



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

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

Bureau of Right-of-Way
May 4, 2022

REQUESTED ACTION

The Department of Transportation, Bureau of Right-of-Way, requests authorization to enter into a **sole source** agreement with Maine Technical Source, Inc., Yarmouth, Maine (Vendor Code 153116), in the amount of \$10,682.50 for the purposes of providing a department-wide subscription to SmartNet licenses and customer care plans needed to use and operate the Department's four Global Navigation Satellite System (GNSS) units, for a total of 2,500 hours of use. The use of the units provides real-time correction of GNSS data based on the NSRS (National Spatial Reference System) and the NH SPCS (NH State Plane Coordinate System). This agreement is effective upon Governor and Council approval through May 27, 2023. Funding is 38.5% Federal Funds, 6.3% Other Funds and 55.2% Highway Funds.

Funding is available based on the following:

FY 2022

04-096-096-962015-3028

Bureau of Right-of-Way

039-500189

Telecommunication – Wireless Data

\$10,682.50

EXPLANATION

This request is **sole source** because Maine Technical Source, Inc. is the sole authorized distributor for Leica Geosystems' high-end surveying segment consisting of GNSS, Robotic surveying instruments, related field and office software, firmware and CCP (Customer Care Plans) serving Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont.

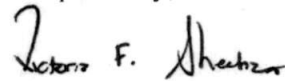
The Continuously Operating Reference Stations (CORS) pilot program is our first attempt to integrate the latest GNSS technology into the Department's daily operations of construction inspection and surveying. With the help of a State Transportation Innovation Council (STIC) grant from the Federal Highway Administration (FHWA) we were able to purchase three construction grade DT Research GNSS devices and one survey grade Leica GS18t antenna and CS 20 data collector for Survey-Geodetics. These devices utilize the same GNSS real-time data correction service called SmartNet, a subscription service available through Maine Technical Source, Inc. that allows us to use real-time, accurate data on our GNSS devices.

The Customer Care Plans and the renewal of the software license for the CS 20 data collector provide for the calibration and limited maintenance of the equipment itself for one year.

This Agreement 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. Subsequent to Governor and Council approval, the Agreement will be on file at the Department of Transportation.

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

Respectfully,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria F. Sheehan
Commissioner

VFS/pfc
Attachments

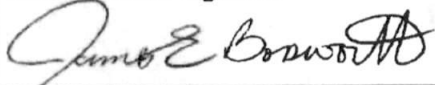

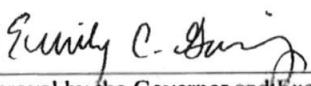
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name NH Department of Transportation		1.2 State Agency Address 7 Hazen Drive Concord, NH 03301	
1.3 Contractor Name Maine Technical Source, Inc.		1.4 Contractor Address 494 US Route One Yarmouth, ME 04096	
1.5 Contractor Phone Number 800-322-5003	1.6 Account Number 04-096-096-962015-3028- 039-500189	1.7 Completion Date 5/27/2023	1.8 Price Limitation \$10,682.50
1.9 Contracting Officer for State Agency Peter Stamnas, Director DOT Project Development		1.10 State Agency Telephone Number 603-271-3222	
1.11 Contractor Signature  Date: 3/28/2028		1.12 Name and Title of Contractor Signatory Jim Bosworth, Sales Manager	
1.13 State Agency Signature  Date: 3/29/22		1.14 Name and Title of State Agency Signatory Peter Stamnas DIRECTOR OF PROJECT DEVELOPMENT	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 4/10/2022			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, 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. 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 affected 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. 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, 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 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. The State shall have no liability to the Contractor other than the contract price.

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 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.

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. 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 race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. 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 all rules, regulations and orders, and 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 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

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) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) 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.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

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) 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) 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. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all 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 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data 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 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, 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.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. 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.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. 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 sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. 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 his or her 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. **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.

17. **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.

18. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. **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.

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

23. **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.

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

Service Contract (Form P-37)
Maine Technical Source, Inc.

EXHIBIT A: Special Provisions

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

EXHIBIT B: Services to be performed or provided

1. Provide the LEICA 5308539 1-year SMARTNET NTRK Enterprise level access up to 2500 hours, beginning on 6/3/2022 or the date of the Governor & Executive Council approval (if later), and continuing for one year. No shipping, installation or activation fees.
2. Provide the LEICA 6009619 1-year CS20 Basic Customer Care Plan (CCP), covering the following product: CS20 LTE Disto Field Controller #2465138, Equipment #8827521, beginning 6/2/2022 or the date of Governor & Executive Council approval (if later), and continuing for one year. No shipping, installation or activation fees.
3. Provide the LEICA 6003686 1-year VIVA GNSS GS1X Basic Customer Care Plan (CCP), covering the following equipment: GS18 T LTE & UHF Performance NAFTA #3606880, article #855304, beginning on 6/3/2022 or the date of the Governor & Executive Council approval (if later), and continuing for one year. No shipping, installation or activation fees.

EXHIBIT C: Budget and Method of Payment

1. SMARTNET Enterprise Level access: \$9,987.50, net 30 after activation, payment by check upon receipt of an invoice.
2. CS20 Basic Customer Care Plan (CCP): \$544.00, net 30 after activation, payment by check upon receipt of an invoice.
3. VIVA GNSS GS1X Basic Customer Care plan (CCP): \$151.00, net 30 after activation, payment by check upon receipt of an invoice.

State of New Hampshire

Department of State

CERTIFICATE

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

Business ID: **171551**

Certificate Number: **0005756903**



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 12th day of April A.D. 2022.

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

David M. Scanlan
Secretary of State

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

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

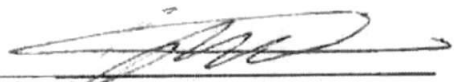
I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors, duly called and held on February 15, 2022, at which a quorum of the Directors/shareholders were present and voting.

VOTED: That Jim Bosworth is duly authorized to enter into contracts or agreements on behalf of Maine Technical Source, Inc. with the State of New Hampshire and any of its agencies or departments and 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 one hundred-twenty (120) 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: 2/15/2022

ATTEST: 

Stuart F. MacDonald, III
President

From: jbosworth@mainetechnical.com
To: [Jim Bosworth](#)
Subject: Bid S1344236 PO# CCP Renewals/Smartnet
Date: Sunday, February 13, 2022 9:47:33 AM

Quotation



MAINE TECHNICAL SOURCE
110 WINN STREET, SUITE 101
WOBURN, MA 01801
800-322-5003 Fax 781-932-0450

05/26/2021	S1344236
ORDER TO:	
MAINE TECHNICAL SOURCE	
110 WINN STREET, SUITE 101	
WOBURN, MA 01801	
Phone: 800-322-5003	

QUOTE TO:
 NEW HAMPSHIRE DEPT.
 TRANSPORTATION
 BUREAU OF RIGHT OF WAY
 7 HAZEN DRIVE, ROOM 204
 CONCORD, NH 03302-0483

SHIP TO:
 NEW HAMPSHIRE DEPT.
 TRANSPORTATION
 BUREAU OF HIGHWAY DESIGN
 7 HAZEN DRIVE,
 CONCORD, NH 03302-0483

10336	CCP Renewals/Smartnet		Jim Bosworth
Jim Bosworth	NA NOT APPLIC.	NET 30	03/09/2022 Yes
NEW HAMPSHIRE DEPT. TRANSPORTATION BUREAU OF HIGHWAY DESIGN 7 HAZEN DRIVE, CONCORD, NH 03302-0483 + Contact: Steve Ferguson Email: Steven.M.Ferguson@dot.nh.gov +			
LEICA 6003686 1 YEAR VIVA GNSS GS1X BASIC CCP Covers the following product(s): GS18 T LTE & UHF Performance NAFTA Serial #3606880 Article #855304 CCP ends 5-27-22		1ea	151.000 151.00
LEICA 6009619 1 YEAR CS20 BASIC CCP CS20 s/n 2465138 equip 8827521 CCP ends 6-2-22		1ea	544.000 544.00
LEICA 5308539 1 YEAR SMARTNET NRTK ENTERPRISE 2500 HOURS		1ea	9987.500 9987.50

ENDS 6-3-22

Prices are firm for 30 days only. Applicable Taxes, Freight and Handling are not Included. You are responsible for these charges. Thank You!

Subtotal	10682.50
Tax	*****
Freight	0.00
Handling	0.00
Total	10682.50