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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

25 Capitol Street - Room 100
Concord, New Hampshire 03301
(603) 271-3201 Office@das.nh.gov



Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

February 22, 2023

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

REQUESTED ACTION

Authorize the Department of Administrative Services to enter into a **Retroactive** contract with Howard P. Fairfield, LLC (VC #175087), Hopkinton, NH in the amount of \$378,574.17 for spreader parts - compuspread, with the option to renew for an additional two years, effective upon Governor and Council approval for the period November 22, 2022 through October 31, 2025.

Funding shall be provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds to cover the expenditure.

EXPLANATION

This request is **Retroactive** because of the October 19, 2022 change to contract oversight requirements contained in the updated Manual of Procedures Chapter 150 and subsequent internal approval procedures. The Department of Administrative Services, through the Bureau of Purchase and Property, issued request for bid 2702-23 on November 3, 2022, with responses due on November 11, 2022. This bid reached three vendors through the NIGP electronic sourcing platform with an additional three directly sourced. There were two responses received with one bidder submitting a non-compliant response based on an incomplete submission. One compliant response received; Howard P. Fairfield, LLC submitted the lowest compliant pricing.

This contract would replace the expired contract (Contract #8002784) for crucial parts for the effective and safe use of winter snow plows and equipment by the Department of Transportation, as the primary end-user of this requested contract.

Forecasted contract 8003185 spend	
Year 1	\$114,719.45
Year 2	\$114,719.45
Year 3	\$114,719.45
Balance product line allowance	\$34,415.82
Requested price limitation	\$378,574.17

The forecasted spend amount is the projected quantity the Department of Transportation anticipates purchasing over the course of the next three years based on the historic purchase-to-inventory average of the last expired contract purchases. Projected spend is based on the updated unit price after discount by the projected quantity the Department of Transportation anticipates purchasing. The average total increase for items purchased represents a 19.94% average total increase for items actually purchased listed on the bid solicitation and award, with a further allowance of \$34,415.82, or 10% of forecasted spend, for undefined needs associated with the balance product line provision. Volatile market conditions continue to impact supply chains and have resulted in increased pricing for this requested contract.

Based on the foregoing, I am respectfully recommending approval of the **Retroactive** contract with Howard P. Fairfield, LLC.

Respectfully submitted,



Charles M. Arlinghaus
Commissioner



RFB Bid Summary

Bid Description	Compuspread Parts	Agency	Statewide
RFB#	2702-23	Requisition#	N/A
Agent Name	Claudia Roy	Bid Closing	November 10, 2022

Projected Qty to Purchase 3 years	Part #	Description	Old Price	Expired Price-New Qty	Diff Price	Change to Unit Price after Discount	Anticipated 3 Year Spend
		Howard P. Fairfield					
61	EA	M12 female to M12 male extender cable. 3 meters long.	\$39.60	\$2,415.60	20%	\$47.47	\$2,895.67
76	EA	M12 to 3 pin female ITT adapter cable.	\$58.50	\$4,446.00	-1%	\$57.92	\$4,401.92
11	EA	Male C4 repair Kit	\$9.90	\$108.90	25%	\$12.33	\$135.63
99	EA	Pin Male. ITT / Cannon.	\$1.80	\$178.20	111%	\$3.79	\$375.21
101	EA	Female Pin Receptacle ITT / Cannon.	\$1.80	\$181.80	111%	\$3.79	\$382.79
4	EA	9 Meter / 30 Feet Valve Output Extender Cable with 2 Pin Connectors	\$102.60	\$410.40	18%	\$120.59	\$482.36
106	EA	5 meter extender cable. With a lighted C4 connector.	\$46.80	\$4,960.80	20%	\$56.01	\$5,937.06
2	EA	4.5 Meter / 15 Feet Extender Cable for Ground & Conveyor Speed Sensor with 3 Pin	\$75.60	\$151.20	18%	\$89.25	\$178.50
2	EA	4.5 Meter / 15 Feet Valve Output Extender Cable with 2 Pin Connectors	\$76.50	\$153.00	18%	\$90.19	\$180.38
32	EA	White Motor Sensor Cable	\$156.60	\$5,011.20	-48%	\$80.70	\$2,582.40
2	EA	Flow Meter for Prewet system c/w ITT Cannon Bulkhead Connector & 0.295" Orifice.	\$325.80	\$651.60	17%	\$380.75	\$761.50
13	EA	Female Connector Repair Kit for 2 Pin Cable End	\$6.30	\$81.90	36%	\$8.54	\$111.02
11	EA	Male Connector Repair Kit for 2 Pin Cable End	\$6.30	\$69.30	36%	\$8.54	\$93.94
2	EA	10 meter sensor extender cable.	\$54.00	\$108.00	18%	\$63.62	\$127.24
61	EA	2.5 AMP FUSE.	\$1.80	\$109.80	111%	\$3.79	\$231.19
1	EA	CS-440 Pot PCB	\$63.00	\$63.00	18%	\$74.06	\$74.06
1	EA	Amplifier Booster for Use with Electric Pre-Wet	\$198.00	\$198.00	17%	\$231.67	\$231.67
3	EA	Flow Meter	\$308.70	\$1,543.50	17%	\$361.75	\$1,808.75
13	EA	M-4 Cable Repair Kit	\$21.60	\$280.80	23%	\$26.58	\$345.54
7	EA	10 meter sensor extender cable w/ M12 connectors. 90 degree lighted end.	\$63.00	\$441.00	18%	\$74.06	\$518.42
1	EA	CS-550 PWM AMP WITH C4 CONNECTIONS.	\$198.00	\$198.00	17%	\$231.67	\$231.67
4	EA	3 meter sensor extender cable w/ M12 connectors. 90 degree lighted end.	\$45.00	\$180.00	-91%	\$4.00	\$16.00
76	EA	ITT to M12 Adapter — 2M	\$58.50	\$4,446.00	-8%	\$54.11	\$4,112.36
11	EA	ITT to M12 prewet adapter for 440 and 430 systems.	\$81.90	\$900.90	17%	\$95.90	\$1,054.90
9	EA	Dust Cap for covering a male C4	\$18.90	\$170.10	21%	\$22.78	\$205.02
1	EA	C4 Cable End dust cap.	\$8.10	\$8.10	29%	\$10.44	\$10.44
2	EA	M12-4 Male Repair Connector	\$11.70	\$23.40	22%	\$14.23	\$28.46
1	EA	M12-4 Female Repair Connector	\$9.90	\$9.90	25%	\$12.34	\$12.34
1	EA	CS-550 lite version utilizing the RC2-2.	\$3,318.30	\$3,318.30	27%	\$4,198.68	\$4,198.68
88	EA	9.1 Meter / 30 Feet Extender Cable for Pre-wetting Flow Meter	\$88.20	\$7,761.60	17%	\$103.00	\$9,064.00
61	EA	CS-550 Touch Screen Display only package.	\$2,613.60	\$159,429.60	26%	\$3,290.01	\$200,690.61
59	EA	RC2-2/20 Microcontroller. Programmed with the latest CS-550 firmware.	\$635.40	\$37,488.60	17%	\$744.40	\$43,919.60
7	EA	CS-440 Spreader Visual Display Interface.	\$1,646.10	\$11,522.70	0%	\$1,646.00	\$11,522.00
1	EA	CS-440 RC M4 Wiring Kit	\$988.20	\$988.20	17%	\$1,154.59	\$1,154.59



RFB Bid Summary

140	EA	Conveyor Feedback Sensor with Female Hex Nut and Pin - 16 Pulses per Rev.	\$247.50	\$34,650.00	17%	\$289.59	\$40,542.60
68	EA	Dust Cap for Sensor end of Sensor Cable Connection	\$28.80	\$1,958.40	19%	\$34.18	\$2,324.24
27	EA	Dust Cap for Cable End of Sensor Cable Connection	\$27.00	\$729.00	20%	\$32.28	\$871.56
85	EA	Male Connector Repair Kit for 3 Pin Cable End	\$7.20	\$612.00	32%	\$9.49	\$806.65
162	EA	Female Connector Repair Kit for 3 Pin Sensor End	\$7.20	\$1,166.40	32%	\$9.49	\$1,537.38
Sub total				\$287,125.20		Sub total	\$344,158.35
			Expiring contract annual spend	\$95,708.40		Estimated annual spend	\$114,719.45
			Expiring contract term spend	\$287,125.20		Estimated term spend	\$344,158.35
			Cost increase 19.94% or	\$57,033.15		Add allowance for balance of product line	\$34,415.82
			Delta: new vs. expiring	16.57%		Recommended price limitation	\$378,574.17

Recommendation	
Statewide Contract or Amendment	Statewide
Term of Contract	3 years
Price Limitation	\$378,574.17
Number of Solicitations Received	2
Number of Sourced Bidders	3
Number of NIGP Vendors Sourced	3
Number of Bid Declines (with reason)	0
P-37 Checklist Complete	
D&B Report Attached	No
Method of Pmt	P-Card/ACH
FOB Delivered	Yes
Expiring Contract Spend	\$287,125.20
Total Cost Increase (\$/%)	\$57,033.15 16.57% Delta

Special Notes:	Howard P. Fairfield- Compliant- bid at lowest cost.				
	Gives Corp dba Viking Cives USA- Non-Compliant				

The forecasted spend amount is the projected quantity the Department of Transportation anticipates purchasing over the course of the next three years based on the historic purchase-to-inventory average of the last expired contract purchases. Projected spend is based on the updated unit price after discount by the projected quantity the Department of Transportation anticipates purchasing. Projected spend data with the added factor of a 19.94% average total increase for items actually purchased listed on the bid solicitation and award with a further allowance of \$34,415.82, or 10% of forecasted spend, for undefined needs associated with the balance product line provision. Volatile market conditions continue to impact supply chains and have resulted in increased pricing for this requested contract.

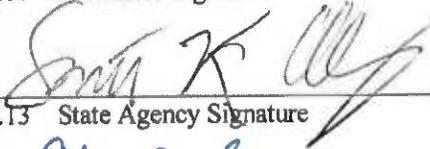
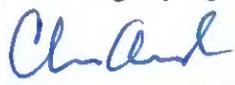
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

<p>1.1 State Agency Name Department of Administrative Services Bureau of Purchase and Property</p>		<p>1.2 State Agency Address 25 Capitol Street, Room 102 Concord, NH 03301</p>	
<p>1.3 Contractor Name Howard P. Fairfield, LLC</p>		<p>1.4 Contractor Address 554 Maple Street, Hopkinton, NH 03229</p>	
<p>1.5 Contractor Phone Number 603-892-5500</p>	<p>1.6 Account Number Various</p>	<p>1.7 Completion Date October 31, 2025</p>	<p>1.8 Price Limitation \$378,574.17</p>
<p>1.9 Contracting Officer for State Agency Gary Lunetta</p>		<p>1.10 State Agency Telephone Number 603-271-3606</p>	
<p>1.11 Contractor Signature  Date: 1/19/23</p>		<p>1.12 Name and Title of Contractor Signatory Scott Colby, Controller</p>	
<p>1.13 State Agency Signature  Date: 1/26/23</p>		<p>1.14 Name and Title of State Agency Signatory Charles M. Arlinghaus, Commissioner</p>	
<p>1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)</p> <p>By: _____ Director, On: _____</p>			
<p>1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable)</p> <p>By:  On: 1/30/23</p>			
<p>1.17 Approval by the Governor and Executive Council (if applicable)</p> <p>G&C Item number: _____ G&C Meeting Date: _____</p>			

Contractor Initials 
Date 1/10/23

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement 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.

EXHIBIT A
SPECIAL PROVISIONS

There are no special provisions of this contract.

Contractor Initials SM
Date 11/19/15

**EXHIBIT B
SCOPE OF WORK**

1. EFFECTIVE DATE

The Contract term shall commence on November 22, 2022 or upon execution by the Governor and Executive Council, whichever is later (the "Effective Date") and shall continue thereafter through October 31, 2025, a period of approximately three years.

The contract may be extended for an additional two years thereafter under the same terms, conditions and pricing structure upon the mutual agreement between the Contractor and the State with the approval of the Commissioner of the Department of Administrative Services. The maximum term of the contract (including extensions) shall not exceed five (5) years.

2. CONTRACT DOCUMENTS

This Contract consists of the following documents ("Contract Documents"):

- a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
- b. EXHIBIT A Special Provisions
- c. EXHIBIT B Scope of Work
- d. EXHIBIT C Method of Payment
- e. EXHIBIT D RFB 2702-23
- f. EXHIBIT E Contractor's Bid Response

In the event of any conflict among the terms or provisions of the documents listed above, the following order of priority shall indicate which documents control: (1) EXHIBIT A "Special Provisions," (2) Form Number P-37, (3) EXHIBIT B "Scope of Work," (4) EXHIBIT C "Method of Payment," (5) EXHIBIT D "RFB 2702-23," and (6) EXHIBIT E "Contractor's Bid Response."

3. SCOPE OF WORK

Contractor shall supply all labor, tools, transportation, materials, equipment and permits as necessary and required to perform services as described herein. Notwithstanding the listed items for Compuspread, Contractor shall extend the 10% discount from the balance of products listed on the Compuspread Manufacturer List Price Schedule.

4. ABILITY TO PROVIDE

Contractor shall provide the State agencies and eligible participants with their entire requested amount of the items required in this Contract without any delay or substitution.

5. WARRANTY REQUIREMENTS

The Contractor shall provide warranties on all equipment/items provided by the Contractor for a period of not less than one (1) year or the manufacturer's standard warranty period, whichever is greater, commencing on the date that the equipment is received, inspected, and accepted by the State of New Hampshire. The warranty shall cover 100% of repair or replacement costs, including all parts, shipping, labor, travel, lodging, and expenses.

6. ORDERING PROCEDURE

State agencies shall place their orders by electronic order entry, by e-mail, by FAX, or they may establish a standard delivery order. Eligible participants shall utilize their own individually established ordering procedures.

7. USAGE REPORTING.

The Contractor shall submit a quarterly and annual usage report for analysis for each state agency or eligible participant. Reports are due no later than 30 days after each end of each calendar quarter Bureau of Procurement Services, Purchasing Agent Name and sent electronic to NH.Purchasing@DAS.NH.Gov. At a minimum, the Report shall include:

- Contract Number
- Utilizing Agency and Eligible Participant
- Services/Products Purchased (showing the manufacturer, item, part number, and the final cost.)
- Recycling documentation with respect to content used in the manufacture, development and distribution process of goods and services sold. This report shall include but not be limited to:
 - Percentage of recycled materials contained within finished products
 - Percentage of waste recycled throughout the manufacturing process
 - Types and volume of packaging used for transport
 - Any associated material avoided and/or recycled as applicable under contract
 - A standardized reporting form will be provided after contract award
- Total Cost of all Services/Products Purchased. Ability to sort by agency/eligible participant.
- Preferred in Excel format

8. ACCOUNT COMMUNICATION & ESCALATION

All communication regarding account details including but not limited to, shipping and receiving, invoice reconciliation, product availability, etc. shall be handled directly with the State agency contact assigned. If for any reason a resolution cannot be met at an agency level the Contractor agrees to escalate the concern to the Bureau of Purchase and Property prior to imposing any restriction or hold on the account in question.

9. RETURNED GOODS

The Contractor shall resolve all order and invoice discrepancies within five (5) business days from notification. Products returned due to quality issues, duplicate shipments, over-shipments, etc. shall be picked up by the Contractor within ten (10) business days of notification with no restocking or freight charges, and shall be replaced with specified products or the agency shall be refunded/credited for the full purchase price. Unauthorized substitutions for any products are not allowed.

Standard stock products ordered in error by the State shall be returned for full credit within fifteen (15) business days of receipt. Products shall be in re-saleable condition (original container, unused) and there shall be no restocking fee charged for these products. The using agency shall be responsible for any freight charges to return these items to the Contractor.

10. DELIVERY

Contractor is responsible for Good(s) delivery until the goods are delivered and accepted by the State. Contractor shall securely and properly pack all shipments in accordance with accepted commercial practices. Delivered goods that do not conform to the specifications or are not in good conditions upon receipt shall be replaced promptly by the Contractor.

The Contractor shall delivery of any Good(s) ordered under this Contract within five (5) business days from the placement of the order, or as otherwise may be specified in a purchase order issued by the State.

The use of a private carrier to make delivery does not relieve the Contractor from the responsibility of meeting the delivery requirement.

11. OBLIGATIONS AND LIABILITY OF THE CONTRACTOR

The Contractor shall provide all products/items strictly pursuant to, and in conformity with this contract which resulted from RFB 2702-23.

It is the responsibility of the Contractor to maintain this State Contract and New Hampshire Vendor Registration with up to date contact information.

Additionally, all updates i.e., telephone numbers, contact names, email addresses, W9, tax identification numbers are required to be current through a formal electronic submission to the Bureau of Purchase and Property at

[https://das.nh.gov/purchasing/vendorregistration/\(S\(a0fzev55qhaeqs45jpya5i45\)\)/welcome.aspx](https://das.nh.gov/purchasing/vendorregistration/(S(a0fzev55qhaeqs45jpya5i45))/welcome.aspx)

The Contractor shall agree to hold the State of NH harmless from liability arising out of injuries or damage caused while performing this work. The Contractor shall agree that any damage to building(s), materials, equipment or other property during the performance of the service shall be repaired at its own expense, to the State's satisfaction.

12. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

The Contractor certifies, by signature of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or Agency.

Contractor Initials 3rd

Date 1/10/23

**EXHIBIT C
METHOD OF PAYMENT**

1. CONTRACT PRICE

The Contractor shall provide the items specified in Exhibit B in the amount not to exceed the Price Limitation of \$378,574.17; this figure shall not be considered a guaranteed or minimum figure; however it shall be considered a maximum figure from the effective date through the expiration date as indicated in Form P-37 Block 1.7.

Line Item prices identified in this Agreement shall remain firm for the entire term of the Contract and shall be in US dollars and include delivery and all other costs. Special charges, surcharges (including credit card transaction fees), or fuel charges of any kind (by whatever name) may not be added on at any time. Unless otherwise specified in purchase orders, contractor shall delivery all goods/products F.O.B. DESTINATION, which means delivered to a State agency's receiving facility or other designated point as specified in this Contract or subsequent purchase orders without additional charge. No charge for packing, shipping, or for any other purpose will be allowed over and above the price specified in this Agreement. Shipments shall be made in order to arrive at the destination at a satisfactory time for unloading during receiving hours.

Line Price decreases shall become effective immediately as they become available to the Contractor.

Updated Published Price List MUST be e-mailed to NH.Purchasing@DAS.NH.Gov, or their designee.

PRICE ADJUSTMENTS

One the anniversary date of this contract, the successful Vendor(s) may request price adjustment, either upward or downward, keyed to the published and current manufacturer's price list. Written notice of an impending price increase, including substantiation for it, must be submitted in writing to Bureau of Purchase & Property, 25 Capitol Street, Rm. 102, Concord, NH 03301, no less than thirty(30) days prior to the effective date of said price increase. The State reserves the right to reject any price increases it deems unreasonable. If parties to the contract cannot agree on renewal terms, it is hereby understood that the contract will be rebid.

2. PRICING STRUCTURE:

Part #	Description	LIST PRICE	DISCOUNT OF 10%	UNIT PRICE EACH
R987379518	M12 female to M12 male extender cable. 3 meters long.	\$52.75	10%	\$47.48
R987376771	M12 to 3 pin female ITT adapter cable.	\$64.36	10%	\$57.92
R987424954	Male C4 repair Kit	\$13.71	10%	\$12.34
R987370453	Pin Male. ITT / Cannon.	\$4.22	10%	\$3.80

R987370472	Female Pin Receptacle ITT / Cannon.	\$4.22	10%	\$3.80
R987371014	9 Meter / 30 Feet Valve Output Extender Cable with 2 Pin Connectors	\$133.99	10%	\$120.59
R987379961	5 meter extender cable. With a lighted C4 connector.	\$62.24	10%	\$56.02
R987371003	4.5 Meter / 15 Feet Extender Cable for Ground & Conveyor Speed Sensor with 3 Pin	\$99.17	10%	\$89.25
R409021173	4.5 Meter / 15 Feet Valve Output Extender Cable with 2 Pin Connectors	\$100.22	10%	\$90.20
R987376317	White Motor Sensor Cable	\$89.67	10%	\$80.70
R987372599	Flow Meter for Prewet system c/w ITT Cannon Bulkhead Connector & 0.295" Orifice.	\$423.06	10%	\$380.75
R987370551	Female Connector Repair Kit for 2 Pin Cable End	\$9.49	10%	\$8.54
R987370552	Male Connector Repair Kit for 2 Pin Cable End	\$9.49	10%	\$8.54
R987379516	10 meter sensor extender cable.	\$70.69	10%	\$63.62
R987376749	2.5 AMP FUSE.	\$4.22	10%	\$3.80
R987372967	CS-440 Pot PCB	\$82.29	10%	\$74.06
R987376706	Amplifier Booster for Use with Electric Pre-Wet	\$257.42	10%	\$231.68
R987377109	Flow Meter	\$401.95	10%	\$361.76
R987376372	M-4 Cable Repair Kit	\$29.54	10%	\$26.59
R987379517	10 meter sensor extender cable w/ M12 connectors. 90 degree lighted end.	\$82.29	10%	\$74.06
R987404675	CS-550 PWM AMP WITH C4 CONNECTIONS.	\$257.42	10%	\$231.68
R987379519	3 meter sensor extender cable w/ M12 connectors. 90 degree lighted end.	\$50.00	10%	\$45.00
R987376771	IT to M12 Adapter — 2M	\$60.13	10%	\$54.12

R987390707	ITT to M12 prewet adapter for 440 and 430 systems.	\$106.56	10%	\$95.90
R987376773	Dust Cap for covering a male C4	\$25.32	10%	\$22.79
R987388755	C4 Cable End dust cap.	\$11.61	10%	\$10.45
R901473776	M12-4 Male Repair Connector	\$15.82	10%	\$14.24
R901473781	M12-4 Female Repair Connector	\$13.71	10%	\$12.34
R987392830	CS-550 lite version utilizing the RC2-2.	\$4,665.21	10%	\$4,198.69
R987371006	9.1 Meter / 30 Feet Extender Cable for Pre-wetting Flow Meter	\$115.00	10%	\$103.50
R987464778	CS-550 Touch Screen Display only package.	\$3,655.57	10%	\$3,290.01
R987413300	RC2-2/20 Microcontroller. Programmed with the latest CS-550 firmware.	\$827.12	10%	\$744.41
R987376731	CS-440 Spreader Visual Display Interface.	\$1,829.00	10%	\$1,646.10
R987376352	CS-440 RC M4 Wiring Kit	\$1,282.88	10%	\$1,154.59
R987371052	Conveyor Feedback Sensor with Female Hex Nut and Pin - 16 Pulses per Rev.	\$321.77	10%	\$289.59
R987376327	Dust Cap for Sensor end of Sensor Cable Connection	\$37.98	10%	\$34.18
R987376336	Dust Cap for Cable End of Sensor Cable Connection	\$35.87	10%	\$32.28
R987371047	Male Connector Repair Kit for 3 Pin Cable End	\$10.55	10%	\$9.50
R987371046	Female Connector Repair Kit for 3 Pin Sensor End	\$10.55	10%	\$9.50

CONTRACTOR'S BALANCE OF PRODUCT LINE ITEMS:

The items herein include the items most commonly purchased by State. During the term of this Contract, the State may purchase other items in relation to Compuspread Spreader Parts from the Contractor's Balance of Product Line. All items ordered shall include all shipping/charges as specified above in "1. Contract Price".

3. MINIMUM ORDERS

There will be no minimum order whether in item quantity or dollar value associated with this Contract.

4. INVOICE

All invoices must list Contract Number, Purchase Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted in this contract or purchase order, payment will not be due until thirty (30) days after all services have been completed, or all items have been delivered, inspected and accepted by the State or the invoice has been received at the agency business office, whichever is later.

The invoice shall be sent to the address of the ordering agency.

5. PAYMENT

Payments may be made via ACH or P-Card. Use the following link to enroll with the State Treasury for ACH payments: <https://www.nh.gov/treasury>

EXHIBIT D

RFB 2702-23 is incorporated here within.

Contractor Initials SM
Date 1/19/23

EXHIBIT E

Contractor's Bid Response is incorporated here within

Contractor Initials CM
Date 1/10/23

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 HOWARD P. FAIRFIELD, LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on November 09, 2006. 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: 567234

Certificate Number: 0005886198



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 20th day of October A.D. 2022.

A handwritten signature in black ink, appearing to read "D. Scanlan", written over a circular embossed mark.

David M. Scanlan
Secretary of State

HOWARD P. FAIRFIELD, LLC

**UNANIMOUS CONSENT OF MANAGERS
IN LIEU OF A SPECIAL MEETING OF MANAGERS**

Pursuant to Delaware law, the undersigned, being all of the Managers of HOWARD P. FAIRFIELD, LLC, a Delaware limited liability company (the "Company"), by this instrument and in lieu of a special meeting of the managers of the Company, hereby consent to the adoption of the following resolutions:

RESOLVED, that Philip Nangle, President of the Company and Scott Colby, Controller of the Company are authorized and directed to negotiate and approve commercial and other customer contracts in connection with the sale of the Company's products on behalf of the Company and to do and perform all acts and things which they deem to be necessary or appropriate to carry out the terms of such contracts, including, but not limited to, executing and delivering all agreements and documents contemplated by such contracts.

DATED EFFECTIVE the 20th day of December, 2022.

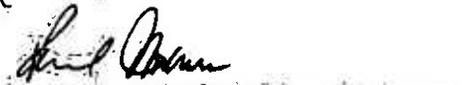
MANAGERS:



Michael A. Haberman



Edward J. Rizzuto



Richard J. Wehrle

