

160

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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

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Concord, New Hampshire 03301
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Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

May 15, 2024

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 Upper Valley Produce, LLC (VC#206329), White River Junction, VT in an amount up to and not to exceed \$1,210,189.75 for Produce Food Items, with the option to renew for up to an additional two-year period, effective upon Governor and Executive Council approval for the period July 1, 2024, through June 30, 2027.

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

The Department of Administrative Services, through the Bureau of Purchase and Property, issued request for bid (RFB) 2866-24 on January 2, 2024, with responses due on January 31, 2024. This bid reached 161 vendors through the NIGP registry with an additional 32 directly sourced. As a single response was received it is standard practice for the DAS to conduct an audit of all regional suppliers. The results of the audit identified that other vendors did not provide a bid response because they could not secure price protection from their suppliers to allow for the fixed pricing requirements by quarter.

The requested price limitation of \$1,210,189.75 includes an allowance of 10% to account for balance of product line options and is projected to cover the full term of the contract, based off the pricing provided in Upper Valley Produce, LLC's bid response. The requested contract represents a 4% overall increase in pricing when compared to common items under the expiring contract however it is important to note that this requested contract includes 117 additional items not previously available under contract. The line items represented by this contract are necessary to provide complete meals to residents of DOC, NHVH, Glencliff and other institutions. Many items are available under the other two statewide food contracts (8002889 and 8003141) for the purpose of price comparison at the time of order placement.

Upon approval this contract includes additional control measures whereby the contractor is responsible for quality and performance guarantees including but not limited to on time delivery, product accuracy/quality, and invoice and reporting accuracy. Although variability in the market does stipulate that the contractor may request price increases on a quarterly basis, substantiation from the wholesale supplier must be provided and price decreases are applied to the State's accounts immediately as they become available.

Contract financials	
Estimated annual spend	\$366,724.17
Term spend	\$1,100,172.50
Add allowance (10%)	\$110,017.25
Recommended price limitation	\$1,210,189.75

Based on the foregoing, I am respectfully recommending approval of the contract with Upper Valley Produce, LLC.

Respectfully submitted,



Charles M. Arlinghaus
Commissioner



Division of Procurement Support Services
Bureau of Purchase Property

Gary S. Lunetta
Director
(603) 271-2201

RFB Bid Summary

Bid Description	Produce Food Items	Agency	Statewide
RFB#	2866-24	Requisition#	N/A
Agent Name	Jonah Rosa	Bid Closing	1/31/2024 @ 10:00 AM

Indicates Award:

Estimated annual spend	\$366,724.17	Expiring contract	\$350,000.00
Estimated term spend	\$1,100,172.50	Expiring contract term	\$1,750,000.00
Add allowance for balance of product line	\$110,017.25	Cost increase	\$14,000.00
Recommended price limitation	\$1,210,189.75	Delta: new vs. expiring	4%

Recommendation Summary	
Statewide Contract or Amendment	Statewide contract
Term of Contract	3 years with option to extend for two years
Price Limitation	\$1,210,189.75
Number of Solicitations Received	1
Number of Sourced bidders	32
Number of NIGP Vendors Sourced	161
Number of non-responsive bidders	192
P-37 Checklist Complete	Yes
D&B Report Attached	No
Method of Payment (P-card/ACH)	P-card and ACH
FOB Delivered	Yes
Expiring Contract Price Limitation	\$1,750,000.00
Total Cost Increase (\$/%)	\$14,000.00 4%
Special Notes: There appears to be a 4% overall increase in pricing. However, this is due to adding 117 items to this new contract. The line items represented by this contract are necessary to provide complete meals to residents of DOC, NHVH, Glencliff and other institutions. Many items are available under two statewide food contracts for the purpose of price comparison.	

Estimated Annual Quantity	UOM	Product Description	Upper Valley Produce LLC		Expiring Contract		
			Unit Cost	Extended Cost	Unit Cost	Extended Cost	Difference
1	CASE	PARSNIP 20# 5#	\$40.08	\$28.06	\$40.08	\$28.06	0%
1	CASE	PEAR D'ANJOU 120-135CT	\$48.50	\$48.50	\$60.74	\$60.74	-20%
2	CASE	RASPBERRY 12/HALF PT 2PC	\$30.48	\$66.14	\$30.48	\$66.14	0%
4	CASE	POTATO YUKON GOLD 10/5# 1PC	\$32.00	\$124.80	\$31.20	\$121.68	3%
5	CASE	BLACKBERRY 12/HALF PT 2PC	\$31.08	\$155.40	\$31.08	\$155.40	0%
5	CASE	BRUSSELS SPROUTS 25# 2#	\$43.16	\$194.22	\$43.16	\$194.22	0%
8	CASE	TOMATO ROMA 25# 5#	\$27.19	\$203.93	\$27.19	\$203.93	0%
16	CASE	BROCCOLI SLAW 5# (SHREDDED)	no bid	no bid	\$21.75	\$348.00	
26	CASE	CUCUMBER EURO SEEDLESS 12CT 2pc	\$13.98	\$363.48	\$13.98	\$363.48	0%
10	CASE	ONION SPANISH SUPER COLOSSAL 50#	\$41.30	\$413.00	\$41.30	\$413.00	0%
13	CASE	APPLE MACINTOSH 140CT NATV	no bid	no bid	\$36.25	\$471.25	
24	CASE	SQUASH BUTTERNUT PEELED 2/10#	\$39.00	\$936.00	\$28.52	\$684.48	37%
14	CASE	ASPARAGUS STANDARD 11# 1pc	\$61.00	\$869.86	\$48.02	\$684.77	27%
26	CASE	BLUEBERRY 12/PT 2PC	\$40.13	\$1,050.60	\$40.13	\$1,050.60	0%
113	CASE	SPINACH BABY 4#	\$16.52	\$1,866.76	\$16.52	\$1,866.76	0%
71	CASE	MELON HONEYDEW 6CT 2PC	\$28.21	\$1,992.75	\$28.21	\$1,992.75	0%
55	CASE	LETTUCE ROMAINE HEARTS 12/3PK 2PC	\$36.33	\$1,998.88	\$36.33	\$1,998.88	0%
72	CASE	STRAWBERRY NON-DRIS 8/1# 2PC	\$29.00	\$2,088.00	\$29.69	\$2,137.68	-2%
80	CASE	MELON CANTALOUPE 12CT 2pc	\$27.00	\$2,164.86	\$28.00	\$2,245.04	-4%
59	CASE	CARROT BABY PLD CELLO 30/1# 2pc	\$39.75	\$2,348.43	\$44.42	\$2,624.33	-11%
109	CASE	LETTUCE ROMAINE CHOPPED 4/2.5# 1PC	\$25.85	\$2,811.19	\$25.85	\$2,811.19	0%
105	CASE	BROCCOLI FLORETS 4/3#	\$29.39	\$3,093.30	\$29.39	\$3,093.30	0%
64	CASE	POTATO IDAHO 90CT 6ct	\$48.41	\$3,100.66	\$48.41	\$3,100.66	0%



Division of Procurement Support Services
Bureau of Purchase Property

Gary S. Lunetta
Director
(603) 271-2201

RFB Bid Summary

99	CASE	BROCCOLI CROWNS 20#	\$32.49	\$3,216.51	\$32.49	\$3,216.51	0%
203	CASE	TOMATO GRAPE 12/1PT 2PC	\$21.13	\$4,288.76	\$21.13	\$4,288.76	0%
201	CASE	BANANA 40# (5#SPL)	\$27.75	\$5,569.15	\$24.00	\$4,816.56	16%
242	CASE	TOMATO 5X6 25#/ 5#	\$28.00	\$6,781.60	\$28.00	\$6,781.60	0%
127	CASE	PEAR BARTLETT 80CT 6pc	\$63.50	\$8,034.66	\$58.77	\$7,436.17	8%
325	CASE	TOMATO 6X6 25#/ 5#	\$32.00	\$10,400.00	\$32.00	\$10,400.00	0%
429	CASE	LETTUCE ICEBERG SHREDDED 4/5# 1 PC	\$26.68	\$11,432.38	\$26.68	\$11,432.38	0%
612	CASE	PEPPER GREEN CHOICE 25#/ 3#	\$23.05	\$14,109.14	\$23.05	\$14,109.14	0%
506	CASE	CUCUMBER SELECT 35# 6pc	\$29.71	\$15,022.56	\$29.71	\$15,022.56	0%
480	CASE	LETTUCE ICEBERG CELLO 24CT 2pc	\$40.69	\$19,532.83	\$40.69	\$19,532.83	0%
1301	CASE	BANANA 40# PETITE	\$29.25	\$38,054.25	\$25.25	\$32,850.25	16%
1	CASE	APPLE BRAEBURN 70/80CT	no bid	no bid	N/A	N/A	
1	CASE	APPLE EVERCRISP 80CT NATV	no bid	no bid	N/A	N/A	
1	CASE	APPLE FUJI 125CT	no bid	no bid	N/A	N/A	
4	CASE	APPLE FUJI 80CT	\$51.00	\$204.00	N/A	N/A	
12	CASE	APPLE GALA 120CT	no bid	no bid	N/A	N/A	
2	CASE	APPLE GALA 80CT 6PC	\$53.50	\$107.00	N/A	N/A	
83	CASE	APPLE GRANNY SMITH 125CT	\$43.00	\$3,569.00	N/A	N/A	
15	CASE	APPLE GRANNY SMITH 80/88CT 6PC	\$51.00	\$788.97	N/A	N/A	
7	CASE	APPLE HONEYCRISP 80/88CT	\$61.75	\$432.25	N/A	N/A	
20	CASE	APPLE JAZZ 80CT	no bid	no bid	N/A	N/A	
50	CASE	APPLE MACINTOSH 100CT 6pc	\$41.00	\$2,041.39	N/A	N/A	
12	CASE	APPLE MACINTOSH 125CT	\$35.75	\$429.00	N/A	N/A	
8	CASE	APPLE MACINTOSH 125CT NATV	no bid	no bid	N/A	N/A	
2	CASE	APPLE MACINTOSH 80-88CT 6PC NATV	no bid	no bid	N/A	N/A	
11	CASE	APPLE PAULA RED 125CT	no bid	no bid	N/A	N/A	
1	CASE	APPLE PINK LADY 80CT	\$54.25	\$54.25	N/A	N/A	
140	CASE	APPLE RED DELICIOUS 125CT	no bid	no bid	N/A	N/A	
34	CASE	APPLE RED DELICIOUS 80CT 6pc	\$59.25	\$2,028.13	N/A	N/A	
1	CASE	ARUGULA BABY 3#-4#	\$24.00	\$24.00	N/A	N/A	
3	CASE	ASPARAGUS STANDARD 28# 1PC	no bid	no bid	N/A	N/A	
4	CASE	AVOCADO HASS 48CT 2pc	\$51.00	\$210.63	N/A	N/A	
12	CASE	BASIL 1#/1.25#	no bid	no bid	N/A	N/A	
1	CASE	BASIL 6/2.5OZ	\$19.75	\$19.75	N/A	N/A	
2	CASE	BASIL CELLO 3/1OZ	\$7.00	\$14.00	N/A	N/A	
9	CASE	BASIL NATV 1#/1.25#	\$9.75	\$82.88	N/A	N/A	
1	CASE	BEANS GREEN 25#/ 5#	\$78.50	\$78.50	N/A	N/A	
11	CASE	BEET RED 25#/ 5#	\$21.25	\$233.75	N/A	N/A	
2	CASE	BLUEBERRY 12/1PT NATV 2PC	no bid	no bid	N/A	N/A	
115	CASE	BOK CHOY 30#/ 5#	\$40.50	\$4,657.50	N/A	N/A	
4	CASE	BROCCOLI 14CT 2pc	\$38.50	\$143.22	N/A	N/A	
501	CASE	CABBAGE GREEN 50#/ 5#	\$37.00	\$18,518.50	N/A	N/A	
1	CASE	CABBAGE RED 50#/ 5#	\$43.00	\$27.52	N/A	N/A	
372	CASE	CARROT CUT LOOSE 50#/ 5#	\$34.50	\$12,834.00	N/A	N/A	
5	CASE	CARROT SHREDDED 4/5#	\$37.00	\$194.25	N/A	N/A	
1	CASE	CARROT STICKS 5#	\$17.50	\$17.50	N/A	N/A	
25	CASE	CAULIFLOWER CELLO 12CT 2pc	\$38.50	\$968.66	N/A	N/A	
355	CASE	CELERY SLEEVED 24CT 2pc	\$42.50	\$15,070.50	N/A	N/A	
6	CASE	CHIVES 1#/ 1.25#	\$19.75	\$108.63	N/A	N/A	
2	CASE	CHS COTTAGE CHEESE 5#/6CT CAB	\$71.00	\$167.56	N/A	N/A	
1	CASE	CHS CREAM CHEESE 10/3# (1PC)	\$116.75	\$58.38	N/A	N/A	
1	CASE	CHS FETA 8#	\$34.75	\$34.75	N/A	N/A	
4	CASE	CIDER 9/HGAL COLD HOLLOW	\$34.75	\$139.00	N/A	N/A	
3	CASE	CILANTRO 30CT 2PC	\$28.25	\$97.18	N/A	N/A	
126	CASE	COLESLAW MIX 4/5# 1pc	\$25.67	\$3,228.00	N/A	N/A	
423	CASE	CONV TOFU EXTRA FIRM 6/1#	\$19.50	\$8,248.50	N/A	N/A	
120	CASE	CORN BAGGED NATV 60CT 6PC	no bid	no bid	N/A	N/A	
42	CASE	CORN CRATE 45-48CT 6pc	\$66.75	\$2,770.13	N/A	N/A	
4	CASE	CROS ALMONDS SLICED 12/7OZ CV	\$47.00	\$188.00	N/A	N/A	



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RFB Bid Summary

68	CASE	CUCUMBER EUROPEAN TON NATV 12CT	no bid	no bid	N/A	N/A
49	CASE	CUCUMBER EUROPEAN TON NATV 12CT 2PC	no bid	no bid	N/A	N/A
43	CASE	CUCUMBER SELECT NATV 35# 6PC	no bid	no bid	N/A	N/A
16	CASE	CUCUMBER SUPER SELECT 35#	\$63.00	\$1,008.00	N/A	N/A
9	CASE	CUCUMBER SUPER SELECT NATV 35#	no bid	no bid	N/A	N/A
1	CASE	DILL 24BU 2pc	\$46.75	\$67.32	N/A	N/A
4	CASE	EGGPLANT 25# 5#	\$43.75	\$175.00	N/A	N/A
1	CASE	EGGPLANT 25#/5# NATV	no bid	no bid	N/A	N/A
1	CASE	EGGS LARGE WHITE LOOSE 15DZ NATIVE	\$46.75	\$46.75	N/A	N/A
1	CASE	GARLIC PEELED IMPORTED 4/1G/ 1pc	\$66.00	\$66.00	N/A	N/A
9	CASE	GRAPEFRUIT PINK 40CT 2pc	\$48.50	\$436.50	N/A	N/A
18	CASE	GRAPES GREEN 18# 2pc	\$57.25	\$1,030.50	N/A	N/A
110	CASE	GRAPES RED 18# 2pc	\$58.50	\$6,405.75	N/A	N/A
1	CASE	KALE 12CT 2pc	\$27.00	\$36.18	N/A	N/A
2	CASE	KALE BABY 2#	\$21.25	\$42.50	N/A	N/A
1	CASE	KALE CHOPPED 2/5#	\$46.75	\$46.75	N/A	N/A
16	CASE	KIWI 100CT 6pc	\$45.75	\$747.56	N/A	N/A
3	CASE	LEEKS 12CT 2pc	\$41.00	\$116.44	N/A	N/A
12	CASE	LEMON 95CT 6pc	\$48.50	\$571.33	N/A	N/A
3	CASE	LETTUCE LITTLE LEAF RED/GRN 6/8OZ	\$30.25	\$90.75	N/A	N/A
6	CASE	LETTUCE LITTLE LEAF RED/GRN 8/4OZ	\$24.25	\$145.50	N/A	N/A
8	CASE	LETTUCE LITTLE LEAF SPRING 8/4OZ	\$24.25	\$194.00	N/A	N/A
172	CASE	LETTUCE ROMAINE 24CT 2pc	\$36.33	\$6,248.76	N/A	N/A
1	CASE	LETTUCE ROMAINE FILLET 10#	\$38.50	\$38.50	N/A	N/A
21	CASE	LETTUCE SPRING MIX LITTLE LEAF 3#	\$22.50	\$472.50	N/A	N/A
2	CASE	LIME 36CT 6pc	\$24.00	\$44.40	N/A	N/A
2	CASE	MANGO 10CT 2pc	\$28.25	\$56.50	N/A	N/A
1	CASE	MELON CANTALOUPE 9CT 2pc	no bid	no bid	N/A	N/A
12	CASE	MESCLUN ARCADIAN 2-3#	no bid	no bid	N/A	N/A
90	CASE	MESCLUN ARCADIAN 3#	\$11.51	\$1,035.90	N/A	N/A
12	CASE	MILK 1/2&1/2 12/QT HOOD	\$35.00	\$420.00	N/A	N/A
26	CASE	MILK 400CT 1/2&1/2	\$20.50	\$533.00	N/A	N/A
1	CASE	MINT 12CT 2PC	\$27.00	\$22.95	N/A	N/A
1	CASE	MUSHROOM 1/4 SLCD 10#	\$30.50	\$30.50	N/A	N/A
66	CASE	MUSHROOM BUTTON WHITE 10#	\$34.00	\$2,244.00	N/A	N/A
7	CASE	MUSHROOM CELLO BABY BELLA 10/10OZ	\$27.25	\$190.75	N/A	N/A
85	CASE	MUSHROOM MEDIUM WHITE 10#	\$28.25	\$2,387.13	N/A	N/A
16	CASE	MUSHROOM PORTABELLO 5#	\$21.25	\$340.00	N/A	N/A
1	CASE	MUSHROOM SHITAKE 3#	\$32.00	\$32.00	N/A	N/A
7	CASE	OLIVES KALAMATA PITTED TUB 10#	\$49.50	\$346.50	N/A	N/A
147	CASE	ONION RED LARGE 25# 3#	\$29.75	\$4,376.23	N/A	N/A
547	CASE	ONION SPANISH 50# 5#	\$39.75	\$21,743.25	N/A	N/A
2	CASE	ORANGE CARA CARA 20#	\$34.50	\$69.00	N/A	N/A
4	CASE	ORANGE JUICE 9/HGAL HOOD	\$33.25	\$133.00	N/A	N/A
152	CASE	ORANGE NAVEL 113CT	\$44.75	\$6,802.00	N/A	N/A
28	CASE	ORANGE NAVEL 56CT 6pc	\$41.00	\$1,159.48	N/A	N/A
64	CASE	ORANGE NAVEL 88CT 6pc	\$42.50	\$2,728.93	N/A	N/A
52	CASE	ORANGE VALENCIA 113CT	no bid	no bid	N/A	N/A
6	CASE	ORANGE VALENCIA 88CT 6pc	no bid	no bid	N/A	N/A
32	CASE	ORG BANANA FAIR TRADE EQ EX 40#	\$40.50	\$1,296.00	N/A	N/A
8	CASE	ORG STRAWBERRIES 8/1#	\$63.00	\$504.00	N/A	N/A
1	CASE	PARSLEY CURLY 60BU 2pc	\$42.50	\$59.93	N/A	N/A
8	CASE	PEACH YELLOW VF 25# 6PC	no bid	no bid	N/A	N/A
2	CASE	PEAR D'ANJOU 80CT 6pc	\$58.50	\$117.00	N/A	N/A
1	CASE	PEPPER IMP RED TON 11# 2#	no bid	no bid	N/A	N/A
1	CASE	PEPPER IMP YELLOW TON 11# 2#	no bid	no bid	N/A	N/A
2	CASE	PEPPER IMPORTED ORANGE 11# 2#	\$43.75	\$83.13	N/A	N/A
5	CASE	PEPPER IMPORTED RED 11# 2#	\$43.75	\$196.88	N/A	N/A
4	CASE	PEPPER IMPORTED YELLOW 11# 2#	\$43.75	\$170.63	N/A	N/A



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RFB Bid Summary

2	CASE	PEPPER JALAPENO 10#/ 2#	\$25.50	\$38.25	N/A	N/A
80	CASE	PEPPER RED DOMESTIC 25#/ 3#	\$62.25	\$4,995.56	N/A	N/A
1	CASE	PICKLE GARLIC DILL CHIP RTL 12/32OZ	\$50.50	\$50.50	N/A	N/A
62	CASE	PINEAPPLE 7CT 2pc	\$28.25	\$1,759.98	N/A	N/A
1	CASE	PLANTAIN 40#	\$49.25	\$49.25	N/A	N/A
1	CASE	PLUM BLACK VOLUME 28# 6pc	no bid	no bid	N/A	N/A
7	CASE	PLUM RED VOLUME 28# 6pc	no bid	no bid	N/A	N/A
791	CASE	POTATO CHEF 50#/ 5#	\$25.50	\$20,170.50	N/A	N/A
1	CASE	POTATO FINGERLING 20#/ 5#	\$44.25	\$44.25	N/A	N/A
12	CASE	POTATO GREEN THUMB RED A BOX 50#	no bid	no bid	N/A	N/A
66	CASE	POTATO IDAHO 120CT	\$29.00	\$1,914.00	N/A	N/A
2	CASE	POTATO RED 10/5# 1PC	\$32.00	\$64.00	N/A	N/A
72	CASE	POTATO RED A BAG 50#	\$26.25	\$1,890.00	N/A	N/A
3	CASE	POTATO RED A BOX 50#	\$51.00	\$153.00	N/A	N/A
57	CASE	POTATO RED B BAG 50#/ 5#	\$28.25	\$1,596.13	N/A	N/A
8	CASE	POTATO RUSSET 10/5# 1PC	\$32.00	\$265.60	N/A	N/A
4	CASE	POTATO RUSSET 70CT	\$41.75	\$167.00	N/A	N/A
26	CASE	POTATO RUSSET 90CT 6CT	no bid	no bid	N/A	N/A
20	CASE	POTATO WHITE PEELED WHOLE 30#	\$36.50	\$730.00	N/A	N/A
22	CASE	POTATO YUKON CHEF 50#	no bid	no bid	N/A	N/A
3	CASE	POTATO YUKON GOLD A BAG 50#	no bid	no bid	N/A	N/A
5	CASE	RADISH 14/1# 2PC	\$43.00	\$229.62	N/A	N/A
1	CASE	RASPBERRIES CLAM TON 12/6OZ 2PC	no bid	no bid	N/A	N/A
1	CASE	ROSEMARY 1#/ .25#	\$12.50	\$6.25	N/A	N/A
458	CASE	SALAD MIX ICEBERG 4/5# 1PC	\$25.98	\$11,898.84	N/A	N/A
1	CASE	SCALLIONS 48/2PC	no bid	no bid	N/A	N/A
2	CASE	SCALLIONS ICELESS 48/2PC	\$46.00	\$100.74	N/A	N/A
1	CASE	SOUR CREAM 6/5# CAB	\$60.75	\$41.31	N/A	N/A
19	CASE	SPINACH CELLO 8/10OZ 2PC	\$25.50	\$490.88	N/A	N/A
31	CASE	SPINACH POPEYE 4/2.5# 1PC	\$28.25	\$875.75	N/A	N/A
3	CASE	SPROUT BEAN CELLO 10/12OZ 2PC	\$25.50	\$76.50	N/A	N/A
46	CASE	SPROUT BEAN VF 10#	\$18.25	\$839.50	N/A	N/A
1	CASE	SQUASH ACORN 40#/ 5#	\$41.00	\$41.00	N/A	N/A
2	CASE	SQUASH ACORN NATIVE 35#/ 5#	no bid	no bid	N/A	N/A
16	CASE	SQUASH BUTTERNUT DICED 5# (1")	no bid	no bid	N/A	N/A
68	CASE	SQUASH SUMMER 20#/ 5#	\$51.00	\$3,468.00	N/A	N/A
38	CASE	SQUASH SUMMER NATV 20#/5#	no bid	no bid	N/A	N/A
138	CASE	SQUASH ZUCCHINI 20#/ 5#	\$53.50	\$7,356.25	N/A	N/A
91	CASE	SQUASH ZUCCHINI NATV 20#/5#	no bid	no bid	N/A	N/A
63	CASE	STRAWBERRY DRISCOLL 8/1# 2PC	no bid	no bid	N/A	N/A
2	CASE	STRAWBERRY TON 6/QT	no bid	no bid	N/A	N/A
6	CASE	THYME 1#/ .25#	\$12.00	\$75.00	N/A	N/A
2	CASE	TOMATO HOTHOUSE BACKYARD 15#	no bid	no bid	N/A	N/A
347	CASE	TOMATO UNGRADED HTHSE 15#	no bid	no bid	N/A	N/A
386	CASE	TOMATO UTILITY SPEC 20-25# 2#	no bid	no bid	N/A	N/A
4	CASE	Tomatoes Wanted 2 splits 5x6	no bid	no bid	N/A	N/A
4	CASE	TORTILLAS WHITE FLR 12" 10/12EA M&R	\$100.50	\$402.00	N/A	N/A
7	CASE	TURNIP DICED 1" / 5# BAG	\$12.00	\$84.00	N/A	N/A
33	CASE	TURNIP DICED 5# (1")	no bid	no bid	N/A	N/A
11	CASE	TURNIP DICED 5# (2")	no bid	no bid	N/A	N/A
1	CASE	TURNIP PURPLE TOP 25# / 5#	\$24.75	\$12.38	N/A	N/A
7	CASE	WATERMELON BIN 60CT 1PC	no bid	no bid	N/A	N/A
18	CASE	WATERMELON CUT 1" 15#	no bid	no bid	N/A	N/A
11	CASE	WATERMELON PERSONAL 6-8CT 2pc	\$36.50	\$392.38	N/A	N/A
9	CASE	WATERMELON SEEDLESS SCT BOX 1PC	\$60.50	\$568.70	N/A	N/A
17	CASE	YAM 40#/ 5#	\$36.50	\$602.25	N/A	N/A
1	CASE	YOGURT GREEK STRAWBERRY 12/5.3OZ GMC	\$15.28	\$15.28	N/A	N/A
Sub Total				\$366,724.17		\$156,603.08

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 Upper Valley Produce, LLC		1.4 Contractor Address 211 Olcott Drive White River Junction, VT 05001	
1.5 Contractor Phone Number (802) 295-7400	1.6 Account Unit and Class Various	1.7 Completion Date 6/30/2027	1.8 Price Limitation \$1,210,189.75
1.9 Contracting Officer for State Agency Gary Lunetta, Director		1.10 State Agency Telephone Number (603) 271-3606	
1.11 Contractor Signature  Date: 3/4/24		1.12 Name and Title of Contractor Signatory Michele Paniagua, Pricing Coordinator	
1.13 State Agency Signature  Date: 4/15/24		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: <u>Duncan A. Edgar</u> On: <u>April 18, 2024</u>			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials MP
 Date 3/4/24

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

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

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

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

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

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

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

There are no special provisions of this contract.

Contractor Initials MP

Date 3/4/24

EXHIBIT B - SCOPE OF SERVICES

1. INTRODUCTION:

1.1. Upper Valley Produce, LLC (hereinafter referred to as the "Contractor") hereby agrees to provide the State of New Hampshire (hereinafter referred to as the "State"), Department of Administrative Services, with Produce Food Items in accordance with the bid submission in response to State Request for Bid 2866-24 and as described herein.

2. CONTRACT DOCUMENTS:

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

- State of New Hampshire Terms and Conditions, General Provisions Form P-37
- EXHIBIT A Special Provisions
- EXHIBIT B Scope of Services
- EXHIBIT C Method of Payment
- EXHIBIT D RFB 2866-24
- EXHIBIT E Contractor's Bid Response
- APPENDIX A Pricing List

2.2. 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), Form Number P-37 as modified by EXHIBIT A "Special Provisions, (2) EXHIBIT B "Scope of Services," (3) EXHIBIT C "Method of Payment," (4) EXHIBIT D "RFB 2866-24," (5) EXHIBIT E "Contractor's Bid Response" and (6) APPENDIX A "Pricing List."

3. TERM OF CONTRACT:

3.1. The term of the contract shall commence on July 1, 2024, or upon approval of the Governor and Executive Council, whichever is later, through June 30, 2027, a period of approximately three (3) years.

3.2. The contract may be extended for up to an additional two (2) 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 Governor and Executive Council.

3.3. The maximum term of the Contract (including all extensions) cannot exceed five (5) years.

4. SPECIFICATIONS:

4.1. Complete specifications required are detailed in the SCOPE OF WORK.

4.2. All products provided by the contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting these standards will be deemed unacceptable and return to the contractor for credit at no charge to the State. All products are First Quality / Grade A unless otherwise specified. The following are the minimum specifications. Higher but not lower grades may be provided.

4.2.1. Fresh Fruit and Vegetables – USDA Grade A

4.2.2. Perishable foods shall not be delivered with less than a seven-day window of usage unless prior approval has been provided in writing by the ordering State Agency. Fresh produce must be free from spoilage and infestation.

4.2.3. Packaging and Labeling: All products shall be packed, labeled, and conform in every respect to the provisions of the Federal, Food, Drug and Cosmetic Act, and the regulations promulgated thereunder. Shipping Containers (case markings) shall be marked with the name of the product, brand, quantity, and size of pack as stated on Order, and the name of the shipper and Contractor.

4.3. The State of New Hampshire shall be the sole determining factor of what meets or exceeds the required specifications.

5. SCOPE OF WORK:

5.1. Contractor shall supply all labor, tools, transportation, materials, equipment and permits as necessary and required to perform services as described herein.

5.2. Make deliveries in accordance with the delivery days and timeframes set forth herein, except on holidays or at other times when the State is closed, including, but not limited to, inclement weather. All references to the time of day are Eastern Time (ET).

5.3. Delivery shall be made as ordered and in accordance with the terms specified herein. Unless otherwise specified by the State in writing, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of product from the carrier and placement on the State loading dock or receiving platform. The State

receiving personnel are not required to assist in this process. Reasonable compliance with delivery terms shall be final and binding and the burden of proof of proper receipt of the order shall rest with the Contractor.

- 5.4. Label, package and palletize all orders in accordance with industry standard to ensure safe handling and proper and timely delivery. If a shipment is not on pallets or properly palletized at the time of delivery, the Contractor shall be responsible to palletize all products at the delivery Site. Contractor shall pick up all empty pallets on the next scheduled delivery day.
- 5.5. Transport Goods in a climate-controlled transportation container regulated to keep the product in good condition, and in accordance with the current USDA, FDA, State and local food code guidelines and food handling practices during all stages of processing, distribution, and storage. Utilize delivery vehicles to accommodate the delivery of dry, refrigerated, or frozen foods.
- 5.6. Ordering System: Ordering system must be web-based and accessible to the State at all times. Ordering and inventory system must be capable of electronic order approval process and must have an email-based notification function. The ordering system must contain a field where the State can enter their 7-digit Purchase Order number. Contractor shall provide training, on-site or virtual, as requested by the State, on how to use the system at no additional cost. Preferred ordering system capabilities and functionality includes, but is not limited to:
 - 5.6.1. Web-based, Inventory control capabilities
 - 5.6.2. Ability to interface with different point of sales systems
 - 5.6.3. Ability to use on multiple devices to include but not limited to tablets, iPhones
 - 5.6.4. Ability to include reference numbers
 - 5.6.5. Ability to provide a variety of reports including dashboard reporting
 - 5.6.6. Ability to edit, cancel orders, print orders, order tracking functionality, ability to split orders, and online help features.
 - 5.6.7. Nutrition information and analysis for products must be included
- 5.7. All non-perishable food products delivered must meet or exceed USDA specifications and industry standards and have a freshness parameter to permit the State to have a minimum of forty-five (45) days from delivery to consumption. Perishable products must have a minimum shelf-life of seven (7) days after receipt of delivery. Products delivered outside of these parameters will be returned at the time of delivery, at no cost to the State. The Contractor shall issue a credit including the cost of returning such products on its next invoice.
- 5.8. Product information must be clearly identified on packaging.
- 5.9. All Goods containing peanuts, peanut oil or any nut products, or any major food allergens must be clearly labeled and identified.
- 5.10. All Goods delivered must contain the "expiration date" or "best if used by date".
- 5.11. All orders shall be inspected and accepted by the State authorized representative by signing and dating the Contractor's delivery ticket. Delivery ticket must include date of delivery, location of delivery, itemized by product description, product number, and quantity delivered at a minimum.
- 5.12. Quality Assurance Program: Throughout the term of this contract, the Contractor shall continuously monitor the quality of the products and services rendered. The Contractor shall provide a self-inspection system that monitors daily operations and identifies and corrects any deficiencies that may occur in the quality of the Products and services furnished under this contract. The plan must include service and reporting commitments, together with specific suggestions regarding communication, planning and performance review.
- 5.13. Quality Control Program and Food Safety Plan: The Contractor shall have the following quality control and food safety programs listed below and shall provide all documentation that substantiates their claim for compliance to the State. All documentation must be made readily available.
 - 5.13.1. The Contractor's quality control plan shall contain information on "critical" and "non-critical" practices and scenarios which must comply with the USDA, State and local regulations related to dairy products. Additional information is available on the following website address, as it may be modified from time to time:
<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/default.htm>.
 - 5.13.2. The Contractor's written quality control plan must ensure that all products are handled in a manner that complies with the USDA, FDA, Hazard Analysis Critical Control Points (HACCP), regulatory requirements as well as all local, State

and Federal regulations concerning food safety. The following website address, as modified from time to time, provides information regarding HACCP: <http://www.fda.gov/Food/GuidanceRegulation/HACCP/>.

- 5.14. **Recalls:** Contractor shall have the ability to track all products ordered and delivered. The Contractor shall have a product recall program that provides for notification within twenty-four (24) hours of the recall to the State which has received the recalled products. The Contractor shall pick up and replace all products that are subject to the recall at no additional cost to the State. Recalled products that are returned shall be credited on the next invoice.
- 5.15. **Sample products for evaluation:** All products offered under the bid or resulting contract may be selected by the State at any time, prior to or throughout the term of the contract, to provide for examination and testing. Samples shall be clearly labeled as to the contents and supplier. Samples submitted shall be the same product to be delivered under this contract. All samples must be provided at no charge to the State.
- 5.16. **Sanitation:** Contractor shall participate in a sanitation program and must provide a copy of its most recent health inspection certificate upon request by the State. Federal, State, and local health regulatory agencies may routinely inspect Contractor facilities.
- 5.17. **Standards for Storage:** All Contractor facilities will be subject to inspection by local, State and Federal agencies. Contractor shall provide facilities for the safe and sanitary storage and handling, processing, warehousing, storage, and distribution of Goods which:
 - 5.17.1. Follow all local, State and Federal regulations concerning food.
 - 5.17.2. Maintain throughout the term of this contract a Contractor-operated warehouse(s) that can provide for the delivery and storage of all products.
 - 5.17.3. Are sanitary and free from rodent, bird, insect, and other animal infestations.
 - 5.17.4. Safeguard against theft, spillage, and other loss.
 - 5.17.5. Maintain proper storage temperatures for all food items in accordance with HACCP.
 - 5.17.6. Store food off the floor in a manner to allow for adequate ventilation.
 - 5.17.7. Take other protective measures as may be necessary.
- 5.18. Deliveries missed due to inclement weather, breakdowns or other unforeseen condition must be rescheduled to the next business day.
- 5.19. Contractor shall notify the State of any holiday changes or lengthy closures in writing at least 21 calendar days prior to the holiday or closure.
- 5.20. Permanent modifications to the delivery schedule shall be approved by the State in writing before changes are implemented.
- 5.21. The Contractor shall be responsible for palletizing all products at the delivery site if a shipment is not on pallets or properly palletized at the time of delivery (i.e., if a pallet is tipped over during shipment).
- 5.22. The Contractor shall pick up all empty pallets on the next scheduled delivery day.
- 5.23. Unless otherwise specified herein, all services/deliveries performed under this Contract(s) shall be performed between the hours of 8:00 A.M. and 4:00 P.M. for State business days, unless other arrangements are made in advance with the State. Any deviation in work hours shall be pre-approved by the Contracting Officer. The State requires ten-day advance knowledge of said work schedules to provide security and access to respective work areas. No premium charges shall be paid for any off-hour work. All references to the time of day are Eastern Standard Time (EST).
- 5.24. If sub-contractors are to be utilized, please include information regarding the proposed sub-contractors including the name of the company, their address, contact person and three references for clients they are currently servicing. Approval by the State must be received prior to a sub-contractor starting any work.
- 5.25. The Contractor shall not commence work until a conference is held with each agency, at which representatives of the Contractor and the State are present. The conference shall be arranged by the requesting agency (State).
- 5.26. The State shall require correction of defective work or damages to any part of a building or its appurtenances when caused by the Contractor's employees, equipment, or supplies. The Contractor shall replace in satisfactory condition all defective work and damages rendered thereby or any other damages incurred. Upon failure of the Contractor to proceed promptly with the necessary corrections, the State may withhold any amount necessary to correct all defective work or damages from payments to the Contractor.

- 5.27. The work staff shall consist of qualified persons completely familiar with the products and equipment they shall use. The Contracting Officer may require the Contractor to dismiss from the work such employees as deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the public interest or inconsistent with the best interest of security and the State.
- 5.28. The Contractor or their personnel shall not represent themselves as employees or agents of the State.
- 5.29. While on State property, employees shall be subject to the control of the State, but under no circumstances shall such persons be deemed to be employees of the State.
- 5.30. All personnel shall observe all regulations or special restrictions in effect at the State Agency.
- 5.31. The Contractor's personnel shall be allowed only in areas where services are being performed. The use of State telephones is prohibited.

6. BACKORDERS AND SUBSTITUTIONS:

- 6.1. The Contractor shall maintain adequate inventory levels to avoid out-of-stock situations. Any out-of-stock products must be communicated to the requestor within 24 hours of the placement of the order. No substitutions shall be made without the written consent of the State.
- 6.2. Items ordered but not delivered in error by the Contractor shall be credited on the next invoice or products delivered at a later date as mutually agreed upon in writing.
- 6.3. The Contractor shall notify the State Contracting Officer of any items no longer available and provide a recommended replacement.

7. RETURNED GOODS:

- 7.1. 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 five (5) 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.
- 7.2. Standard stock products ordered in error by the State of New Hampshire shall be returned for full credit within five (5) 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.

8. PERFORMANCE GUARANTEES:

- 8.1. Contractor shall meet the following performance metrics and objectives, and report outcomes to the State quarterly on November 1st (period of July 1 through September 30), February 1st (period of October 1 through December 31), May 1st (period of January 1 through March 31), and August 1st (period of April 1 through June 30) of each year.
- 8.2. Failure to meet any one or more of the performance guarantees shall result in a 2% rebate of the sum of the total orders made by the State for the reporting period in which the failure occurred. Any penalties due to the State shall be remitted on a separate check to the corresponding agency business office, and not as an invoice credit, no later than sixty (60) days after the close of the period in which the failure occurred.
- 8.2.1. On-time delivery: Ninety-five percent (95%). Unexpected circumstances like inclement weather and vehicle breakdowns/accidents are excluded.
- 8.2.2. Fill Rate: Ninety-eight percent (90%) including substitutes.
- 8.2.3. Error reporting (miss picks, invoice accuracy):
- 8.2.3.1. Miss Picks: Two (2) per five (500) cases.
- 8.2.3.2. Invoice Accuracy: Two per 30 invoices.

9. DELIVERY:

- 9.1. The Contractor shall be required to accomplish delivery of any item ordered under the contract within three (3) business days from the placement of the order.
- 9.2. The use of a private carrier to make delivery does not relieve the Contractor from the responsibility of meeting the delivery requirement.

10. DELIVERY LOCATIONS:

10.1. The following are the current State of New Hampshire agency/institution locations which, if you are awarded a contract, you are expected to service. The State of New Hampshire reserves the right to add locations to this list at the contract prices or to delete locations as mutually agreed upon in writing by executing an amendment to the contract. This listing does not include any eligible participants.

Agency	Delivery Frequency
Dept. of Corrections 138 East Milan Road, Berlin, NH 03570	Monday through Friday 7:00 AM to 2:30 PM Jeff Young (603) 752-0411
Dept. of Corrections 3 McGuire Street, Concord, NH 03301	Monday through Friday 7:00 AM to 2:30 PM Heather Cornock (603) 271-2227
Concord Community Corrections Center 60 Iron Works Road, Manchester, NH 03301	Monday through Friday 7:30 AM to 2:30 PM Heather Cornock (603) 271-2227
Manchester Community Corrections Center 126 Lowell Street, Manchester, NH 03104	Monday through Friday 7:30 AM to 2:30 PM Heather Cornock (603) 271-2227
Glencliff Home 393 High Street, Glencliff, NH 03238	Monday through Friday 8:00 AM to 3:30 PM James Cormica (603) 989-3111 / 9522
Veteran's Home 139 Winter Street, Tilton, NH 03276	Monday through Friday 8:00 AM to 11:00 AM or 12:30 PM to 3:30 PM Lynn Hillbrunner (603) 527-4893
Dept. of Health & Human Services – Brown Cafeteria 129 Pleasant Street, Concord, NH 03301	Monday through Friday 6:00 AM to 2:00 PM Brianna Mancini or Daniel Rinden 603-271-5360 271-5512
Dept. of Health & Human Services – NH Hospital 36 Clinton Street, Concord, NH 03301	Monday through Friday 6:00 AM to 2:00 PM Brianna Mancini or Daniel Rinden 603-271-5360 271-5512

11. ADDITIONAL REQUIREMENTS:

- 11.1. The Contractor shall not commence work until a conference is held with each agency, at which representatives of the Contractor and the State are present. The conference shall be arranged by the requesting agency (State).
- 11.2. The State shall require correction of defective work or damages to any part of a building or its appurtenances when caused by the Contractor's employees, equipment, or supplies. The Contractor shall replace in satisfactory condition all defective work and damages rendered thereby or any other damages incurred. Upon failure of the Contractor to proceed promptly with the necessary corrections, the State may withhold any amount necessary to correct all defective work or damages from payments to the Contractor.
- 11.3. The Contractor or their personnel shall not represent themselves as employees or agents of the State.
- 11.4. While on State property, employees shall be subject to the control of the State, but under no circumstances shall such persons be deemed to be employees of the State.
- 11.5. All personnel shall observe all regulations or special restrictions in effect at the State Agency.
- 11.6. The Contractor's personnel shall be allowed only in areas where services are being performed. The use of State telephones is prohibited.

12. ACCOUNT REPRESENTATIVE:

12.1. The Contractor shall assign a dedicated account representative and a backup in their absence who will be responsible for the daily administration of this Contract. The account representative shall be familiar with all Contract requirements to ensure compliance with the terms of the Contract. The account representative shall respond by phone or email to Client Agency inquiries within 24 hours of initial contact or the next business day if after normal business hours. The account representative's responsibilities shall include but not be limited to:

- 12.1.1. Coordinate business review meeting(s) either virtually or on-site with the State held at a cadence requested by the State.

Contractor Initials MP

Date 3/4/24

12.1.2. Provide recommended process and productivity improvements related to potential cost savings to the State for consideration quarterly.

12.1.3. Provide information and product offerings to bring the latest industry idcas and culinary trends to the State as applicable.

12.1.4. Provide training on the use of the Contractor's portal as needed with no charge to the State.

13. ESTABLISHMENT OF ACCOUNTS:

13.1. Each State of New Hampshire agency shall have its own individual customer account number. There may also be instances where divisions or bureaus within an agency will need their own individual customer account numbers. Should any State of New Hampshire agency place an order under the contract, the Contractor agrees to establish an account within three business days from the date the order is placed. However, there shall be no delay in any shipment; the agency shall receive the items ordered in accordance with the delivery time required under this bid invitation, as if an account already exists for the agency.

14. ELIGIBLE PARTICIPANTS:

14.1. Political sub-divisions (counties, cities, towns, school districts, special district or precinct, or any other governmental organization), or any nonprofit agency under the provisions of section 501c of the federal internal revenue code, are eligible to participate under this contract whenever said sub-division or nonprofit agency so desires. These entities are autonomous and may participate at their sole discretion. In doing so, they are entitled to the prices established under the contract. However, they are solely responsible for their association with the Contractor. The State of New Hampshire assumes no liability between the Contractor and any of these entities.

15. USAGE REPORTING:

15.1. 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, Jonah Rosa and sent electronic to Jonah.L.Rosa@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.
- In Excel format

16. AUDITS AND ACCOUNTING:

16.1. The Contractor shall allow representatives of the State of New Hampshire to have complete access to all records for the purpose of determining compliance with the terms and conditions of this bid invitation and in determining the award and for monitoring any resulting contract.

16.2. At intervals during the contract term, and prior to the termination of the contract, the Contractor may be required to provide a complete and accurate accounting of all products and quantities ordered by each agency and institution and by political sub-divisions and authorized non-profit organizations.

17. OBLIGATIONS AND LIABILITY OF THE CONTRACTOR:

17.1. The Contractor shall provide all services strictly pursuant to, and in conformity with, the specifications described in State RFB #2866-24, as described herein, and under the terms of this Contract.

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

17.3. Contract specific contact information (Sales contact, Contractor contract manager, etc.) shall be sent to the State's Contracting Office listed in Box 1.9 of Form P-37.

17.4. 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\(q0fzcv55qhaegs45jpyq5i45\)\)/welcome.aspx](https://das.nh.gov/purchasing/vendorregistration/(S(q0fzcv55qhaegs45jpyq5i45))/welcome.aspx).

Contractor Initials MP

Date 3/4/24

17.5. 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.

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

18.1. 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.

19. CONFIDENTIALITY & CRIMINAL RECORD:

19.1. If requested by the using agency, the Contractor and its employees, and Sub-Contractors (if any), shall be required to sign and submit a Confidential Nature of Department Records Form and a Criminal Authorization Records Form. These forms shall be submitted to the individual using agency prior to the start of any work.

EXHIBIT C - METHOD OF PAYMENT

20. CONTRACT PRICE:

20.1. The Contractor hereby agrees to provide Food Products (Perishable and Non-perishable) in complete compliance with the terms and conditions specified in Exhibit B for an amount up to and not to exceed a price of \$1,210,189.75; 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.

21. PRICING STRUCTURE:

21.1. See Appendix A.

22. PRICE ADJUSTMENTS:

22.1. The Contractor may request price adjustment, either upward or downward, keyed to the industry changes or general trade every four months beginning October 1, 2024, and subsequently on January 1st, April 1st, July 1st of each year. Written notice of an impending price increase, including substantiation for it, must be submitted in writing to Jonah Rosa via email at Jonah.L.Rosa@DAS.NH.Gov or delivered 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. Documentation of the increase from the supplier or manufacturer must accompany the request to support the amount (%) of the requested increase. Price decreases shall become effective immediately as they become effective to the general trade.

22.2. The Contractor shall track manufacturer discounts and/or rebates offered and provide a credit on the State's next invoice. The Contractor shall submit reports quarterly to Jonah Rosa at Jonah.L.Rosa@DAS.NH.Gov at the Bureau of Purchase and Property detailing manufacturer discounts and/or rebates paid out to the State.

22.3. The Contractor shall provide prompt payment discounts offered for invoice payments prior to the State's standard 30-day due date for payments. Orders \$5,000.00 and above will receive a 0.50% discount off invoice.

Payment Time	Discount %
30 Days	Standard Payment Terms
Within 20 Days	0.25%
Within 10 Days	0.50%

23. INVOICE:

23.1. Itemized invoices shall be submitted to the using agency after delivery of the products and include the following at a minimum:

23.1.1. State of NH purchase order (PO) number if applicable

23.1.2. State of NH contract number

23.1.3. State of NH ordering agency information

23.1.3.1. Name and contact information of ordering individual

23.1.3.2. Name of ordering state agency / department

23.1.3.3. Address of ordering state agency / department

23.1.3.4. Name and contact information of ordering state agency accounts payable office

23.1.4. Date of purchase

23.1.5. Date of delivery

23.1.6. Contractor order number

23.1.7. Contractor account representative name and contact information

23.1.8. Product description, quantity ordered, quantity delivered, unit price, total price for payment

23.1.9. Items backordered and their delivery date

23.2. Contractor shall be paid within 30 days after receipt of properly documented invoice and acceptance of the work to the State's satisfaction.

Contractor Initials MP
Date 3/4/24

24. PAYMENT:

24.1. 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>.

24.2. Payment shall be made in full within thirty (30) days after receipt of the invoice and acceptance of the corresponding goods and/or services to the State's satisfaction.

Contractor Initials MP
Date 3/4/24

EXHIBIT D - RFB 2866-24

RFB #2866-24 is incorporated here within.

Contractor Initials MP
Date 3/4/24

EXHIBIT E - CONTRACTOR'S BID

Contractor's bid is incorporated here within.

Contractor Initials MP

Date 3/4/24

Appendix A: Pricing

Contract 8003402
Produce Food Items

Item Number	Item Description	Unit Price
1000280	APPLE FUJI 80CT	\$51.00
1000360	APPLE GALA 80CT 6PC	\$53.50
1000580	APPLE GRANNY SMITH 125CT	\$43.00
1000620	APPLE GRANNY SMITH 80/88CT 6PC	\$51.00
1000662	APPLE HONEYCRISP 80/88CT	\$61.75
1000800	APPLE MACINTOSH 100CT 6pc	\$41.00
1000840	APPLE MACINTOSH 125CT	\$35.75
1001060	APPLE PINK LADY 80CT	\$54.25
1001181	APPLE RED DELICIOUS 80CT 6pc	\$59.25
3000700	ARUGULA BABY 3#-4#	\$24.00
3002080	ASPARAGUS STANDARD 11# 1pc	\$61.00
1002520	AVOCADO HASS 48CT 2pc	\$51.00
1004000	BANANA 40# (5#SPL)	\$27.75
1004060	BANANA 40# PETITE	\$29.25
3200035	BASIL 6/2.5OZ	\$19.75
3200006	BASIL CELLO 3/1OZ	\$7.00
3200019	BASIL NATV 1#/.25#	\$9.75
3003020	BEANS GREEN 25#/ 5#	\$78.50
3004100	BEET RED 25#/ 5#	\$21.25
1005000	BLACKBERRY 12/HALF PT 2PC	\$31.08
1005040	BLUEBERRY 12/PT 2PC	\$40.13
3005000	BOK CHOY 30#/ 5#	\$40.50
3006080	BROCCOLI 14CT 2pc	\$38.50
3006020	BROCCOLI CROWNS 20#	\$32.49
3006140	BROCCOLI FLORETS 4/3#	\$29.39
3007000	BRUSSELS SPROUTS 25#/ 2#	\$43.16
3007520	CABBAGE GREEN 50#/ 5#	\$37.00
3007620	CABBAGE RED 50#/ 5#	\$43.00
3008540	CARROT BABY PLD CELLO 30/1# 2pc	\$39.75
3008720	CARROT CUT LOOSE 50#/ 5#	\$34.50
3008921	CARROT SHREDDED 4/5#	\$37.00
3008960	CARROT STICKS 5#	\$17.50
3010020	CAULIFLOWER CELLO 12CT 2pc	\$38.50
3011080	CELERY SLEEVED 24CT 2pc	\$42.50
3080140	CHIVES 1#/.25#	\$19.75
3500905	CHS COTTAGE CHEESE 5#/6CT CAB	\$71.00
3500775	CHS CREAM CHEESE 10/3# (1PC)	\$116.75
3504000	CHS FETA 8#	\$34.75
3800030	CIDER 9/HGAL COLD HOLLOW	\$34.75
3080180	CILANTRO 30CT 2PC	\$28.25
3012600	COLESLAW MIX 4/5# 1pc	\$25.67
5000100	CONV TOFU EXTRA FIRM 6/1#	\$19.50
3013040	CORN CRATE 45-48CT 6pc	\$66.75
0005219	CROS ALMONDS SLICED 12/7OZ CV	\$47.00
3013500	CUCUMBER EURO SEEDLESS 12CT 2pc	\$13.98

Contractor Initials: MPDate: 3/4/24

Appendix A: Pricing

Contract 8003402
Produce Food Items

3013580	CUCUMBER SELECT 35# 6pc	\$29.71
3013600	CUCUMBER SUPER SELECT 35#	\$63.00
3080200	DILL 24BU 2pc	\$46.75
44	EGGPLANT 25#/ 5#	\$43.75
5000365	EGGS LARGE WHITE LOOSE 15DZ NATIVE	\$46.75
3015100	GARLIC PEELED IMPORTED 4/1G/ 1pc	\$66.00
2000120	GRAPEFRUIT PINK 40CT 2pc	\$48.50
2001100	GRAPES GREEN 18# 2pc	\$57.25
2001160	GRAPES RED 18# 2pc	\$58.50
3016000	KALE 12CT 2pc	\$27.00
3016050	KALE BABY 2#	\$21.25
3016010	KALE CHOPPED 2/5#	\$46.75
2004000	KIWI 100CT 6pc	\$45.75
3016500	LEEKs 12CT 2pc	\$41.00
2006040	LEMON 95CT 6pc	\$48.50
3017240	LETTUCE ICEBERG CELLO 24CT 2pc	\$40.69
3017250	LETTUCE ICEBERG SHREDDED 4/5# 1 PC	\$26.68
3017024	LETTUCE LITTLE LEAF RED/GRN 6/8OZ	\$30.25
3017022	LETTUCE LITTLE LEAF RED/GRN 8/4OZ	\$24.25
3017021	LETTUCE LITTLE LEAF SPRING 8/4OZ	\$24.25
3017340	LETTUCE ROMAINE 24CT 2pc	\$36.33
3057000	LETTUCE ROMAINE CHOPPED 4/2.5# 1PC	\$25.85
3017440	LETTUCE ROMAINE FILLET 10#	\$38.50
3017460	LETTUCE ROMAINE HEARTS 12/3PK 2PC	\$36.33
3017016	LETTUCE SPRING MIX LITTLE LEAF 3#	\$22.50
2007020	LIME 36CT 6pc	\$24.00
2008000	MANGO 10CT 2pc	\$28.25
2009055	MELON CANTALOUPE 12CT 2pc	\$27.00
2009090	MELON HONEYDEW 6CT 2PC	\$28.21
3017015	MESCLUN ARCADIAN 3#	\$11.51
3501244	MILK 1/2&1/2 12/QT HOOD	\$35.00
3501252	MILK 400CT 1/2&1/2	\$20.50
3080260	MINT 12CT 2PC	\$27.00
3019260	MUSHROOM 1/4 SLCD 10#	\$30.50
3019300	MUSHROOM BUTTON WHITE 10#	\$34.00
3019020	MUSHROOM CELLO BABY BELLA 10/10OZ	\$27.25
3019360	MUSHROOM MEDIUM WHITE 10#	\$28.25
3019460	MUSHROOM PORTABELLO 5#	\$21.25
3019500	MUSHROOM SHIITAKE 3#	\$32.00
3600145	OLIVES KALAMATA PITTED TUB 10#	\$49.50
3020180	ONION RED LARGE 25#/ 3#	\$29.75
3020220	ONION SPANISH 50#/ 5#	\$39.75
3020260	ONION SPANISH SUPER COLOSSAL 50#	\$41.30
2020040	ORANGE CARA CARA 20#	\$34.50
3501163	ORANGE JUICE 9/HGAL HOOD	\$33.25
2020160	ORANGE NAVEL 113CT	\$44.75
2020200	ORANGE NAVEL 56CT 6pc	\$41.00

Contractor Initials: MPDate: 3/4/24

Appendix A: Pricing

Contract 8003402
Produce Food Items

2020280	ORANGE NAVEL 88CT 6pc	\$42.50
9940200	ORG BANANA FAIR TRADE EQ EX 40#	\$40.50
9943681	ORG STRAWBERRIES 8/1#	\$63.00
3080340	PARSLEY CURLY 60BU 2pc	\$42.50
3021000	PARSNIP 20#/ 5#	\$40.08
2022180	PEAR BARTLETT 80CT 6pc	\$63.50
2022420	PEAR D'ANJOU 120-135CT	\$48.50
2022460	PEAR D'ANJOU 80CT 6pc	\$58.50
3030020	PEPPER GREEN CHOICE 25#/ 3#	\$23.05
3030120	PEPPER IMPORTED ORANGE 11#/ 2#	\$43.75
3030160	PEPPER IMPORTED RED 11# / 2#	\$43.75
3030200	PEPPER IMPORTED YELLOW 11#/ 2#	\$43.75
3030260	PEPPER JALAPENO 10#/ 2#	\$25.50
3030380	PEPPER RED DOMESTIC 25#/ 3#	\$62.25
3600070	PICKLE GARLIC DILL CHIP RTL 12/32OZ	\$50.50
2024500	PINEAPPLE 7CT 2pc	\$28.25
2025000	PLANTAIN 40#	\$49.25
3035160	POTATO CHEF 50#/ 5#	\$25.50
3035220	POTATO FINGERLING 20#/ 5#	\$44.25
3035280	POTATO IDAHO 120CT	\$29.00
3035380	POTATO IDAHO 90CT 6ct	\$48.41
3035153	POTATO RED 10/5# 1PC	\$32.00
3035420	POTATO RED A BAG 50#	\$26.25
3035440	POTATO RED A BOX 50#	\$51.00
3035460	POTATO RED B BAG 50#/ 5#	\$28.25
3035152	POTATO RUSSET 10/5# 1PC	\$32.00
3035151	POTATO RUSSET 70CT	\$41.75
3035920	POTATO WHITE PEELED WHOLE 30#	\$36.50
3035155	POTATO YUKON GOLD 10/5# 1PC	\$32.00
3038520	RADISH 14/1# 2PC	\$43.00
2026500	RASPBERRY 12/HALF PT 2PC	\$30.48
3200027	ROSEMARY 1#/ .25#	\$12.50
3055000	SALAD MIX ICEBERG 4/5# 1PC	\$25.98
3038900	SCALLIONS ICELESS 48/2PC	\$46.00
3500900	SOUR CREAM 6/5# CAB	\$60.75
3040000	SPINACH BABY 4#	\$16.52
3040020	SPINACH CELLO 8/10OZ 2PC	\$25.50
3040080	SPINACH POPEYE 4/2.5# 1PC	\$28.25
3043060	SPROUT BEAN CELLO 10/12OZ 2PC	\$25.50
3043040	SPROUT BEAN VF 10#	\$18.25
3045000	SQUASH ACORN 40#/ 5#	\$41.00
3045610	SQUASH BUTTERNUT PEELED 2/10#	\$39.00
3045420	SQUASH SUMMER 20#/ 5#	\$51.00
3045480	SQUASH ZUCCHINI 20#/ 5#	\$53.50
2035080	STRAWBERRY NON-DRIS 8/1# 2PC	\$29.00
3200030	THYME 1#/ .25#	\$12.00
3047560	TOMATO 5X6 25#/ 5#	\$28.00

Contractor Initials: MPDate: 3/4/24

Appendix A: Pricing

**Contract 8003402
Produce Food Items**

3047580	TOMATO 6X6 25#/ 5#	\$32.00
3047760	TOMATO GRAPE 12/1PT 2PC	\$21.13
3047920	TOMATO ROMA 25#/ 5#	\$27.19
3900520	TORTILLAS WHITE FLR 12" 10/12EA M&R	\$100.50
3055023	TURNIP DICED 1" / 5# BAG	\$12.00
3050000	TURNIP PURPLE TOP 25#/ 5#	\$24.75
2009150	WATERMELON PERSONAL 6-8CT 2pc	\$36.50
2009145	WATERMELON SEEDLESS 5CT BOX 1PC	\$60.50
3050500	YAM 40#/ 5#	\$36.50
3500080	YOGURT GREEK STRAWBERY 12/5.3OZ GMC	\$15.28

Contractor Initials: MP

Date: 3/4/24

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 UPPER VALLEY PRODUCE, LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on January 18, 2008. 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: 590045

Certificate Number: 0006655914



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 2nd day of April A.D. 2024.

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

David M. Scanlan
Secretary of State

Upper Valley Produce, LLC

**UNANIMOUS WRITTEN CONSENT
OF MEMBERS IN LIEU OF MEETING**

The undersigned, being all of the members of Upper Valley Produce, LLC a New Hampshire limited liability company (the "Company"), in accordance with the New Hampshire Revised Limited Liability Company Act, RSA 304-C:1 *et seq.*, agree to waive all notice of the time, place, and purpose of a meeting of the members of the Company, and hereby adopt the following resolutions with the same force and effect as if such resolutions had been adopted at a meeting of members duly called and convened for such purpose on the date set forth below, with a full quorum present and acting throughout:

RESOLVED, that it is in the best interests of the Company to enter into the transactions contemplated by that certain Agreement (the "Agreement") to provide certain wholesale fresh produce to the State of New Hampshire upon the terms and conditions set forth therein, said Agreement being awarded to the Company as the result of State of New Hampshire Bid No. 2866-24. Contract 8003402

RESOLVED, that the terms and conditions of the Agreement are hereby authorized, accepted, and approved;

RESOLVED, that James Gordon, in their capacity as a member of the Company, is hereby authorized to execute and deliver the Agreement in the name, and on behalf, of the Company;

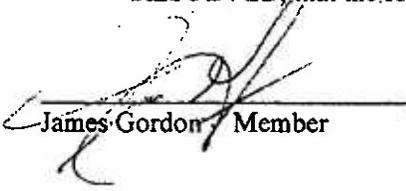
RESOLVED, that Michelle Paniagua, in their capacity as a member of the Company, is hereby authorized to execute and deliver any and all such other agreements, documents, or instruments and to take such other actions as may be necessary to consummate the transactions contemplated by the Agreement;

RESOLVED, that any other actions of Michelle Paniagua in furtherance of the foregoing resolutions, whether taken before or after the adoption or effectiveness of these resolutions, are hereby approved, confirmed, ratified, and adopted;

RESOLVED, that these resolutions may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument;

RESOLVED, that a facsimile or portable document format (PDF) signature on these resolutions shall be equivalent to, and have the same force and effect as, an original signature; and

RESOLVED, that the foregoing resolutions shall take effect on February 29, 2024


James Gordon Member



STATE OF NEW HAMPSHIRE TRANSMITTAL LETTER

Date: 1/29/2024
Company Name: UPPER VALLEY PRODUCE
Address: 211 OLCOTT DR
WHITE RIVER JUNCTION VT
05001

To: Point of Contact: Jonah Rosa
Telephone: (603)-271-2550
Email: NH.Purchasing@das.nh.gov

RE: Bid Invitation Name: Produce Food Items
Bid Number: 2866-24
Bid Posted Date (on or by): 1/2/2024
Bid Closing Date and Time: January 31, 2024 @ 10:00 AM (EST)
Dear Mr. Rosa,

[Insert name of signor] Michelle PANIAGUA on behalf of Upper Valley Produce [insert name of entity submitting bid (collectively referred to as "Vendor") hereby submits an offer as contained in the written bid submitted herewith ("Bid") to the State of New Hampshire in response to BID # 2866-24 Produce Food Items at the price(s) quoted herein in complete accordance with the bid.

Vendor attests to the fact that:

- 1. The Vendor has reviewed and agreed to be bound by the Bid.
2. The Vendor has not altered any of the language or other provisions contained in the Bid document.
3. The Bid is effective for a period of 180 days from the Bid Closing date as indicated above.
4. The prices Vendor has quoted in the Bid were established without collusion with other vendors.
5. The Vendor has read and fully understands this Bid.
6. Further, in accordance with RSA 21-I:11-c, the undersigned Vendor certifies that neither the Vendor nor any of its subsidiaries, affiliates or principal officers (principal officers refers to individuals with management responsibility for the entity or association):
a. Has, within the past 2 years, been convicted of, or pleaded guilty to, a violation of RSA 356:2, RSA 356:4, or any state or federal law or county or municipal ordinance prohibiting specified bidding practices, or involving antitrust violations, which has not been annulled;
b. Has been prohibited, either permanently or temporarily, from participating in any public works project pursuant to RSA 638:20;
c. Has previously provided false, deceptive, or fraudulent information on a vendor code number application form, or any other document submitted to the state of New Hampshire, which information was not corrected as of the time of the filing a bid, proposal, or quotation;
d. Is currently debarred from performing work on any project of the federal government or the government of any state;
e. Has, within the past 2 years, failed to cure a default on any contract with the federal government or the government of any state;
f. Is presently subject to any order of the department of labor, the department of employment security, or any other state department, agency, board, or commission, finding that the applicant is not in compliance with the requirements of the laws or rules that the department, agency, board, or commission is charged with implementing;
g. Is presently subject to any sanction or penalty finally issued by the department of labor, the department of employment security, or any other state department, agency, board, or commission, which sanction or penalty has not been fully discharged or fulfilled;
h. Is currently serving a sentence or is subject to a continuing or unfulfilled penalty for any crime or violation noted in this section;
i. Has failed or neglected to advise the division of any conviction, plea of guilty, or finding relative to any crime or violation noted in this section, or of any debarment, within 30 days of such conviction, plea, finding, or debarment; or
j. Has been placed on the debarred parties list described in RSA 21-I:11-c within the past year.

This document shall be signed by a person who is authorized to legally obligate the responding vendor. A signature on this document indicates that all State of New Hampshire terms and conditions are accepted by the responding vendor and that any and all other terms and conditions submitted by the responding vendor are null and void, even if such terms and conditions have terminology to the contrary. The responding vendor shall also be subject to State of New Hampshire terms and conditions as stated on the reverse of the purchase order.

Authorized Signor's Signature [Signature] Authorized Signor's Title Sales & Pricing Coordinator

Form P37-A
Contractor Initials MP
Date 1/31/24

**REQUEST FOR BID FOR PRODUCE FOOD ITEMS
FOR THE STATE OF NEW HAMPSHIRE**

1. PURPOSE:

- 1.1. The purpose of this bid invitation is to establish a contract for supply and delivery of Produce Food Items to the State of New Hampshire with product list and requirements indicated in the SCOPE OF WORK and OFFER sections of this bid invitation, in accordance with the requirements of this bid invitation and any resulting contract.

2. INSTRUCTIONS TO VENDOR:

- 2.1. Read the entire bid invitation prior to filling it out. Complete the pricing information in the "Offer" section (detailed information on how to fill out the pricing information can be found in the "Offer" section); complete the "Vendor Contact Information" section; and finally, fill out, sign, and notarize page one of the bid invitation.

3. BID SUBMITTAL:

- 3.1. All bids shall be submitted on this form (or an exact copy), shall be typed or clearly printed in ink, and shall be received on or before the date and time specified on page 1 of this bid under "Bid Closing". Interested parties may submit a bid to the State of New Hampshire Bureau of Purchase and Property by email to NH.Purchasing@DAS.NH.Gov. All bids shall be clearly marked with bid number, date due and purchasing agent's name.
- 3.2. IF YOU ARE EXPERIENCING DIFFICULTIES EMAILING YOUR BID OR YOU WISH TO VERIFY THAT YOUR BID RESPONSE HAS BEEN RECEIVED, PLEASE CALL (603) 271-2201.

4. BID INQUIRIES:

- 4.1. Any questions, clarifications, and/or requested changes shall be submitted by an individual authorized to commit their organization to the Terms and Conditions of this bid and shall be received in writing at the Bureau of Purchase and Property no later than 4:00 PM on the date listed in the timeline below. Questions shall not be submitted to anyone other than the Purchasing Agent or his/her representative. Bidders that submit questions verbally or in writing to any other State entity or State personnel shall be found in violation of this part and may be found non-compliant.
- 4.2. Questions shall be submitted by email to Jonah Rosa at Jonah.L.Rosa@DAS.NH.Gov.
- 4.3. Submissions shall clearly identify the bid Number, the Vendor's name and address and the name of the person submitting the question.

5. BID DUE DATE:

- 5.1. All bid submissions shall be received at the Bureau of Purchase and Property no later than the date and time shown on the transmittal letter of this bid. Submissions received after the date and time specified shall be marked as "Late" and shall not be considered in the evaluation process.
- 5.2. All offers shall remain valid for a period of one hundred eighty (180) days from the bid due date. A vendor's disclosure or distribution of bids other than to DAS, Bureau of Purchase and Property may be grounds for disqualification.

6. ADDENDA:

- 6.1. In the event it becomes necessary to add to or revise any part of this bid prior to the scheduled submittal date, the NH Bureau of Purchase and Property shall post on our web site any Addenda. Before your submission and periodically prior to the RFB closing, Vendors are required to check the site for any addenda or other materials that may have been issued affecting the bid. The web site address is: <https://apps.das.nh.gov/bidscontracts/bids.aspx>.

7. TIMELINE:

- 7.1. The timeline below is provided as a general guideline and is subject to change. Unless stated otherwise, consider the dates below a "no later than" date.

1/2/2024	Bid Solicitation distributed on or by
1/26/2024	Last day for questions, clarifications, and/or requested changes to bid
1/31/2024	10:00 AM (EST) Bid Closing
7/1/2024	Implementation of Contract

8. TERMS OF SUBMISSION:

- 8.1. All material received in response to this bid shall become the property of the State and shall not be returned to the Vendor. Regardless of the Vendors selected, the State reserves the right to use any information presented in a bid response. The content of each Vendor's bid shall become public information once a contract(s) has been awarded.

- 8.2. A responding bid that has been completed and signed by your representative shall constitute your company's acceptance of all State of New Hampshire terms and conditions and shall legally obligate your company to these terms and conditions.
- 8.3. A signed response further signifies that from the time the bid is published (bid solicitation date and time) until a contract is awarded, no bidder shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who shall select, evaluate, or award the RFB.
- 8.4. Furthermore, a signed response signifies that any terms and/or conditions that may be or have been submitted by the Vendor are specifically null and void and are not a part of this bid invitation or any awarded purchase order, even if said terms and/or conditions contain language to the contrary.
- 8.5. The form P-37 Contract attached hereto shall be part of this bid and the basis for the contract(s). The successful Vendor and the State, following notification, shall promptly execute this contract form, which is to be completed by incorporating the service requirements and price conditions established by the vendor's offer.
- 8.6. CHAPTER ADM 600 PROCUREMENT AND PROPERTY RULES APPLY TO AND ARE MADE A PART HEREOF.
- 8.7. Complete bids shall be filled out on the original documents and format that are a part of this bid invitation. Vendors may submit additional paperwork with pricing, but all pricing shall be on the documents provided with this bid invitation and in the State's format.
9. **CONTRACT TERM:**
- 9.1. The term of the contract shall commence on July 1, 2024, or upon approval of the Governor and Executive Council, whichever is later, through June 30, 2027, a period of approximately three (3) years.
- 9.2. The contract may be extended for up to an additional two (2) years thereafter under the same terms, conditions and pricing structure upon the mutual agreement between the successful Vendor and the State with the approval of the Governor and Executive Council.
10. **CONTRACT AWARD:**
- 10.1. The award shall be made to the Vendor(s) meeting the criteria established in this RFB and providing the lowest cost in total. The State reserves the right to reject any or all bids or any part thereof and add/delete items/locations to the contract. All award(s) shall be, in the form of a State of New Hampshire Contract(s). A Vendor must bid on at least 75% of the items to be considered.
- 10.2. Successful Vendor shall not be allowed to require any other type of order, nor shall the successful Vendor be allowed to require the filling out or signing of any other document by State of New Hampshire personnel.
11. **NOTIFICATION AND AWARD OF CONTRACT(S):**
- 11.1. Bid results shall not be given by telephone. For Vendors wishing to attend the bid closing, the names of the vendors submitting responses and pricing shall be made public. Other specific response information shall not be given out. Bid results shall be made public after final approval of the contract(s).
- 11.2. Bid results may also be viewed on our website at <https://apps.das.nh.gov/bidscontracts/bids.aspx>.
- 11.3. Names of the Vendors submitting responses and pricing shall be made public for Vendors wishing to attend the bid closing. In lieu of in person public bid openings the State shall conduct openings via electronic means until further notice.
12. **LIABILITY:**
- 12.1. The State shall not be held liable for any costs incurred by Vendors in the preparation of bids or for work performed prior to contract issuance.
13. **PUBLIC DISCLOSURE OF BID OR PROPOSAL SUBMISSIONS:**
- 13.1. Generally, the full contents of any proposal (including all materials submitted in connection with it, such as attachments, exhibits, addenda, and vendor presentations) become public information upon completion of final contract or purchase order negotiations with the selected vendor. Certain information concerning proposals, including but not limited to scoring, is generally available to the public even before this time, in accordance with the provisions of NH RSA 21-G:37.
- 13.2. Confidential, commercial or financial information may be exempt from public disclosure under RSA 91-A:5, IV. Any and all information contained in or connected to a bid or proposal that a Bidder considers confidential shall be clearly designated in the following manner:

13.3. If the Bidder considers any portion of a submission confidential, they shall provide a separate copy of the full and complete document, fully redacting those portions by blacking them out and shall note on the applicable page or pages of the document that the redacted portion or portions are "confidential." Use of any other term or method, such as stating that a document or portion thereof is "proprietary", "not for public use", or "for client's use only", is not acceptable. In addition to providing an additional fully redacted copy of the bid submission to the person listed as the point of contact on Page one (1) of this document, the identified information considered to be confidential must be accompanied by a separate letter stating the rationale for each item designated as confidential. In other words, the letter must specifically state why and under what legal authority each redaction has been made. Submissions which do not conform to these instructions by failing to include a redacted copy (if required), by failing to include a letter specifying the rationale for each redaction, by failing to designate redactions in the manner required by these instructions, or by including redactions which are contrary to these instructions or operative law may be rejected by the State as not conforming to the requirements of the bid or proposal. Marking or designating an entire proposal, attachment or section as confidential shall neither be accepted nor honored by the State. Marking an entire bid, proposal, attachment or full sections thereof confidential without taking into consideration the public's right to know shall neither be accepted nor honored by the State.

13.4. Notwithstanding any provision of this request for submission to the contrary, proposed pricing shall be subject to public disclosure REGARDLESS of whether or not marked as confidential.

13.5. If a request is made to the State by any person or entity to view or receive copies of any portion of a proposal, the State will assess what information it believes is subject to release; notify the Bidder that the request has been made; indicate what, if any, portions of the proposal or related material shall be released; and notify the Bidder of the date it plans to release the materials. To halt the release of information by the State, a Bidder must initiate and provide to the State, prior to the date specified in the notice, a court action in the Superior Court of the State of New Hampshire, at its sole expense, seeking to enjoin the release of the requested information.

13.6. By submitting a proposal, Bidders acknowledge and agree that:

13.6.1. The State may disclose any and all portions of the proposal or related materials which are not marked as confidential and/or which have not been specifically explained in the letter to the person identified as the point of contact for this RFB;

13.6.2. The State is not obligated to comply with a Bidder's designations regarding confidentiality and must conduct an independent analysis to assess the confidentiality of the information submitted in your proposal; and

13.6.3. The State may, unless otherwise prohibited by court order, release the information on the date specified in the notice described above without any liability to a Bidder.

14. TERMINATION:

14.1. The State of New Hampshire shall have the right to terminate the contract at any time with a thirty (30) day written notice to the successful Vendor.

15. VENDOR CERTIFICATIONS:

15.1. All Vendors shall be duly registered with the NH Bureau of Purchase and Property as State of New Hampshire vendors. All Vendors that are corporations, limited liability companies, or other limited liability business entities (this excludes sole proprietors and general partnerships) shall be duly registered with the New Hampshire Secretary of State to conduct business in the State of New Hampshire.

15.2. STATE OF NEW HAMPSHIRE VENDOR APPLICATION: To be eligible for a contract award, a Vendor must have a completed Vendor Application Package on file with the NH Bureau of Purchase and Property. See the following website for information on obtaining and filing the required forms (no fee: <https://DAS.NH.Gov/Purchasing>).

15.3. NEW HAMPSHIRE SECRETARY OF STATE REGISTRATION: To be eligible for a contract award, a Vendor that is a corporation, limited liability company, or other limited liability business entity (this excludes sole proprietors and general partnerships) must be registered to conduct business in the State of New Hampshire AND in good standing with the NH Secretary of State. Please visit the following website to find out more about the requirements for registration with the NH Secretary of State: <https://sos.nh.gov/corporation-division/>.

15.4. CONFIDENTIALITY & CRIMINAL RECORD: If Applicable, any employee or approved subcontractor of the Vendor who will be accessing or working with records of the State of New Hampshire shall be required to sign a Confidentiality and Non-Disclosure Agreement and a Release of Criminal Record Authorization Form. These forms shall be returned to the designated State agency prior to commencing any work.

15.5. CERTIFICATE OF INSURANCE: Prior to being awarded a contract the Vendor shall be required to submit proof of comprehensive general liability insurance coverage prior to performing any services for the State. The coverage shall insure

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. Coverage shall also include State of New Hampshire workers' compensation insurance to the extent required by RSA Chapter 281-A.

16. BID PRICES:

- 16.1. Bid prices shall be in US dollars and shall include delivery and all other costs required by this bid invitation. 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. Any and all charges shall be built into your bid price at the time of the bid. Unless otherwise specified, prices shall be F.O.B. DESTINATION, (included in the price bid), which means delivered to a state agency's receiving dock or other designated point as specified in this contract or subsequent purchase orders without additional charge. Shipments shall be made in order to arrive at the destination at a satisfactory time for unloading during receiving hours.
- 16.2. Per Administrative Rule 606.01(e) "if there is a discrepancy between the unit price and the extension price in a response to an RFB, RFB or RFQ, the unit price shall be binding upon the vendor".
- 16.3. Price decreases shall become effective immediately as they become effective to the general trade.
- 16.4. Updated Published Price List MUST be e-mailed to Jonah.L.Rosa@DAS.NH.Gov.

17. PRICE ADJUSTMENTS:

- 17.1. The successful Vendor(s) may request price adjustment, either upward or downward, keyed to the industry changes or general trade every four months beginning October 1, 2024, and subsequently on January 1st, April 1st, July 1st of each year. Written notice of an impending price increase, including substantiation for it, must be submitted in writing to Jonah Rosa via email at Jonah.L.Rosa@DAS.NH.Gov or delivered 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. Documentation of the increase from the supplier or manufacturer must accompany the request to support the amount (%) of the requested increase. Price decreases shall become effective immediately as they become effective to the general trade.
- 17.2. The Vendor shall track manufacturer discounts and/or rebates offered and provide a credit on the State's next invoice. The Vendor shall submit reports quarterly to Jonah Rosa at Jonah.L.Rosa@DAS.NH.Gov at the Bureau of Purchase and Property detailing manufacturer discounts and/or rebates paid out to the State.
- 17.3. The Vendor shall provide prompt payment discounts offered for invoice payments prior to the State's standard 30-day due date for payments. Orders \$5,000.00 and above will receive a 0.50% discount off invoice.

Payment Time	Discount %
30 Days	Standard Payment Terms
Within 20 Days	0.25%
Within 10 Days	0.50%

18. AUDITS AND ACCOUNTING:

- 18.1. The successful Vendor shall allow representatives of the State of New Hampshire to have complete access to all records for the purpose of determining compliance with the terms and conditions of this bid invitation and in determining the award and for monitoring any resulting contract.
- 18.2. At intervals during the contract term, and prior to the termination of the contract, the successful Vendor may be required to provide a complete and accurate accounting of all products and quantities ordered by each agency and institution and by political sub-divisions and authorized non-profit organizations.

19. ESTIMATED USAGE:

- 19.1. The quantities indicated in the offer section of this bid invitation are an estimate only for the State of New Hampshire's annual requirements. These quantities are indicated for informational purposes only and shall not be considered minimum or guaranteed quantities, nor shall they be considered maximum quantities. These quantities do not include any eligible participant usage.

20. USAGE REPORTING:

- 20.1. The successful Vendor shall be required to 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 to Jonah Rosa at The Bureau of Procurement & Support Services and sent electronic to Jonah.L.Rosa@DAS.NH.Gov. At a minimum, the Report shall include:

- 20.1.1. Contract Number
- 20.1.2. Utilizing Agency and Eligible Participant
- 20.1.3. Services/Products Purchased (showing the manufacturer, item, part number, and the final cost.)
- 20.1.4. 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:
 - 20.1.4.1. Percentage of recycled materials contained within finished products
 - 20.1.4.2. Percentage of waste recycled throughout the manufacturing process
 - 20.1.4.3. Types and volume of packaging used for transport
 - 20.1.4.4. Any associated material avoided and/or recycled as applicable under contract
 - 20.1.4.5. A standardized reporting form will be provided after contract award
- 20.1.5. Total Cost of all Services/Products Purchased. Ability to sort by agency/eligible participant.
- 20.1.6. In Excel format

21. ESTABLISHMENT OF ACCOUNTS:

- 21.1. Each State of New Hampshire agency shall have its own individual customer account number. There may also be instances where divisions or bureaus within an agency will need their own individual customer account numbers. Should any State of New Hampshire agency place an order under the contract, the successful Vendor agrees to establish an account within three business days from the date the order is placed. However, there shall be no delay in any shipment; the agency shall receive the items ordered in accordance with the delivery time required under this bid invitation, as if an account already exists for the agency.

22. ELIGIBLE PARTICIPANTS:

- 22.1. Political sub-divisions (counties, cities, towns, school districts, special district or precinct, or any other governmental organization), or any nonprofit agency under the provisions of section 501c of the federal internal revenue code, are eligible to participate under this contract whenever said sub-division or nonprofit agency so desires. These entities are autonomous and may participate at their sole discretion. In doing so, they are entitled to the prices established under the contract. However, they are solely responsible for their association with the successful Vendor. The State of New Hampshire assumes no liability between the successful Vendor and any of these entities.

23. PAYMENT:

- 23.1. Payments shall be made via ACH or Procurement Card (P-card = Credit Card) unless otherwise specified by the state of New Hampshire. Use the following link to enroll with the State Treasury for ACH payments:
<https://www.nh.gov/treasury/state-vendors/index.htm>. Eligible participants shall negotiate their own payment methods with the successful Vendor.

24. INVOICING:

- 24.1. Invoices shall be submitted to the corresponding State agency after completion of work/acceptance of delivery.

25. TERMS OF PAYMENT:

- 25.1. Payment shall be made in full within thirty (30) days after receipt of the invoice and acceptance of the corresponding goods and/or services to the State's satisfaction.

26. VENDOR RESPONSIBILITY:

- 26.1. The successful Vendor shall be solely responsible for meeting all terms and conditions specified in the bid, and any resulting contract. All State of New Hampshire bid invitations and addenda to such bid invitations are advertised on our website at: <https://apps.das.nh.gov/bidscontracts/bids.aspx>. It is a prospective Vendor's responsibility to access our website to determine any bid invitation under which the Vendor desires to participate. It is also the Vendor's responsibility to access our website for any posted addenda. The website is updated several times per day; it is the responsibility of the prospective Vendor to access the website frequently to ensure that no bidding opportunity or addendum is overlooked. It is the prospective Vendor's responsibility to forward a signed copy of any addendum requiring the Vendor's signature to the Bureau of Purchase and Property with the bid response.

- 26.2. In preparation of a bid response, the prospective Vendor shall:

- 26.2.1. Provide pricing information as indicated in the "Offer" section; and

26.2.2. Provide all other information required for the bid response (if applicable); and

26.2.3. Complete the "Vendor Contact Information" section; and

26.2.4. Complete the company information on the "Transmittal Letter" page, and sign under penalty of unsworn falsification in the space provided on that page.

26.3. It is the responsibility of the Vendor to maintain this any awarded contract and New Hampshire Vendor Registration with up to date contact information. Contract specific contact information (Sales contact, Contractor contract manager, etc.) shall be sent to the State's Contracting Office listed in Box 1.9 of Form P-37. 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://www.das.nh.gov/purchasing/vendorresources.aspx>.

27. IF AWARDED A CONTRACT:

27.1. The successful Vendor shall complete the following sections of the attached Agreement State of New Hampshire Form number P-37:

27.1.1. Section 1.3 Contractor Name

27.1.2. Section 1.4 Contractor Address

27.1.3. Section 1.11 Contractor Signature

27.1.4. Section 1.12 Name & Title of Contractor Signatory (if Vendor is not a sole proprietor)

27.2. Provide certificate of insurance indicating the coverage amounts required by Section 14 of the Form Number P-37.

27.3. Provide proof of sufficient workers' compensation insurance coverage or evidence of exemption from RSA Chapter 81-A.

27.4. If the successful Vendor is a corporation, limited liability company, or other limited liability business entity, then provide a certificate of good standing issued by the NH Secretary of State or, for a newly incorporated, formed, or registered entity, a copy of the appropriate registration document certified by the NH Secretary of State.

28. SPECIFICATION COMPLIANCE:

28.1. Vendor's offer shall meet or exceed the required specifications as written. The State of New Hampshire shall be the sole determining factor of what meets or exceeds the required specifications.

28.2. Unless otherwise specified by the Bureau of Purchase and Property in this bid invitation document, all equipment/items offered by the Vendor shall be new (and of the current model year, if applicable); shall not be used, rebuilt, refurbished; shall not have been used as demonstration equipment, and shall not have been placed anywhere for evaluation purposes.

28.3. The manufacturer(s) and/or model(s) indicated in this bid are equivalent to the type and quality required. You may bid different make(s) and model(s); however, your offer shall match or exceed the one(s) indicated and you shall demonstrate to the satisfaction of the purchasing Agency that they meet or exceed the minimum standards. Items that do not meet the minimum standards shall not be accepted. Product literature and specifications may be enclosed.

29. SPECIFICATIONS:

29.1. Complete specifications required are detailed in the SCOPE OF WORK section of this RFB invitation. In responding to the RFB invitation, the prospective Vendor shall address all requirements for information as outlined herein.

29.2. All products provided by the contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting these standards will be deemed unacceptable and return to the contractor for credit at no charge to the State. All products are First Quality / Grade A unless otherwise specified. The following are the minimum specifications. Higher but not lower grades may be provided.

29.2.1. Fresh Fruit and Vegetables – USDA Grade A

29.2.2. Perishable foods shall not be delivered with less than a seven-day window of usage unless prior approval has been provided in writing by the ordering State Agency. Fresh produce must be free from spoilage and infestation.

29.2.3. Packaging and Labeling: All products shall be packed, labeled, and conform in every respect to the provisions of the Federal, Food, Drug and Cosmetic Act, and the regulations promulgated thereunder. Shipping Containers (case markings) shall be marked with the name of the product, brand, quantity and size of pack as stated on Order, and the name of the shipper and vendor.

29.3. Vendor's offer shall meet or exceed the required specifications as written. The State of New Hampshire shall be the sole determining factor of what meets or exceeds the required specifications.

29.4. The product numbers indicated in this RFB are equivalent to the type and quality required. You may provide different product numbers; however, your offer shall match or exceed the one(s) indicated and you shall demonstrate to the satisfaction of the purchasing Agency that they meet or exceed the minimum standards. Items that do not meet the minimum standards shall not be accepted. Product literature and specifications may be enclosed.

30. SCOPE OF WORK:

- 30.1. Vendor shall supply all labor, tools, transportation, materials, equipment and permits as necessary and required to perform services as described herein.
- 30.2. Make deliveries in accordance with the delivery days and timeframes set forth herein, except on holidays or at other times when the State is closed, including, but not limited to, inclement weather. All references to the time of day are Eastern Standard Time (EST).
- 30.3. Delivery shall be made as ordered and in accordance with the terms specified herein. Unless otherwise specified by the State in writing, delivery shall be to a loading dock or receiving platform. The Vendor or Vendor's shipping designee shall be responsible for removal of product from the carrier and placement on the State loading dock or receiving platform. The State receiving personnel are not required to assist in this process. Reasonable compliance with delivery terms shall be final and binding and the burden of proof of proper receipt of the order shall rest with the Vendor.
- 30.4. Label, package and palletize all orders in accordance with industry standard to ensure safe handling and proper and timely delivery. If a shipment is not on pallets or properly palletized at the time of delivery, the Vendor shall be responsible to palletize all products at the delivery Site. Vendor shall pick up all empty pallets on the next scheduled delivery day.
- 30.5. Transport Goods in a climate-controlled transportation container regulated to keep the product in good condition, and in accordance with the current USDA, FDA, State and local food code guidelines and food handling practices during all stages of processing, distribution, and storage. Utilize delivery vehicles to accommodate the delivery of dry, refrigerated, or frozen foods.
- 30.6. Ordering System: Ordering system must be web-based and accessible to the State at all times. Ordering and inventory system must be capable of electronic order approval process and must have an email-based notification function. The ordering system must contain a field where the State can enter their 7-digit Purchase Order number. Contractor shall provide training, on-site or virtual, as requested by the State, on how to use the system at no additional cost. Preferred ordering system capabilities and functionality includes, but is not limited to:
 - 30.6.1. Web-based, Inventory control capabilities
 - 30.6.2. ability to interface with different point of sales systems
 - 30.6.3. ability to use on multiple devices to include but not limited to tablets, iPhones
 - 30.6.4. ability to include reference numbers
 - 30.6.5. ability to provide a variety of reports including dashboard reporting
 - 30.6.6. ability to edit, cancel orders, print orders, order tracking functionality, ability to split orders, and online help features.
 - 30.6.7. Nutrition information and analysis for products must be included
- 30.7. All non-perishable food products delivered must meet or exceed USDA specifications and industry standards and have a freshness parameter to permit the State to have a minimum of forty-five (45) days from delivery to consumption. Perishable products must have a minimum shelf-life of seven (7) days after receipt of delivery. Products delivered outside of these parameters will be returned at the time of delivery, at no cost to the State. The Vendor shall issue a credit including the cost of returning such products on its next invoice.
- 30.8. Product information must be clearly identified on packaging.
- 30.9. All Goods containing peanuts, peanut oil or any nut products, or any major food allergens must be clearly labeled and identified.
- 30.10. All Goods delivered must contain the "expiration date" or "best if used by date".
- 30.11. All orders shall be inspected and accepted by the State authorized representative by signing and dating the Vendor's delivery ticket. Delivery ticket must include date of delivery, location of delivery, itemized by product description, product number, and quantity delivered at a minimum.
- 30.12. Quality Assurance Program: Throughout the term of this contract, the Vendor shall continuously monitor the quality of the products and services rendered. The Vendor shall provide a self-inspection system that monitors daily operations and

identifies and corrects any deficiencies that may occur in the quality of the Products and services furnished under this contract. The plan must include service and reporting commitments, together with specific suggestions regarding communication, planning and performance review.

- 30.13. **Quality Control Program and Food Safety Plan:** The Vendor shall have the following quality control and food safety programs listed below and shall provide all documentation that substantiates their claim for compliance to the State. All documentation must be made readily available.
- 30.13.1. The Vendor's quality control plan shall contain information on "critical" and "non-critical" practices and scenarios which must comply with the USDA, State and local regulations related to dairy products. Additional information is available on the following website address, as it may be modified from time to time:
<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/default.htm>.
- 30.13.2. The Vendor's written quality control plan must ensure that all products are handled in a manner that complies with the USDA, FDA, Hazard Analysis Critical Control Points (HACCP), regulatory requirements as well as all local, State and Federal regulations concerning food safety. The following website address, as modified from time to time, provides information regarding HACCP: <http://www.fda.gov/Food/GuidanceRegulation/HACCP/>.
- 30.14. **Recalls:** Vendor shall have the ability to track all products ordered and delivered. The Vendor shall have a product recall program that provides for notification within twenty-four (24) hours of the recall to the State which has received the recalled products. The Vendor shall pick up and replace all products that are subject to the recall at no additional cost to the State. Recalled products that are returned shall be credited on the next invoice.
- 30.15. **Sample products for evaluation:** All products offered under the bid or resulting contract may be selected by the State at any time, prior to or throughout the term of the contract, to provide for examination and testing. Samples shall be clearly labeled as to the contents and supplier. Samples submitted shall be the same product to be delivered under this contract. All samples must be provided at no charge to the State.
- 30.16. **Sanitation:** Vendor shall participate in a sanitation program and must provide a copy of its most recent health inspection certificate upon request by the State. Federal, State, and local health regulatory agencies may routinely inspect Vendor facilities.
- 30.17. **Standards for Storage:** All Vendor facilities will be subject to inspection by local, State and Federal agencies. Vendor shall provide facilities for the safe and sanitary storage and handling, processing, warehousing, storage, and distribution of Goods which:
- 30.17.1. Follow all local, State and Federal regulations concerning food.
- 30.17.2. Maintain throughout the term of this contract a Vendor -operated warehouse(s) that can provide for the delivery and storage of all products.
- 30.17.3. Are sanitary and free from rodent, bird, insect, and other animal infestations.
- 30.17.4. Safeguard against theft, spillage, and other loss.
- 30.17.5. Maintain proper storage temperatures for all food items in accordance with HACCP.
- 30.17.6. Store food off the floor in a manner to allow for adequate ventilation.
- 30.17.7. Take other protective measures as may be necessary.
- 30.18. Deliveries missed due to inclement weather, breakdowns or other unforeseen condition must be rescheduled to the next business day.
- 30.19. Vendor shall notify the State of any holiday changes or lengthy closures in writing at least 21 calendar days prior to the holiday or closure.
- 30.20. Permanent modifications to the delivery schedule shall be approved by the State in writing before changes are implemented.
- 30.21. The Vendor shall be responsible for palletizing all products at the delivery site if a shipment is not on pallets or properly palletized at the time of delivery (i.e., if a pallet is tipped over during shipment).
- 30.22. The Vendor shall pick up all empty pallets on the next scheduled delivery day.
- 30.23. Unless otherwise specified herein, all services/deliveries performed under this Contract(s) shall be performed between the hours of 8:00 A.M. and 4:00 P.M. for State business days, unless other arrangements are made in advance with the State. Any deviation in work hours shall be pre-approved by the Contracting Officer. The State requires ten-day advance knowledge of

said work schedules to provide security and access to respective work areas. No premium charges shall be paid for any off-hour work.

30.24. If sub-contractors are to be utilized, please include information regarding the proposed sub-contractors including the name of the company, their address, contact person and three references for clients they are currently servicing. Approval by the State must be received prior to a sub-contractor starting any work.

31. BACKORDERS AND SUBSTITUTIONS:

31.1. The Vendor shall maintain adequate inventory levels to avoid out-of-stock situations. Any out-of-stock products must be communicated to the requestor within 24 hours of the placement of the order. No substitutions shall be made without the written consent of the State.

31.2. Items ordered but not delivered in error by the Vendor shall be credited on the next invoice or products delivered at a later date as mutually agreed upon in writing.

31.3. The Vendor shall notify the State Contracting Officer of any items no longer available and provide a recommended replacement.

32. RETURNED GOODS:

32.1. The Vendor shall provide credit and/or replacement of products that are delivered spoiled, outdated, damaged or defective, or products shipped in error by the Vendor within 48 hours of receipt and at no cost to the State. The Vendor may elect to dispose of product rather than return items to them with no charge to the State if products are delivered spoiled, outdated, damaged or defective, or products shipped in error by the Vendor. The Vendor shall accept returns of non-perishable items if ordered in error by the State at a date agreed upon in writing by both parties or at the next delivery date. All items being returned shall be kept in the appropriate climate-controlled storage by the State until the agreed upon return date.

32.2. Non-perishable products ordered in error by the State shall be returned at a date agreed upon in writing by both parties or at the next delivery date for full credit on the next invoice. Products shall be in re-salable 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 Vendor.

33. PERFORMANCE GUARANTEES:

33.1. Vendor shall meet the following performance metrics and objectives, and report outcomes to the State quarterly on November 1st (period of July 1 through September 30), February 1st (period of October 1 through December 31), May 1st (period of January 1 through March 31), and August 1st (period of April 1 through June 30) of each year.

33.2. Failure to meet any one or more of the performance guarantees shall result in a 2% rebate of the sum of the total orders made by the State for the reporting period in which the failure occurred. Any penalties due to the State shall be remitted on a separate check to the corresponding agency business office, and not as an invoice credit, no later than sixty (60) days after the close of the period in which the failure occurred.

33.2.1. On-time delivery: Ninety-five percent (95%). Unexpected circumstances like inclement weather and vehicle breakdowns/accidents are excluded.

33.2.2. Fill Rate: Ninety-eight percent (90%) including substitutes.

33.2.3. Error reporting (miss picks, invoice accuracy):

33.2.3.1. Miss Picks: Two (2) per five (500) cases.

33.2.3.2. Invoice Accuracy: Two per 30 invoices.

34. DELIVERY:

34.1. The Vendor shall be required to accomplish delivery of any item ordered under the contract within three (3) business days from the placement of the order.

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

35. ADDITIONAL REQUIREMENTS:

35.1. Emergency Plan: The Vendor shall have an emergency backup plan in place for any reason including but not limited to the event of a power outages, work stoppages, computer failures, shortages, or any other emergency. The Vendor's emergency plan must comply with the Department of Homeland Security guidelines as amended. Additional information is available in

the following website address, as may be modified from time to time:

<http://www.ct.gov/demhs/cwp/view.asp?a=4490&q=553258&demhsNav=42956> and <http://www.fema.gov/>.

- 35.2. The State, in its sole discretion, may setoff and withhold (1) any costs or expenses including but not limited to costs or expenses such as overtime, that the State incurs resulting from the Vendor's unexcused breach under this contract and under any other agreement or arrangement that the Vendor has with the State and (2) any other amounts of whatever nature that are due or may become due from the State to the Vendor, against amounts otherwise due or that may become due to the Vendor under this Contract, or under any other agreement or arrangement that the Vendor has with the State. The State's right of setoff and to withhold shall not be deemed to be the State's exclusive remedy for the Vendor's or Vendor Parties' breach of this contract, all of which shall survive any setoffs and withholdings by the State.
- 35.3. The Vendor shall not commence work until a conference is held with each agency, at which representatives of the Vendor and the State are present. The conference shall be arranged by the requesting agency (State).
- 35.4. The State shall require correction of defective work or damages to any part of a building or its appurtenances when caused by the Vendor's employees, equipment or supplies. The Vendor shall replace in satisfactory condition all defective work and damages rendered thereby or any other damages incurred. Upon failure of the Vendor to proceed promptly with the necessary corrections, the State may withhold any amount necessary to correct all defective work or damages from payments to the Vendor.
- 35.5. The Vendor or their personnel shall not represent themselves as employees or agents of the State.
- 35.6. While on State property, employees shall be subject to the control of the State, but under no circumstances shall such persons be deemed to be employees of the State.
- 35.7. All personnel shall observe all regulations or special restrictions in effect at the State Agency.
- 35.8. The Vendor's personnel shall be allowed only in areas where services are being performed. The use of State telephones is prohibited.

36. ACCOUNT REPRESENTATIVE:

- 36.1. The Vendor shall assign a dedicated account representative and a backup in their absence who will be responsible for the daily administration of this Contract. The account representative shall be familiar with all Contract requirements to ensure compliance with the terms of the Contract. The account representative shall respond by phone or email to Client Agency inquiries within 24 hours of initial contact or the next business day if after normal business hours. The account representative's responsibilities shall include but not be limited to:
 - 36.1.1. Coordinate business review meeting(s) either virtually or on-site with the State held at a cadence requested by the State.
 - 36.1.2. Provide recommended process and productivity improvements related to potential cost savings to the State for consideration quarterly.
 - 36.1.3. Provide information and product offerings to bring the latest industry ideas and culinary trends to the State as applicable.
 - 36.1.4. Provide training on the use of the Vendor's portal as needed with no charge to the State.

37. QUALIFICATIONS AND EXPERIENCE:

- 37.1. Describe the length and scope of your experience providing similar service to private and public organizations.
- 37.2. Provide three references that may be contacted to support the experience described.
- 37.3. Provide a high-level description of the firm's organization and staff size. Discuss the firm's commitment to the public sector, experience with this type of contract.
- 37.4. Provide an organizational chart depicting the individuals involved in this contract. Define the responsibilities and length of assignment for each of the roles depicted in the organizational chart. A single team member may be identified to fulfill the experience requirement in multiple areas.
- 37.5. Full legal company name;
- 37.6. Year business started;
- 37.7. If applicable, information on any parent/subsidiary relationships with any other company or companies;
- 37.8. State of incorporation;

- 37.9. Location of headquarters;
- 37.10. Current number of people employed;
- 37.11. Presence in the State of New Hampshire;

38. SUBCONTRACTOR INFORMATION:

- 38.1. Vendors must provide information on any Subcontractors that will be involved in this contract. Required information shall include but not be limited to:
 - 38.1.1. Identification of the proposed Subcontractor and a description of their proposed role in this contract.
 - 38.1.2. A high-level description of the Subcontractor's organization and staff size.
 - 38.1.3. Discussion of the Subcontractor's experience with this type of contract.
 - 38.1.4. Two references from companies or organizations where they performed similar services.
 - 38.1.5. Physical location of Subcontractor's headquarters and branch offices, including offshore locations.

39. OBLIGATIONS AND LIABILITY OF THE VENDOR:

- 39.1. The successful Vendor shall perform all work and furnish all materials, tools, equipment and safety devices necessary to perform the requested services in the manner and within the time hereinafter specified. The Vendor shall provide said services to the satisfaction of the State and in accordance with the specifications and at the price set forth herein. All work to be performed and all equipment to be furnished pursuant to the Scope of Services included herein shall be performed and furnished in strict accordance with the specifications included herein, the terms of any contract awarded as a result of this solicitation, any associated contract drawings, and the directions of State representatives as may be given from time to time while the work is in progress.
- 39.2. The successful Vendor shall take full responsibility for the work to be performed pursuant to the Scope of Work included herein; for the protection of said work; and for preventing injuries to persons and damage to property and utilities on or about said work. The Vendor shall in no way be relieved of such responsibility by any authority of the State to give permission or issue orders relating to any part of the work, by any such permission given or orders issued, or by any failure of the State to give such permission or issue such orders. The successful Vendor shall bear all losses accruing to the Vendor as a result of the amount, quality, or character of the work required, or because the nature or characteristics of the work location is different from what the Vendor estimated or expected, or due to delays or other complications caused by the weather, elements, or other natural causes.
- 39.3. The successful Vendor agrees that any damage or injury to any buildings, materials, equipment, or other property resulting from the Vendor's performance of the requested services shall be repaired at the Vendor's own expense so that such buildings, materials, equipment, or other property are satisfactorily restored to their prior condition.

40. NON-EXCLUSIVE CONTRACT:

- 40.1. Any resulting Contract from this RFB will be a non-exclusive Contract. The State reserves the right, at its discretion, to retain other Contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal.

41. DELIVERY TIME:

- 41.1. The successful Vendor shall be required to accomplish delivery of any item ordered under the contract within three (3) business days from the placement of the order.
- 41.2. The use of a private carrier to make delivery does not relieve the successful Vendor from the responsibility of meeting the delivery requirement.

42. RETURNED GOODS:

- 42.1. The successful Vendor 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 successful Vendor within five (5) 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.
- 42.2. Standard stock products ordered in error by the State of New Hampshire shall be returned for full credit within five (5) 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 successful Vendor.

43. OFFER:

43.1. The bidder offers to sell to the state of New Hampshire the commodities or services indicated at the price or prices quoted and in compliance with the requirements and specifications of the bid. Quotes in lieu of a completed offer sheet will not be accepted. A Vendor must bid on at least 75% of the items to be considered.

43.2. Complete "Attachment 1: Offer Sheet."

44. VENDOR'S BALANCE OF PRODUCT LINE ITEMS:

44.1. The items in the Offer Section include the items most commonly purchased by State of New Hampshire agencies and shall be used for award purposes. During the term of contract, the State may purchase other items that relate to the product/categories represented herein from the successful Vendor's Balance of Product Line. All items ordered shall include all shipping/charges as specified above in "Bid Prices".

45. VENDOR CONTACT INFORMATION:

45.1. Please provide contact information below for a person knowledgeable of and who can answer questions regarding this bid response.

Michelle PANIAGUI 802-295-7400 _____
 Contact Person Local Telephone Number Toll Free Telephone Number

Michelle.Puppervalleyproduce.com uppervalleyproduce.com
 E-mail Address Company Website

UPPER VALLEY Produce 211 DICKOTI DR WHITE RIVER JCT,
 Vendor Company Name Vendor Address VT, 05001

Vendor Number (provided by the State upon registration)

DUNS and/or SAM.GOV Number

46. DELIVERY LOCATIONS

46.1. The following are the current State of New Hampshire agency/institution locations which, if you are awarded a contract, you are expected to service. The State of New Hampshire reserves the right to add locations to this list at the contract prices or to delete locations as mutually agreed upon in writing by executing an amendment to the contract. This listing does not include any eligible participants. If required, please see NH District Map for clarifications:

<https://www.nh.gov/dot/org/operations/highwaymaintenance/documents/DistrictEngineersMap-August2015.pdf>.

Agency	Delivery Frequency
Dept. of Corrections 138 East Milan Road, Berlin, NH 03570	Monday through Friday 7:00 AM to 2:30 PM Jeff Young (603) 752-0411
Dept. of Corrections 3 McGuire Street, Concord, NH 03301	Monday through Friday 7:00 AM to 2:30 PM Heather Cornock (603) 271-2227
Concord Community Corrections Center 60 Iron Works Road, Manchester, NH 03301	Monday through Friday 7:30 AM to 2:30 PM Heather Cornock (603) 271-2227
Manchester Community Corrections Center 126 Lowell Street, Manchester, NH 03104	Monday through Friday 7:30 AM to 2:30 PM Heather Cornock (603) 271-2227
Glencliff Home 393 High Street, Glencliff, NH 03238	Monday through Friday 8:00 AM to 3:30 PM James Cormica (603) 989-3111 / 9522

Veteran's Home 139 Winter Street, Tilton, NH 03276	Monday through Friday 8:00 AM to 11:00 AM or 12:30 PM to 3:30 PM Lynn Hillbrunner (603) 527-4893
Dept. of Health & Human Services – Brown Cafeteria 129 Pleasant Street, Concord, NH 03301	Monday through Friday 6:00 AM to 2:00 PM Brianna Mancini or Daniel Rinden 603-271-5360 271-5512
Dept. of Health & Human Services – NH Hospital 36 Clinton Street, Concord, NH 03301	Monday through Friday 6:00 AM to 2:00 PM Brianna Mancini or Daniel Rinden 603-271-5360 271-5512

47. ATTACHMENTS:

47.1. The following attachments are an integral part of this bid invitation:

47.1.1. Attachment 1: Offer Sheet

Note: To be considered, bid shall be signed on the front cover sheet in the space provided.

48. THE BID OPENING IS OPEN TO THE PUBLIC ONLINE ON 1/31/2024 AT 10:00 AM (EST) AT THE FOLLOWING:

Microsoft Teams meeting
 Join on your computer, mobile app or room device
[Click here to join the meeting](#)
 Meeting ID: 239 909 130 974
 Passcode: gLrucg
[Download Teams](#) | [Join on the web](#)
 Join with a video conferencing device
 nhgov@m.webex.com
 Video Conference ID: 119 737 844 2
[Alternate VTC instructions](#)
 Or call in (audio only)
 +1 603-931-4944, 448141994# United States, Concord
 Phone Conference ID: 448 141 994#
[Find a local number](#) | [Reset PIN](#)
[Learn More](#) | [Meeting options](#)

APPENDIX A – FORM NUMBER P-37

SAMPLE FORM TO BE COMPLETED UPON AWARD

(version 2/23/2023)

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

AGREEMENT

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

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Unit and Class	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature Date:		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature Date:		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: _____ On: _____			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i> G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials MP
Date 1/31/24

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

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

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

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

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

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

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.