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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](mailto:Office@das.nh.gov)

Charles M. Arlinghaus  
Commissioner

Catherine A. Keane  
Deputy Commissioner

Sheri L. Rockburn  
Assistant Commissioner

June 28, 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 contract with O'Reilly Auto Enterprises, LLC (VC # 259843), Springfield, MO in the amount of \$1,342,661.25 for vehicle replacement parts and supplies with an option to extend for up to an additional two years effective upon Governor and Executive Council approval through May 30, 2026.

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 contract, upon approval, for vehicle replacement parts and supplies, will provide statewide access to an assortment of replacement parts and supplies needed by agencies with fleet vehicles. The absence of this contract would result in both administrative and operational burdens related to the purchase of vehicle replacement parts and supplies.

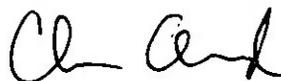
The Department of Administrative Services, through the Bureau of Purchase and Property, issued request for bid (RFB) 2737-23 on February 16, 2023 with responses due on March 1, 2023. This bid reach 306 vendors through the NIGP electronic sourcing platform with an additional 3 directly sourced. There were seven compliant responses received with O'Reilly Auto Enterprises, LLC being one of the lowest cost and compliant submissions.

Following BoPP market research and a survey of vendors on price fluctuations in the last twelve months, it was determined that pricing has increased overall by approximately 10% overall. This 10% price increase was taken into consideration for determining the price limitation for this requested contract with O'Reilly Auto Enterprises, LLC.

Contract financials	
Previous contract term spend	\$ 1,220,601.14
10% price increase	\$ 122,060.11
Recommended price limitation	\$ 1,342,661.25

Based on the foregoing, I am respectfully recommending approval of the contract with O'Reilly Auto Enterprises, LLC.

Respectfully submitted,



Charles M. Arlinghaus  
Commissioner



RFB Bid Summary

Bid Description	Vehicle Replacement Parts and Supplies	Agency	Statewide
RFB#	2737-23	Requisition#	N/A
Agent Name	Denise Rice	Bid Closing	3/1/2023 @ 11:00 AM

UOM	Product Description	Hahn Automotive Warehouse Inc. dba Carparts Distribution Center	Kelly Mackenzie NAPA	Sanel NAPA	Genuine Parts	Route 11 Auto	O'Reilly Auto	Advanced
		Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost
EA	Air Conditioning	\$ 776.24	\$828.22	\$1,576.12	\$1,576.12	\$ 1,381.23	\$1,396.40	\$ 2,274.77
EA	Alternators/Starters	\$ 571.35	\$902.84	\$1,626.99	\$1,626.99	\$ 689.83	\$1,069.84	\$ 1,360.00
EA	Bearings	\$ 598.68	\$719.51	\$851.41	\$851.41	\$ 577.76	\$354.68	\$ 524.84
EA	Belts/Hoses	\$ 38.25	\$49.34	\$56.82	\$56.82	\$ 43.72	\$57.62	\$ 41.18
EA	Brakes- Rotors/Drums	\$ 284.86	\$301.77	\$334.35	\$334.35	\$ 275.76	\$359.46	\$ 313.91
EA	Brake Shoes and Pads	\$ 151.66	\$230.90	\$140.00	\$140.00	\$ 132.76	\$153.83	\$ 191.71
EA	Caps and T-Stats	\$ 24.12	\$28.45	\$18.96	\$18.96	\$ 24.30	\$39.65	\$ 31.37
EA	Engine and Drivetrain	\$ 505.40	\$530.20	\$606.52	\$606.52	\$ 456.15	\$446.19	\$ 757.78
EA	Fuel and Emissions	\$ 334.08	\$266.13	\$480.05	\$480.05	\$ 384.03	\$518.00	\$ 607.73
EA	Gaskets and Seals	\$ 101.29	\$122.41	\$134.34	\$134.34	\$ 274.78	\$577.55	\$ 102.32
EA	Heating/Cooling	\$ 423.81	\$569.64	\$542.17	\$542.17	\$ 462.91	\$708.71	\$ 839.91
EA	Ignition/Electrical	\$ 53.22	\$80.80	\$62.59	\$62.59	\$ 104.85	\$80.00	\$ 68.78
EA	Spark Plugs	\$ 10.44	\$19.14	\$15.00	\$15.00	\$ 12.45	\$15.18	\$ 17.62
EA	Shocks/Struts	\$ 213.83	\$283.29	\$323.38	\$323.38	\$ 209.21	\$285.12	\$ 360.37
EA	Suspension	\$ 36.32	\$104.48	\$81.34	\$81.34	\$ 77.06	\$73.60	\$ 79.66
EA	Drive Line	\$ 40.19	\$68.73	\$73.29	\$73.29	\$ 57.26	\$116.21	\$ 85.13
EA	Water Pumps	\$ 157.65	\$203.47	\$230.59	\$230.59	\$ 191.34	\$177.22	\$ 257.53

Indicates Award

Recommendation Summary	
Statewide Contract or Amendment	Multi award. See individual contractor bid

Special Notes:

Unit cost pricing by category was determined by combining the unit price of the two most common state vehicles which are the Dodge Charger and the Ford F-250. Multi award. See individual contractor bid tabs.

The price limitation is based on the average annual spend for the three counties being awarded to Route 11 Auto Parts Inc. taking into account new prices based on response to RFB 2737-23. This contract offers unit pricing of the parts that the State most frequently purchases. In addition, a 25% discount is applied to all balance of product line items. Based on responses from vendors the vehicle car parts market has experienced a 10% increase over the last twelve months. This increase was factored into the total term spend providing the new price limitation. Catalog price list can be found at the following website: <https://www.napaonline.com/cn/nh/farmington/store/28132>



RFB Bid Summary

Bid Description	Vehicle Replacement Parts and Supplies	Agency	Statewide
RFB#	2737-23	Requisition#	N/A
Agent Name	Denise Rice	Bid Closing	3/1/2023 @ 11:00 AM

UOM	Product Description	O'Reilly Unit Cost
EA	Air Conditioning	\$1,396.40
EA	Alternators/Starters	\$1,069.84
EA	Bearings	\$354.68
EA	Belts/Hoses	\$57.62
EA	Brakes- Rotary/Drums	\$359.46
EA	Brake Shoes and Pads	\$153.83
EA	Caps and T-Stats	\$39.65
EA	Engine and Drivetrain	\$446.19
EA	Fuel and Emissions	\$518.00
EA	Gaskets and Seals	\$577.55
EA	Heating/Cooling	\$708.71
EA	Ignition/Electrical	\$80.00
EA	Spark Plugs	\$15.18
EA	Shocks/Struts	\$285.12
EA	Suspension	\$73.60
EA	Drive Line	\$116.21
EA	Water Pumps	\$177.22

Estimated annual spend	\$447,453.74	Expiring contract annual	\$406,867.05
Estimated term spend	\$1,342,661.25	Expiring contract term	\$1,220,601.14
Add allowance for balance of product line	Incorporated in term spend	Cost Increase	\$122,060.11
Recommended price limitation	\$1,342,661.25		
New vs. Expiring Increase			10%

Recommendation Summary			
Statewide Contract or Amendment	Contract		
Term of Contract	2023 to 2026		
Price Limitation	\$1,342,661.25		
Number of Solicitations Received	7		
Number of Sourced bidders	3		
Number of NIGP Vendors Sourced	306		
Number of non-responsive bidders	301		
P-37 Checklist Complete	Yes		
D&B Report Attached	Yes		
Method of Payment (P-card/ACH)	P-Card/ACH		
FOB Delivered	Yes		
Expiring Contract Price Limitation	N/A		
Total Cost Increase (S%)	\$ 122,060.11	9%	Increase

**Special Notes:** The price limitation is based on the average annual spend for the ten counties being awarded to O'Reilly Auto Parts taking into account new prices based on response to RFB 2737-23. This contract offers unit pricing of the parts that the State most frequently purchases. In addition, a 4% discount is applied to all balance of product line items. Based on responses from vendors the vehicle car parts market has experienced a 10% increase over the last twelve months. This increase was factored into the total term spend providing the new price limitation. Catalog price list can be found at the following website:

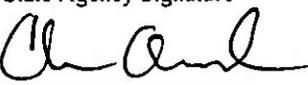
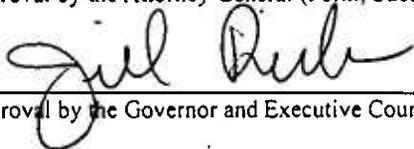
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Department of Administrative Services Bureau of Purchase and Property		1.2 State Agency Address 25 Capitol Street, Room 102 Concord, NH 03301	
1.3 Contractor Name O'Reilly Auto Enterprises, LLC		1.4 Contractor Address 233 S. Patterson Ave. Springfield, MO 65802	
1.5 Contractor Phone Number 417-829-5879	1.6 Account Unit and Class Various	1.7 Completion Date May 30, 2026	1.8 Price Limitation \$1,342,661.25
1.9 Contracting Officer for State Agency Andrew Bennett		1.10 State Agency Telephone Number 603-271-7411	
1.11 Contractor Signature  Date: 5-30-23		1.12 Name and Title of Contractor Signatory Wes Wise, VP Professional Sales	
1.13 State Agency Signature  Date: 6-12-23		1.14 Name and Title of State Agency Signatory Charles M. Arlinghaus, Commissioner	
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: 6/13/23			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

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

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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

## 8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

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

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

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

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

## 9. TERMINATION.

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

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

## 10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

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

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

## 12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

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

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

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

**14. INSURANCE.**

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

**19. CHOICE OF LAW AND FORUM.**

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

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

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

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

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

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

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

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

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

**EXHIBIT A**  
**SPECIAL PROVISIONS**

**Amend 6.1 Compliance, page 2 to add the following:**

O'Reilly Auto Parts is not a federal contractor. To ensure we stay compliant with the executive orders, rules, regulations, statutes, and laws pertaining to the expenditure of federally appropriated funds, O' Reilly will not be paid using federally appropriated funds at this time due to, in part, that O'Reilly Auto Parts does not have an affirmative action program. O'Reilly Auto Parts is an Equal Employment Opportunity provider.

**Delete 9. Termination in its entirety as follows:**

**9. TERMINATION.**

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

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

**Replace 9. Termination with:**

**9. TERMINATION.**

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

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

**Amend 13 Indemnification, page 3 to add the following:**

13.1 Contractor will pass through all indemnity assurances of each manufacturer of the goods. If a third-party infringement claim should arise, Contractor will assist in resolution by facilitating communication with the manufacturer.

**EXHIBIT B  
SCOPE OF WORK**

**1. EFFECTIVE DATE**

The term of the contract shall commence on May 31, 2023, or upon approval of the Governor and Executive Council, whichever is later, through May 30, 2026, a period of approximately three (3) years.

The Contract may be extended for up to two (2) additional years thereafter upon the same terms, conditions, and pricing structure with the approval of the Governor and Executive Council.

The maximum term of the Contract (including all extensions) cannot 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 2737-23
- 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 2737-23," and (6) EXHIBIT E "Contractor's Bid Response."

**3. SCOPE OF WORK**

Contractor shall supply and deliver parts as requested to directed locations.

See Exhibit C for pricing.

Unless otherwise specified herein, all deliveries performed under this Contract(s) shall be performed between the hours of 7:30 A.M. and 4:00 P.M. on State business days, unless other arrangements are made in advance with the State.

**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, unless noted otherwise on the invoice, 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. OBLIGATIONS AND LIABILITY OF THE VENDOR:**

The Contractor shall provide parts to the satisfaction of the State and in accordance with the specifications and at the price set forth herein.

**7. 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.

**8. 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 the end of each calendar quarter to the Bureau of Purchase and Property, Attention: Andrew Bennett and sent electronically to Andrew.J.Bennett@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.)
- Total Cost of all Services/Products Purchased. Ability to sort by agency/eligible participant.
- Preferred in Excel format.

**9. 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 agreed to 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.

**10. 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.

**11. 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 use of a private carrier to make delivery **shall not** relieve the Contractor from the responsibility of meeting the delivery requirements.

The Contractor shall be required to accomplish delivery of any item ordered as per the following:

Agencies may pick up at the Contractor's location during Contractor's normal business hours.

**Contractor's standard stock items – At the store location**

Orders placed for in-stock inventory before 10:00 AM, shall be delivered the same day. Orders placed after 10:00 AM, shall be delivered the next business day morning.

If the ordered parts are not in stock as advertised, the ordering agency must be notified within 2 hours of the order being placed.

**Contractor's standard stock items – Distribution Center – 1-2 business days**

**Contractor's standard stock items – Factory – 5 business days**

**Delivery time – Special Orders**

Special order items will have delivery and lead times expressed to contract users at time of order or inquiry. It is the Contractor's responsibility to maintain communication with the "special order product" manufacturer to ensure the special-order item meets the stated delivery time. If the Contractor is notified by the manufacturer of an extended lead time over the original time quoted, the Contractor shall contact the ordering contract user and advise of extended delays. At that point, the contract user may approve the additional lead time or cancel the special order without penalty or fees. All quoted or stated delivery items will be from the receipt fax or e-mail orders.

**OUT OF STOCK/BACKORDERS:**

If a standard inventory item is out of stock, the Contractor is required to make every effort to supply the ordered item within the original delivery time frame. This effort shall include checking other distribution branches or the factory for the requested product to expedite availability and delivery. Every effort shall be made to have the item delivered or made available for pickup within 1 day from the original order date.

The contract user may purchase items required from another source (for items offered under the Contract) if the Contractor is stocked out at that branch or location at the time of order or visit.

All contract users are allowed to cancel any standard inventory item on back-order status without penalties or fees by giving notice to the Contractor.

It is the responsibility of the Contractor to contact the ordering contract user as soon as possible when the back ordered or "special order product" has been received and is available for pick up or delivery.

**12. OBLIGATIONS AND LIABILITY OF THE CONTRACTOR**

The Contractor shall provide all products strictly pursuant to and in conformity with this Contract which resulted from RFB 2737-23.

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\(a0fzcv55ghaegs45jpya5i45\)\)/welcome.aspx](https://das.nh.gov/purchasing/vendorregistration/(S(a0fzcv55ghaegs45jpya5i45))/welcome.aspx)

**13. 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.

**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 \$1,342,661.25; 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.

While the discount percentages submitted by Contractor shall remain firm, prices on individual products will increase and decrease throughout the term of the awarded Contract. Contractor will pass on both cost increases and cost decreases on individual products to the State of New Hampshire as they come into effect. Proof of price increases and decreases must be provided with updated Published Price List confirming such price changes. Unit prices for goods are updated daily, as needed, and are available in the online customer catalog at [www.firstcallonline.com](http://www.firstcallonline.com) as identified in Exhibit E, page 44.

Discount percentages identified in this Contract shall remain firm for the entire term of the Contract and prices 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 deliver 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 shall be allowed over and above the price specified in this Contract. 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 [Andrew.J.Bennett@DAS.NH.Gov](mailto:Andrew.J.Bennett@DAS.NH.Gov).

**1. PRICING STRUCTURE:**

Dodge Charger	O'REILLY AUTO			
AIR CONDITIONING	% Discount	List Price	Contract Price	Private or MFG
Murray Compressor - New	41%	\$ 1,737.27	\$ 1,011.16	
Murray Filter Drier	41%	\$ 532.19	\$ 313.71	
Murray Condenser	41%	\$ 532.19	\$ 313.71	
ALTERNATORS / STARTERS	% Discount	List Price	Contract Price	Private or MFG
Uthman - Reman	41%	\$ 726.80	\$ 429.32	P
Uthman Select - Reman	41%	\$ 211.85	\$ 127.11	
BEARINGS	% Discount	List Price	Contract Price	Private or MFG
MasterPro Front Wheel	41%	\$ 169.47	\$ 101.09	
MasterPro Rear Wheel	41%	\$ 208.12	\$ 122.81	
BELTS / HOSES	% Discount	List Price	Contract Price	Private or MFG
Danco Serpentine Belt	41%	\$ 57.61	\$ 34.03	
BRAKES-ROTORS/DRUMS	% Discount	List Price	Contract Price	Private or MFG
BrakeBest Front & Rear Rotor	41%	\$ 157.61	\$ 94.99	
BrakeBest Rear Calipers	41%	\$ 140.64	\$ 84.99	
BrakeBest Front Calipers	41%	\$ 144.05	\$ 86.89	
BRAKESHOOES AND PADS	% Discount	List Price	Contract Price	Private or MFG
BrakeBest Front Pads	41%	\$ 69.47	\$ 41.72	
Brake Best Rear Pads	41%	\$ 62.69	\$ 38.04	
CAPS AND T-STATS	% Discount	List Price	Contract Price	Private or MFG
Murray T-Stat	41%	\$ 33.88	\$ 20.01	
ENGINE AND DRIVE TRAIN	% Discount	List Price	Contract Price	Private or MFG
Cloves Timing Belt Kit 945115	41%	\$ 305.76	\$ 181.58	
FUEL AND EMISSIONS	% Discount	List Price	Contract Price	Private or MFG
Delphi Fuel Pump	41%	\$ 435.58	\$ 257.72	
GASKETS AND SEALS	% Discount	List Price	Contract Price	Private or MFG
Fel-Pro Head Gasket R&L	41%	\$ 428.80	\$ 253.97	
HEATING / COOLING	% Discount	List Price	Contract Price	Private or MFG
Murray Radiator	41%	\$ 452.44	\$ 266.94	
Murray Heater Core	41%	\$ 192.98	\$ 115.80	
IGNITION / ELECTRICAL	% Discount	List Price	Contract Price	Private or MFG
BWD Cam Position Sensor	41%	\$ 59.31	\$ 35.12	
SPARK PLUGS	% Discount	List Price	Contract Price	Private or MFG
Champion	41%	\$ 17.44	\$ 10.43	
SHOCKS / STRUTS	% Discount	List Price	Contract Price	Private or MFG
Monroe Struts	41%	\$ 242.36	\$ 145.54	
Monroe Shocks	41%	\$ 133.88	\$ 80.73	
SUSPENSION	% Discount	List Price	Contract Price	Private or MFG
MasterPro Front Sway	41%	\$ 601.68	\$ 357.78	
DRIVE LINE	% Discount	List Price	Contract Price	Private or MFG
Precision CV Axle	41%	\$ 294.81	\$ 175.21	
WATER PUMPS	% Discount	List Price	Contract Price	Private or MFG
Murray Water Pump	41%	\$ 135.58	\$ 80.73	
AUTO & TRUCK ACCESS & SUPPLIES NOT LISTED	41%			
NATIONAL PRIVATE LABEL	41%			

Ford F-250	O'REILLY AUTO			
AIR CONDITIONING	% Discount	List Price	Contract Price	Private or MFG
Murray Compressor New	41%	\$ 632.37	\$ 373.07	
Motorcraft Filter Drier	41%	\$ 91.51	\$ 54.91	
Murray Condenser	41%	\$ 523.71	\$ 310.40	
ALTERNATORS / STARTERS	% Discount	List Price	Contract Price	Private or MFG
Motorcraft Alternator	41%	\$ 718.63	\$ 429.92	
Motorcraft Starter	41%	\$ 522.02	\$ 308.14	
BEARINGS	% Discount	List Price	Contract Price	Private or MFG
MasterPro Front Wheel	41%	\$ 526.25	\$ 310.40	P
BELTS / HOSES	% Discount	List Price	Contract Price	Private or MFG
Coteco Serpentine Belt	41%	\$ 67.78	\$ 40.99	P
BRAKES-ROTORS/DRUMS	% Discount	List Price	Contract Price	Private or MFG
BrakeBest Front Caliper	41%	\$ 206.76	\$ 124.08	
BrakeBest Rotor Front	41%	\$ 228.12	\$ 137.50	
BRAKESHOOES AND PADS	% Discount	List Price	Contract Price	Private or MFG
Wagner Front Pads	41%	\$ 123.21	\$ 74.14	
Wagner Rear Pads	41%	\$ 110.15	\$ 66.27	
Perfect Stop - Rear pads				
CAPS AND T-STATS	% Discount	List Price	Contract Price	Private or MFG
Murray Dual 22	41%	\$ 62.69	\$ 38.04	
ENGINE AND DRIVE TRAIN	% Discount	List Price	Contract Price	Private or MFG
Cloves Timing Belt Kit	41%	\$ 161.00	\$ 96.61	
FUEL AND EMISSIONS	% Discount	List Price	Contract Price	Private or MFG
Precision Fuel Pump	41%	\$ 811.85	\$ 489.78	
GASKETS AND SEALS	% Discount	List Price	Contract Price	Private or MFG
Fel-Pro Head Gasket	41%	\$ 752.53	\$ 445.38	
HEATING / COOLING	% Discount	List Price	Contract Price	Private or MFG
Murray Radiator	41%	\$ 901.68	\$ 540.99	
Murray Heater Core	41%	\$ 821.12	\$ 492.28	
IGNITION / ELECTRICAL	% Discount	List Price	Contract Price	Private or MFG
Sid Cam Position Sensor	41%	\$ 116.93	\$ 70.48	
SPARK PLUGS	% Discount	List Price	Contract Price	Private or MFG
Autolite XPS302		\$ 80.56	\$ 48.35	
SHOCKS / STRUTS	% Discount	List Price	Contract Price	Private or MFG
Monroe Front Shocks	41%	\$ 140.66	\$ 84.66	
Monroe Rear Shocks	41%	\$ 140.66	\$ 84.66	
SUSPENSION	% Discount	List Price	Contract Price	Private or MFG
MasterPro Sway Bar	41%	\$ 107.37	\$ 64.42	
WATER PUMPS	% Discount	List Price	Contract Price	Private or MFG
TRUFLO Water Pump	41%	\$ 203.07	\$ 121.79	
AUTO & TRUCK ACCESS & SUPPLIES NOT LISTED	41%			
NATIONAL PRIVATE LABEL	41%			

**CONTRACTOR'S BALANCE OF PRODUCT LINE ITEMS:**

The items herein include the items most commonly purchased by the State. During the term of this Contract, the State may purchase other items in relation to Vehicle Replacement Parts & Supplies 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 the 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 a purchase order, payment shall 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's business office, whichever is later.

Contractor shall be paid by Procurement Card when an invoice is received.

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 2737-23 is incorporated herein.

**EXHIBIT E**

Contractor's Bid Response is incorporated herein.

# 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 O'REILLY AUTO ENTERPRISES, LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on January 21, 2014. 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: 703189

Certificate Number: 0006126910



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 23rd day of February A.D. 2023.

A handwritten signature in black ink, appearing to read "David M. Scanlan", is written over a faint circular outline.

David M. Scanlan  
Secretary of State



# State of New Hampshire Department of State

Filed  
Date Filed : 04/12/2023 11:49:00 AM  
Effective Date : 04/12/2023 11:49:00 AM  
Filing # : 6203784 Pages : 2  
Business ID : 928970  
David M. Scanlan  
Secretary of State  
State of New Hampshire

Form TN-1  
RSA 349

## APPLICATION FOR REGISTRATION OF TRADE NAME

### 1: TRADE NAME

**O'REILLY AUTO PARTS**

2: PRINCIPAL OFFICE INFORMATION 233 S PATTERSON, Springfield, MO, 65802, USA

MAILING ADDRESS PO BOX 1156, ATTN: TAX DEPT, Springfield, MO, 65801, USA

### 3: PRINCIPAL PURPOSE

NAICS CODE	NAICS SUBCODE
44-Retail Trade	310-Automotive Parts and Accessories Stores

4: DATE OF TRADE NAME ORGANIZED 04/12/2023

### 5-A : ENTITY APPLICANT

O'Reilly Auto Enterprises, LLC (703189)

JEREMY FLETCHER

SIGNATURE

233 S. Patterson Ave., Springfield, MO, 65802, USA

Chief Financial Officer

TITLE

### 5-B : INDIVIDUAL APPLICANT

\_\_\_\_\_

SIGNATURE

\_\_\_\_\_

TITLE

### 5-C : TRADE NAME

\_\_\_\_\_

SIGNATURE

\_\_\_\_\_

TITLE

### 5-D : NON REGISTERED ASSOCIATION

\_\_\_\_\_

SIGNATURE

\_\_\_\_\_

TITLE

6: BUSINESS PHONE

417-862-2674

7: BUSINESS EMAIL

agarrett8@oreillyauto.com

8: NOTIFICATION EMAIL

agarrett8@oreillyauto.com

**CERTIFY:**

By checking this box and continuing, each signatory certifies that the information provided herein is true, accurate, and complete to the best of his/her knowledge and belief, and that he/she has authorized the affixing of his/her electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act (e-Sign) and N.H. RSA § 294-E. Further, each signatory understands that his/her electronic signature has full legal effect and enforceability and he/she intends this form, as signed, to be filed with the office of the New Hampshire Secretary of State.

**EFFECTIVE DATE:**

This statement shall be effective from: 04/12/2023

**DISCLAIMER:** All documents filed with the Corporation Division become public records and will be available for public inspection in either tangible or electronic form.

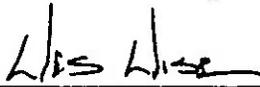
*(Limited partnership, Limited liability professional partnership or LLC)*

**Certificate of Authority # 3**

**Limited Partnership or LLC Certification of Authority**

I, Wes Wise, hereby certify that I am a Member or Manager of O'Reilly Auto Enterprises, LLC, dba O'Reilly Auto Parts a limited liability partnership under RSA 304-B, a limited liability professional partnership under RSA 304-D, or a limited liability company under RSA 304-C. I certify that I am authorized to bind the partnership or LLC. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above, and the person's listed on the attached Executive Committee document, currently occupies the position(s) indicated and that they have full authority to bind the partnership or LLC and that this authorization shall remain valid for thirty (30) days from the date of this Corporate Resolution.

DATED: 5-30-23

ATTEST:   
Wes Wise, VP Professional Sales

