s) in question. The CONSULTANT shall state the reasons that a completion date(s) cannot be met and request a revised date(s) for consideration by the DEPARTMENT.

**M. TITLE VI (NONDISCRIMINATION OF FEDERALLY-ASSISTED PROGRAMS) COMPLIANCE**

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

(1) Compliance with Regulations: The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964 regulations relative to nondiscrimination in federally-assisted programs of the DEPARTMENT, such regulations entitled Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the REGULATIONS), and which are herein incorporated by reference and made a part of this AGREEMENT.

(2) Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment specific to this project. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment specific to the project, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to nondiscrimination on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin.

(4) Information and Reports: The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the DEPARTMENT or the Federal Highway Administration to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any

information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the DEPARTMENT or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the CONSULTANT'S noncompliance with nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies; and/or

(b) cancellation, termination or suspension of the AGREEMENT, in whole or in part.

(6) The CONSULTANT shall take such action with respect to any subcontract or procurement as the DEPARTMENT or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the DEPARTMENT to enter into such litigation to protect the interests of the STATE, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

(7) 23 CFR 710.405(b) and Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor REGULATIONS (41 CFR Part 60), shall be applicable to this AGREEMENT and any subagreements hereunder.

(8) Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment specific to the project, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

In accordance with EXECUTIVE ORDER 11246, the DEPARTMENT has the authority and responsibility to notify the Office of Federal Contract Compliance Programs of the United States Department of Labor if they become aware of any possible violations of Executive Order 11246 and 41 CFR Part 60. The Office of Federal Contract Compliance Programs is solely responsible for determining compliance with Executive Order 11246 and 41 CFR Part 60 and the CONSULTANT should contact them regarding related compliance issues.

## N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS

1. Policy. It is the policy of the United States Department of Transportation (USDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's), as defined in 49 Code of Federal Regulations (CFR) Part 26, to participate in the performance of agreements and any subagreements financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.
2. Disadvantaged Business Enterprise (DBE) Obligation. The STATE and its Consultants agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of agreements and any subagreements financed in whole or in part with Federal funds. In this regard, the STATE and its Consultants shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform work specified in the agreements. The STATE and its Consultants shall not discriminate on the basis of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the award and performance of agreements financed in whole or in part with Federal funds.
3. Sanctions for Non-Compliance. The CONSULTANT is hereby advised that failure of the CONSULTANT, or any Subconsultant performing work under this AGREEMENT, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of agreement and, after the notification of the United States Department of Transportation, may result in termination of this AGREEMENT by the STATE or such remedy as the STATE deems appropriate.

## O. DOCUMENTATION

The CONSULTANT shall document the results of the work to the satisfaction of the DEPARTMENT and the Federal Highway Administration. This shall include preparation of progress reports, plans, specifications and estimates and similar evidences of attainment of objectives called for in this AGREEMENT.

## P. CLEAN AIR AND WATER ACTS

If the amount of the AGREEMENT or subcontract thereunder exceeds $100,000, the CONSULTANT or subconsultant shall comply with applicable standards, orders or requirements issued under Section 306 of the Federal Clean Air Act (43 U.S.C. 1857(h), Section 508 of the Federal Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The CONSULTANT or

subconsultant shall report violations to the FHWA and to the U. S. Environmental Protection Agency Assistant Administrator for Enforcement (EN-329).

*Attachment 1*

**CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS**

The CONSULTANT X, proposed subconsultant ____, hereby certifies that it has X, has not ____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Order 11246 and that it has X, has not ____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

GZA GeoEnvironmental, Inc.
(Company)

By: _____

Associate Principal/Vice President
(Title)

Date: August 14, 2023

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1), and must be submitted by consultants and proposed subconsultants only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts or subcontracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime consultants and subconsultants who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such consultant submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

(Revised: June, 1980) NOTE: TO BE COMPLETED BY CONSULTANT WHEN SIGNING AGREEMENT.

*Attachment 2*

**CONSULTANT DISCLOSURE STATEMENT**
**FOR PREPARATION OF**
**ENVIRONMENTAL EVALUATIONS**

I hereby affirm that I have read and reviewed the Council on Environmental Quality (CEQ) regulation [40 CFR 1506.5(b)(4)] and related guidance issued by CEQ and that pursuant thereto this firm has no financial or other interest in the outcome of this project.

I further hereby affirm that the information provided herein is true and correct and acknowledge that any knowingly false statement or false representation as to any material part contained herein may subject me to a fine and/or imprisonment, pursuant to pertinent provisions of the United States Code.

August 14, 2023
(Date)

(Signature)

*Attachment 3*

**CERTIFICATION OF CONSULTANT/SUBCONSULTANT**

I hereby certify that I am the Associate Principal/Vice President and duly-authorized representative of the firm of GZA GeoEnvironmental, Inc., and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this Contract,

(b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the Contract:

I/WE do also, under penalty of perjury under the laws of the United States, certify that, except as noted below, the company or any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal funds): (a) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency; (b) has not been suspended, debarred, voluntarily excluded or determined ineligibility by any Federal agency within the past three years; (c) does not have a proposed debarment pending; and (d) has not been indicted, convicted or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

except as here expressly stated (if any):

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

I acknowledge that this certificate is to be furnished to the State Department of Transportation and the Federal Highway Administration, U. S. Department of Transportation, in connection with this Contract involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

August 14, 2023
(Date)

(Signature)

*Attachment 4*

## CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION

I hereby certify that I am the Director of Project Development of the Department of Transportation of the State of New Hampshire, and the above consulting firm or its representatives has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Contract, to:

(a) employ or retain, or agree to employ or retain, any firm or person, or

(b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind:

except as here expressly stated (if any):

9/25/23
(Date)

(Signature)

*Attachment 5*

## CERTIFICATION FOR FEDERAL-AID CONTRACTS EXCEEDING $100,000 IN FEDERAL FUNDS

The prospective participant certifies, by signing and submitting this agreement, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower-tier subcontracts which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

*Attachment 6*

IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT on the day and year first above written.

**Consultant**

WITNESS TO THE CONSULTANT

By: _____

Principal/Sr. Vice President

Dated: August 14, 2023

CONSULTANT

By: _____

Associate Principal/Vice President

(TITLE)

Dated: August 14, 2023

**Department of Transportation**

WITNESS TO THE STATE OF NEW HAMPSHIRE

By: _____

Dated: 9/25/23

THE STATE OF NEW HAMPSHIRE

By: _____

Director of Project Development

for DOT COMMISSIONER

Dated: 9/25/23

**Attorney General**

This is to certify that the above AGREEMENT has been reviewed by this office and is approved as to form and execution.

Dated: 10/2/2023

By: _____

Assistant Attorney General

**Secretary of State**

This is to certify that the GOVERNOR AND COUNCIL on _____ approved this AGREEMENT.

Dated: _____

Attest:

By: _____

Secretary of State

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# 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 GZA GEOENVIRONMENTAL, INC. is a Massachusetts Profit Corporation registered to transact business in New Hampshire on October 28, 1981. 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: **9876**

Certificate Number: **0006237349**

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 25th day of May A.D. 2023.

David M. Scanlan

Secretary of State

**Certificate of Authority # 1** *(Corporation, Non-Profit Corporation)*

**Corporate Resolution**

I, Jonathan B. Selden, **hereby certify** that I am duly elected Clerk/Secretary/Officer of
*(Name)*
GZA GeoEnvironmental, Inc.I hereby certify the following is a true copy of a vote taken at
*(Name of Corporation)*

a meeting of the Board of Directors/shareholders, duly called and held on August 10, 2023

at which a quorum of the Directors/shareholders were present and voting.

**VOTED:** That David G. Lamothe, P.E. Associate Principal/VP (may list more than one person) is
*(Name and Title)*

duly authorized to enter into contracts or agreements on behalf of

GZA GeoEnvironmental, Inc. with the State of New Hampshire and any of
*(Name of Corporation )*

its agencies or departments and further is authorized to execute any documents

which may in his/her judgment be desirable or necessary to effect the purpose of

this vote.

**I hereby certify** that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. This authority **remains valid for thirty (30)** days from the date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

**DATED:** 8/14/2023

**ATTEST:** _____
(Name & Title)
Jonathan B. Selden
Assistant Secretary

ACORD®

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/14/2023

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
GZA GeoEnvironmental, Inc.
5 Commerce Park North
Suite 201
Bedford NH 03110

**COVERAGES** **CERTIFICATE NUMBER:** 75755317 **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<br>CLAIMS-MADE ✓ OCCUR<br>✓ $25K Ded per Occ-BI/PD<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>✓ POLICY PRO-JECT LOC<br>OTHER: | ✓ | | GLP2007957-20 | 2/28/2023 | 2/28/2024 | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MED EXP (Any one person)<br>PERSONAL & ADV INJURY<br>GENERAL AGGREGATE<br>PRODUCTS - COMP/OP AGG | $2,000,000<br>$500,000<br>$10,000<br>$2,000,000<br>$2,000,000<br>$2,000,000<br>$ |
| B | AUTOMOBILE LIABILITY<br>✓ ANY AUTO<br>✓ OWNED AUTOS ONLY<br>✓ HIRED AUTOS ONLY<br>SCHEDULED AUTOS<br>✓ NON-OWNED AUTOS ONLY<br>✓ $1,000 Comp Ded $1000 Coll Ded | | | AS6-Z11-261208-013 | 2/28/2023 | 2/28/2024 | COMBINED SINGLE LIMIT (Ea accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident) | $1,000,000<br>$<br>$<br>$<br>$ |
| | UMBRELLA LIAB OCCUR<br>EXCESS LIAB CLAIMS-MADE<br>DED RETENTION $ | | | | | | EACH OCCURRENCE<br>AGGREGATE | $<br>$<br>$ |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | WC2-Z11-261208-043 | 2/28/2023 | 2/28/2024 | ✓ PER STATUTE OTH-ER<br>E.L. EACH ACCIDENT<br>E.L. DISEASE - EA EMPLOYEE<br>E.L. DISEASE - POLICY LIMIT | $1,000,000<br>$1,000,000<br>$1,000,000 |
| F | Professional Liability | | | DPL30016418701 ($500 SIR) | 2/28/2023 | 2/28/2024 | Each Claim<br>Aggregate | 2,000,000<br>2,000,000 |

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

RE: Evidence of Insurance, Statewide On-Call Geotechnical Services 44171A, Geotechnical Engineering and Related Technical Services, Various, New Hampshire
The State of New Hampshire Department of Transportation are included as an additional insured with respects to General Liability per policy provisions and where required by signed contract.
Professional Liability deductible for the project is $75,000

**CERTIFICATE HOLDER**

Evidence of Insurance

The State of New Hampshire
Department of Transportation
PO Box 483, 5 Hazen Drive
Concord NH 03302-0483

**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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