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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
25 Capitol Street
Concord, New Hampshire 03301
(603) 271-3201 Office@das.nh.gov

Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

December 4, 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 **Sole Source** amendment to an existing contract (Contract# 8003236) with Brox Industries, Inc. (VC #177569), Dracut, MA, for the supply and delivery of aggregates, by increasing the price limitation by $346,848.25 from $349,078.99 to an amount up to and not to exceed $695,927.24, with no change to the completion date, effective upon approval from the Governor and Executive Council through April 30, 2026. The original contract (Contract #8003212) was approved by the Governor and Executive Council on June 28, 2023, item #272.

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

As previously stated, the original contract was approved by the Governor and Executive Council on June 28, 2023, item #272.

Agency expenditures have exceeded the originally predicted spending for this contract (Contract #8003236) due to road repairs caused by excessive rain washout. Contract usage reporting and business intelligence reports show an average monthly spend of $18,255.17. Agency expenditures have now consumed 84% of the price limitation. This request is **Sole Source** because the requested increase to the price limitation is more than 10% of the original price limitation.

The requested price limitation of $695,927.24, is supported through spend analysis and business intelligence contract spend reporting. Based on these forecasted numbers State Agencies would be allowed to continue vital road repair work without an interruption in service.

Contract financials	
Current price limitation	$349,078.99
Current spend against contract	$292,082.74
Current contract limitation balance	$56,996.25
Requested price limitation increase	$346,848.25
New requested Price limitation	$695,927.24

Based on the foregoing, I am respectfully recommending approval of the **Sole Source** contract amendment with Brox Industries, Inc.

Respectfully submitted,

Charles M. Arlinghaus
Commissioner

Year	ACH Spend	P-Card Spend	Total Spend	Dates Values		
					$349,078.99	Price Limitation
2023	$83,921.64	$626.29	**$84,547.93**	6/28/2023	$18,255.17	Average Monthly Spend
2024	$206,241.30	$1,293.51	**$207,534.81**	9/30/2024	$292,082.74	Total spend
2025					$56,996.25	Remaining Balance
2026					$346,848.25	Suggested Increase
					$695,927.24	Forecasted End of Term Spend
					$695,927.24	New Price Limitation
Totals	**$290,162.94**	**$1,919.80**	**$292,082.74**			

FIRSTAMENDMENT TO THE CONTRACT BETWEEN
BROX INDUSTRIES, INC
AND
THE STATE OF NEW HAMPSHIRE,
DEPARTMENT OF ADMINISTRATIVE SERVICES,
FOR AGGREGATES
CONTRACT #8003236

This First Amendment (hereinafter referred to as the "Amendment"), dated this 4 day of November 2024, is by and between the State of New Hampshire, Department of Administrative Services (hereinafter referred to as "the State") and Brox Industries, Inc. (hereinafter referred to as "the Contractor") for Aggregates.

WHEREAS, pursuant to an agreement effective June 28, 2023, and set to expire April 30, 2026, (hereinafter referred to as "the Agreement"), the Contractor agreed to supply Aggregates for the State in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, pursuant to Section 17 of the Agreement, the Agreement may be amended by an instrument in writing executed by both parties;

NOW, THEREFORE, for and in consideration of the mutual promises set forth in this Amendment and the underlying Agreement, the parties do mutually agree as follows:

1. Delete in its entirety Form Number P-37, item 1.8 Price Limitation and substitute the following:

   1.8 $695,927.24

2. Amend Exhibit C, 1. Contract Price: Change to the following:

   $695,927.24

3. All other provisions of the Agreement, approved by the Governor and Executive Council on June 28, 2023 shall remain in full force and effect.

Contractor Initials: JR

Date: 11/4/24

BROX INDUSTRIES, INC.

By: _____

Don Reny
(Print Name)

Title: COO

Date: 11/4/24

STATE OF NEW HAMPSHIRE

By: _____

Charles M. Arlinghaus
(Print Name)

Title: Commissioner
Department of Administrative Services

Date: 11-14-24

OFFICE OF THE ATTORNEY GENERAL

By: Duncan A. Edgar

Duncan A. Edgar
(Print Name)

Title: Assistant Attorney General

Date: November 18, 2024

The foregoing contract was approved by the Governor and Council of New Hampshire on

_____

Signed: _____

_____
(Print Name)

Title: _____

Contractor Initials: DR

Date: 11/4/24

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 BROX INDUSTRIES, INC. is a Massachusetts Profit Corporation registered to transact business in New Hampshire on May 03, 1989. 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: **141358**
Certificate Number: **0006795724**

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 22nd day of October A.D. 2024.

David M. Scanlan
Secretary of State

BROX

BROX INDUSTRIES, INC.

Consent Action by the
Board of Directors

September 25, 2024

The undersigned, being all of the members of the Board of Directors of Brox Industries, Inc., a Massachusetts corporation (the "Corporation"), hereby consent to the following action, which shall, for all purposes, constitute votes at a special meeting of the Board of Directors of the Corporation:

VOTED: That NORMAN P. SAUCIER, Project Manager of the Corporation and CHUCK WASYLAK, Operations Manager and CHRISTOPHER MATHESON, Sales Manager are hereby jointly and severally authorized to execute bids, contracts and bonds, up to a limit of One Million and 00/100 Dollars ($1,000,000.00) in the name and behalf of the Corporation, and affix its corporate seal thereto; and such execution of any contract or obligation in the Corporation's name on its behalf by such NORMAN P. SAUCIER or CHUCK WASYLAK under seal of the Corporation, shall be valid and binding upon the Corporation.

VOTED: That DOUGLAS R. PERRY, Chief Operating Officer of the Corporation, CECILIA NICKERSON, Treasurer and Secretary of the Corporation and HENRY K. HYDER III Assistant Secretary of the Corporation, are hereby jointly and severally authorized to execute bids, contracts and bonds, up to a limit of Ten Million and 00/100 Dollars ($10,000,000.00) in the name and behalf of the Corporation, and affix its corporate seal thereto; and such execution of any contract or obligation in the Corporation's name on its behalf by such DOUGLAS R. PERRY, CECILIA NICKERSON or HENRY K. HYDER III under seal of the Corporation, shall be valid and binding upon the Corporation.

VOTED That any two (2) of the following, acting jointly, DOUGLAS R. PERRY, Chief Operating Officer of the Corporation, CECILIA NICKERSON, Treasurer and Secretary of the Corporation and HENRY K. HYDER III Assistant Secretary of the Corporation, are hereby authorized to execute bids, contracts and bonds, with no limit, in the name and on behalf of the Corporation, and affix its corporate seal thereto; and such execution of any contract or obligation in the Corporation's name on its behalf by any two (2) of such DOUGLAS R. PERRY, CECILIA NICKERSON and HENRY K. HYDER III under seal of the Corporation, shall be valid and binding upon the Corporation.

BROX

VOTED: That STEPHEN M. BROX, President of the Corporation, is hereby authorized to execute bids, contracts and bonds, with no limit, in the name and on behalf of the Corporation, and affix its corporate seal thereto; and such execution of any contract or obligation in the Corporation's name on its behalf by such STEPHEN M. BROX under seal of the Corporation, shall be valid and binding upon the Corporation.

Notice of meeting and all other formalities in connection with the foregoing and the actions taken therein are hereby waived. This Consent shall be filed with the records of the Corporation.

IN WITNESS WHEREOF, the undersigned have executed this Consent Action by the Board of Directors as of the date first set forth above.

DIRECTORS:

Stephen M. Brox

Cecilia Nickerson

Henry K. Hyder III

BROX INDUSTRIES, INC.

CERTIFICATE OF SECRETARY

I, Cecilia Nickerson, do hereby certify as follows:

THAT I am the Secretary of Brox Industries, Inc, a Massachusetts corporation;

THAT the attached is a true copy of the Consent Action by the Board of Directors dated September 25, 2024.

Cecilia Nickerson

Secretary

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
THE ROWLEY AGENCY INC.
45 Constitution Avenue
P.O. Box 511
Concord NH 03302-0511

CONTACT NAME: Jennifer Letendre
PHONE (A/C, No, Ext): (603)224-2562 FAX (A/C, No): (603)224-8012
E-MAIL ADDRESS: jletendre@rowleyagency.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Union Insurance Company	25844
INSURER B: Acadia Insurance Company	31325
INSURER C: Firemen's Insurance Co. of Washington	21784
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Brox Industries, Inc.
One Tech Drive
Suite 310
Andover MA 01810

COVERAGES CERTIFICATE NUMBER: 24/25 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:			CPA0175495-30	10/1/2024	10/1/2025	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS			CAA0175825-20 MAA0178524-27	10/1/2024	10/1/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $ 0			CUA5455473-14	10/1/2024	10/1/2025	EACH OCCURRENCE	$ 1,000,000
							AGGREGATE	$ 1,000,000
								$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		Section 3A States:NH,MA,NY WPA0175962-30	10/1/2024	10/1/2025	X PER STATUTE OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Aggregates contract RFB 2740-23. The State of NH is an additional insured w/respects to general liability when required by written contract. 30 day cancellation notice applies, *except 10 days due to nonpayment of premium.

CERTIFICATE HOLDER

State of NH
Administrative Services
Bureau of Purchase & Property
25 Capital Street
Room 102
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Jennifer Letendre/JLP

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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 Brox Industries, Inc.		1.4 Contractor Address 1471 Methuen St, Dracut MA, 01826	
1.5 Contractor Phone Number 978-454-9105	1.6 Account Number Various	1.7 Completion Date 04/30/2026	1.8 Price Limitation $349,078.99
1.9 Contracting Officer for State Agency Liz Moskalenko		1.10 State Agency Telephone Number 603-271-3122	
1.11 Contractor Signature Date: 5/16/23		1.12 Name and Title of Contractor Signatory Cecilia Nickerson Treasurer	
1.13 State Agency Signature Date: 6/13/23		1.14 Name and Title of State Agency Signatory Charles M. Arlinghaus, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)* By: Director, On:			
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: On: 6/14/23			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: 272 G&C Meeting Date:			

SECRETARY OF STATE JUN 28 2023

Contractor Initials
Date 5/16/23

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

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

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

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

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

7. PERSONNEL.

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

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

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

Contractor Initials K
Date 5/16/23

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

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

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

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

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

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

9. TERMINATION.

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

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

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

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

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under

Contractor Initials
Date 5/16/23

this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

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

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

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

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

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

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

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

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

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

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

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

Contractor Initials LW
Date 5/16/23

EXHIBIT A

SPECIAL PROVISIONS

There are no special provisions of this contract.

Contractor Initials LW
Date 5/16/23

EXHIBIT B
SCOPE OF WORK

1. EFFECTIVE DATE

The Contract term shall commence on May 05, 2023 or upon execution by Governor and Council, whichever is later (the "Effective Date") and shall continue thereafter through April 30, 2026, a period of approximately three (3) years.

The contract may be extended for 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 Commissioner of the Department of Administrative Services. The maximum term of the contract (including extensions) shall not exceed five (5) years.

2. CONTRACT DOCUMENTS

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

a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
b. EXHIBIT A Special Provisions
c. EXHIBIT B Scope of Work
d. EXHIBIT C Method of Payment
e. EXHIBIT D RFB 2740-23
f. EXHIBIT E Contractor's Bid Response

In the event of any conflict among the terms or provisions of the documents listed above, the following order of priority shall indicate which documents control: (1) EXHIBIT A "Special Provisions," (2) Form Number P-37, (3) EXHIBIT B "Scope of Work," (4) EXHIBIT C "Method of Payment," (5) EXHIBIT D "RFB 2740-23," and (6) EXHIBIT E "Contractor's Bid Response."

3. SCOPE OF WORK

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

Unless otherwise specified herein, all deliveries performed under awarded Contracts shall be performed between the hours of 7:30 A.M. and 4:00 P.M. for State business days, unless other arrangements are made in advance with the State. No premium charges shall be paid for any off-hour work.

All product shall meet specifications and be in conformance with and as defined in the latest version of the NHDOT Standard Specifications for Road and Bridge Construction, Sections 304, 583 and 585. Any non-conforming materials will be rejected and removed at the Contractors expense.

The product indicated in this bid are equivalent to the type and quality required. Your offer shall match or exceed the product indicated and you shall demonstrate to the satisfaction of the purchasing Agency they meet or exceed the minimum standards. Product not meeting the minimum standards shall not be accepted. Product literature and specifications may be enclosed.

The Contractor shall not commence delivery until a conference is held with each agency prior to delivery if required and requested by the State, at which time representatives of the Contractor and the State are present. The conference shall be arranged by the requesting agency.

Contractor Initials
Date 5/16/23

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.

4. WARRANTY REQUIREMENTS

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

5. ORDERING PROCEDURE

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

6. USAGE REPORTING

The Contractor shall submit a quarterly 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 the Bureau of Procurement Services, Liz Moskalenko and sent electronically to Elizabeth.A.Moskalenko@DAS.NH.Gov. At a minimum, the Report shall include:

- Contract Number
- Utilizing Agency and Eligible Participant
- Services/Products Purchased converted to Cubic Yards or Tons (showing the item, product or part number, and 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 the product
    - Percentage of waste recycled throughout the manufacturing process
    - Any associated material avoided and/or recycled as applicable under contract
    - A standardized reporting form will be provided after contract award
- Total Cost of all Services/Products Purchased. Ability to sort by agency/eligible participant.
- Preferred in Excel format

7. ACCOUNT COMMUNICATION & ESCALATION

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

8. RETURNED GOODS

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

Contractor Initials L
Date 5/16/13

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

1. **DELIVERY**

All deliveries shall be FOB Destination (Contractor is responsible for product until product is delivered and accepted by the State). Product not conforming to specifications or are not in good condition upon receipt shall be replaced promptly by the Contractor.

The Contractor shall deliver any product ordered under this Contract within three (3) business days from the placement of the order, or as otherwise may be specified in a purchase. order issued by the State. All orders must be delivered within the agreed upon timeframe.

For large quantity orders, the above required delivery timeframe may be extended to the agreed upon date between the requesting agency and contractor.

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

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

The Contractor shall provide all product strictly pursuant to, and in conformity with this contract which resulted from RFB 2740-23.

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

Additionally, all updates i.e., telephone numbers, contact names, email addresses, W9, tax identification numbers are required to be current through a formal electronic submission to the Bureau of Purchase and Property at https://das.nh.gov/purchasing/vendorregistration/(S(a0fzcv55ahaeas45jpya5i45))/welcome.aspx

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

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

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

Contractor Initials
Date 5/16/23

EXHIBIT C
METHOD OF PAYMENT

1. **CONTRACT PRICE**
The Contractor shall provide the product specified in Exhibit B in the amount not to exceed the Price Limitation of $349,078.99; 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.

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

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

Documentation of the increase must accompany the request to support the amount (%) of the requested increase.

The annual increase for any item shall not exceed 3% and in no case shall it exceed the documented percentage of increase levied on the contractor by said contractors supplier(s). Requests for price increases may only be based

on increased supplier or market prices and not on fuel costs, regulatory charges or any other type of surcharge or administrative cost.

Price decreases shall become effective immediately as they become effective to the general trade or the Vendor's best/preferred customer.

Updated Published Price List MUST be e-mailed to Elizabeth.A.Moskalenko@DAS.NH.Gov.

The State shall have the right to reject any pricing that fails to follow the above principles, and to rebid any part, or the entire contract, if deemed to be in its best interest.

Contractor Initials
Date 5/16/23

2. PRICING STRUCTURE

Description	UOM	Estimated Usage	Hooksett NH Price Ea UOM	Hudson NH Price Ea UOM	Rochester NH Price Ea UOM
Sand	Ton	15,519	$12.00	$24.00	$18.75
Sand (Washed/Screened)	Ton	16,721	$18.50	$24.00	$20.50
Concrete Sand (Washed)	Ton	16			
Manufactured Sand (Washed)	Ton	844	$26.00	$26.00	$24.00
Winter Sand (Washed)	Ton	1,554	$26.00	$26.00	$24.00
Gravel	Ton	12,748			
4" Gravel	Ton	491			
3/4" Crushed Gravel	Ton	1,775	$13.75	$15.75	$17.75
3/4" Stapak (Crushed Gravel)	Ton	2,279	$13.75	$15.75	$17.75
1" Crushed Gravel	Ton	11,178			
1-1/2" Crushed Gravel	Ton	4,163	$13.85	$15.50	$18.25
3" Crushed Gravel	Ton	87	$13.50	$15.25	$17.25
5" Minus Crushed Gravel	Ton	30			
3/4" Crushed Bank Run Gravel	Ton	1427			
1 1/2" Crushed Bank Run Gravel	Ton	435			
6" Bank Run Gravel	Ton	148			
6" Quarry Run Gravel	Ton	564			
Stone Dust	Ton	4372	$23.00	$28.50	$20.00
Crushed Stone	Ton	14320	$25.00	$25.00	$25.00
Dense Crushed Stone	Ton	29692	$25.00	$25.00	$25.00
3/8" Blend Crushed Stone	Ton	68			
3/4" Crushed Stone	Ton	12475	$16.50	$18.75	$20.75
1" Crushed Stone	Ton	5180			
1 1/2 Crushed Stone	Ton	4868	$17.00	$19.25	$22.00
7" Crushed Stone	Ton	1359	$19.00	$18.50	$25.50
3/8" Stone	Ton	16			
3/4" Stone	Ton	832			
1 1/2" Stone	Ton	363			
3-6" Quarry Stone	Ton	237	$19.00	$18.50	$25.50
3" Stone	Ton	189			
6+" Stone	Ton	1833	$19.00	$18.50	$25.50
7" Crushed Stone	Ton	148	$19.00	$18.50	$25.50
PRODUCT - Other					
Blasted Ledge	Ton	428	$19.00	$19.00	$24.00
3/8" Ledge Pack	Ton	443			
3/4" Ledge Pack	Ton	28	$13.75	$15.75	$17.75
HardPak	Ton	591			
Clean Fill	Ton	17,560	$7.00	$8.00	$8.50
Screened Top Soil	Ton	142	$18.75	$21.00	$23.50
Loam	Ton	336			
Mulch	Ton	41			

Contractor Initials W
Date 5/16/23

Tailings	Ton	160			
Recycled Concrete	Ton	74	$12.00	$12.00	$12.00
Recycled Asphalt	Ton	74	$29.00	$13.50	$29.00
Slag	Ton	74			
Single Pass	Ton	18			
Truck Overtime Usage Hours	Hours	820			

All product shall meet specifications and be in conformance with and as defined in the latest version of the NHDOT Standard Specifications for Road and Bridge Construction, Sections 304, 583 and 585, located at:

www.nh.gov/dot/org/projectdevelopment/highwaydesign/specifications/index.htm

CONTRACTOR'S BALANCE OF PRODUCT LINE ITEMS

During the term of contract, the state may purchase other items in relation to Aggregates Delivered and/or Supplied from the successful Vendor's Balance of Product Line. Product purchased off balance of product line(s) must offer equal to or greater than the percentage offered for the assigned categories on the main offer section. All products ordered shall include all shipping/delivery charges as specified above in "Bid Prices" unless delivery is outside the normal business delivery area.

3. INVOICE

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

4. PAYMENT

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

Contractor Initials LW
Date 4/16/23

EXHIBIT D

RFB 2740-23 is incorporated here within.

Contractor Initials
Date 5/16/23

EXHIBIT E

Contractor's Bid Response is incorporated here within

Contractor Initials
Date 5/16/23

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that BROX INDUSTRIES, INC. is a Massachusetts Profit Corporation registered to transact business in New Hampshire on May 03, 1989. 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: 141358

Certificate Number: 0006231196

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 16th day of May A.D. 2023.

David M. Scanlan

Secretary of State

CORPORATE RESOLUTION

At a meeting of the Board of Directors of

Brox Industries, Inc. duly called and held on May 11, 2023

at which a quorum was present and acting throughout, the following vote was duly adopted:

VOTED: That the action of Cecilia Nickerson, the Treasurer of the Corporation, in affixing the Corporate Seal, signing and delivering in the name and behalf of the Corporation an aggregate agreement with the State of New Hampshire.

A true copy:

Attest:

Stephen M Brox, President

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/15/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
THE ROWLEY AGENCY INC.
45 Constitution Avenue
P.O. Box 511
Concord NH 03302-0511

CONTACT NAME: Jennifer Letendre
PHONE (A/C, No, Ext): (603) 224-2562 FAX (A/C, No): (603)224-4013
E-MAIL ADDRESS: jletendre@rowleyagency.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Union Insurance Company	25844
INSURER B: Acadia Insurance Company	31325
INSURER C: Firemen's Insurance Co. of Washington	21784
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Brox Industries, Inc.
1471 Methuen Street
Dracut MA 01826

COVERAGES CERTIFICATE NUMBER: 22/23 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:			CPA0175493-20	10/1/2022	10/1/2023	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS			CAA0175825-24 MAA0178524-25	10/1/2022	10/1/2023	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		Section 3A States:NH,MA,ME WBA0175962-20	10/1/2022	10/1/2023	X PER STATUTE OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Aggregates contract RFB 2740-23. The State of NH is an additional insured w/respects to general liability when required by written contract. 30 day cancellation notice applies, *except 10 days due to nonpayment of premium.

CERTIFICATE HOLDER

State of NH
Administrative Services
Bureau of Purchase & Property
25 Capital Street
Room 102
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Jennifer Letendre/JLP

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STATE OF NEW HAMPSHIRE BID TRANSMITTAL LETTER

Date: 3/25/23

Company Name: Brox Industries
Address: 1500 Hooksett Rd Hooksett, NH 03106

To: Point of Contact: Liz Moskalenko
Telephone: 603-271-3122
Email: NH.Purchasing@das.nh.gov

RE: Bid Invitation Name:
Bid Number: 2740-23
Bid Posted Date (on or by): 03/15/2023
Bid Closing Date and Time: 03/30/2023 @ 11:00 AM (EST)

(Insert name of signor) Brad Deans on behalf of Brox Industries (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 # 2740-23 for Aggregates 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.

Authorized Signor's Signature _____ **Authorized Signor's Title** Aggregate Sales Mgr.

NOTARY PUBLIC/JUSTICE OF THE PEACE

COUNTY: Rockingham STATE: NH ZIP: 03038

On the 25 day of March, 2023, personally appeared before me, the above named Brad Deans in his/her capacity as authorized representative of Brox, known to me or satisfactorily proven, and took oath that the foregoing is true and accurate to the best of his/her knowledge and belief.

In witness thereof, I hereunto set my hand and official seal.

_____
(Notary Public/Justice of the Peace)

NATHAN T HOITT
NOTARY PUBLIC
My Comm. Exp. Apr 20, 2027 (Date)
NEW HAMPSHIRE

My commission expires: 4/20/2027

Form P37-A

Contractor Initials B.D.
Date 3/25/23

FOR AGGREGATES FOR
THE STATE OF NEW HAMPSHIRE

PURPOSE:
The purpose of this bid invitation is to establish a contract for supply or delivery of Aggregates 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.

INSTRUCTIONS TO VENDOR:
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.

BID SUBMITTAL:
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.

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.

BID INQUIRIES:
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.

Questions shall be submitted by E-mail to Liz Moskalenko at the following address:
Elizabeth.A.Moskalenko@DAS.NH.Gov

Submissions shall clearly identify the bid Number, the Vendor's name and address and the name of the person submitting the question.

BID DUE DATE:
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.

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.

ADDENDA:
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

Contractor Initials B.D.
Date 3/25/13

TIMELINE:
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.

03/15/2023	Bid Solicitation distributed on or by
03/28/2023	Last day for questions, clarifications, and/or requested changes to bid
03/30/2023	11:00 AM (EST) Bid Closing
05/01/2023	Implementation of Contract

TERMS OF SUBMISSION:
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.

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.

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.

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.

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.

CHAPTER ADM 600 PROCUREMENT AND PROPERTY RULES APPLY TO AND ARE MADE A PART HEREOF.

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.

CONTRACT TERM:
The term of the contract shall commence May 1, 2023 or upon execution by the Commissioner of the Department of Administrative Services and/or Governor and Executive Council, whichever is later through April 30, 2026 for a period of three approximately (3) years.

The contract may be extended for an additional two (2) year extension 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 Commissioner of the Department of Administrative Services and/or Governor and Executive Council. The maximum term of the contract (including extensions) shall not exceed five (5) years.

CONTRACT AWARD:
The award shall be made to the Vendors meeting the criteria established in this RFB and providing the lowest cost by product, location and availability. 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 Contracts.

The State reserves the right to purchase product from the most economical source of supply with consideration of product, price and transported distance.

Contractor Initials B.D.
Date 3/15/23

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.

NOTIFICATION AND AWARD OF CONTRACT(S):
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).

Bid results may also be viewed on our website at https://apps.das.nh.gov/bidscontracts/bids.aspx.

For Vendors wishing to attend the bid closing: **Names of the Vendors submitting responses and pricing shall be made public. In lieu of in person public bid openings the State shall conduct openings via electronic means until further notice.**

LIABILITY:
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.

PUBLIC DISCLOSURE OF BID OR PROPOSAL SUBMISSIONS:
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.

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:

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.

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.

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.

Contractor Initials B.D.
Date 3/25/23

By submitting a proposal. Bidders acknowledge and agree that:

- 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.
- 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
- 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.

TERMINATION:
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.

VENDOR CERTIFICATIONS:
Prior to bid award, all Vendors shall be duly registered as a vendor authorized to conduct business in the State of New Hampshire.

STATE OF NEW HAMPSHIRE VENDOR APPLICATION: Vendors shall have a completed a vendor application to be duly registered with the NH Bureau of Purchase and Property. 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.

- STATE OF NEW HAMPSHIRE VENDOR APPLICATION: To be eligible for a contract award, a Vendor must have a completed Vendor Application Package and be on file as a State of New Hampshire vendor 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).

- 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/

- 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.

BID PRICES:
Bid prices shall remain firm for one year and may be adjusted on the anniversary date of this contracts annual period and shall be in US dollars and shall include delivery unless outside of vendors specified delivery area(s) and all other costs required by this bid invitation. Special charges, surcharges (including credit card transaction fees) or load 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 on delivered loads only and 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, unless outside of vendors specified delivery area(s). Any required deliveries shall be made in order to arrive at requested destination at a satisfactory time for unloading during receiving hours or as agreed upon by requisitioning agency.

Per Administrative Rule 606.01(e) "if there is a discrepancy between the unit price and the extension price in a response to an RFP, RFB or RFQ, the unit price shall be binding upon the vendor".

Contractor Initials B.D.
Date 3/13/23

PRICE ADJUSTMENTS:
On the anniversary date of this contract, the successful Vendors may request price adjustment, either upward or downward annually, keyed to the industry changes or general trade. Written notice of an impending price increase, including substantiation for it, must be submitted in writing to Bureau of Purchase & Property, 25 Capital 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 must accompany the request to support the amount (%) of the requested increase.

The annual increase for any item shall not exceed 3% and in no case shall it exceed the documented percentage of increase levied on the contractor by said contractors supplier(s). Requests for price increases may only be based on increased supplier or market prices and not on fuel costs, regulatory charges or any other type of surcharge or administrative cost.

Price decreases shall become effective immediately as they become effective to the general trade or the Vendor's best/preferred customer.

Updated Published Price List MUST be e-mailed to Elizabeth.A.Moskalenko@DAS.NH.Gov .

The State shall have the right to reject any pricing that fails to follow the above principles, and to rebid any part, or the entire contract, if deemed to be in its best interest.

AUDITS AND ACCOUNTING:
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.

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.

ESTIMATED USAGE:
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.

USAGE REPORTING:
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 The Bureau of Procurement & Support Services, Liz Moskalenko and sent electronic to Elizabeth.A.Moskalenko@DAS.NH.Gov. At a minimum and where applicable, the report shall include:

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

Contractor Initials B.D.
Date 3/25/13

ESTABLISHMENT OF ACCOUNTS:
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.

ELIGIBLE PARTICIPANTS:
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 501 c 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.

PAYMENT:
Payment method (P-Card or ACH). **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.

INVOICING:
Invoices shall be submitted noting the contract number to the corresponding State agency after completion of work/acceptance of delivery.

TERMS OF PAYMENT:
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.

VENDOR RESPONSIBILITY:
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.

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

- Provide pricing information as indicated in the "Offer" section; and
- Provide all other information required for the bid response (if applicable); and
- Complete the "Vendor Contact Information" section; and
- Add applicable prospective Vendor information to the "Transmittal Letter" form and sign the form in the space provided. The Transmittal Letter form must be signed under oath and acknowledged by a notary public or justice of the peace in order for the bid response to be considered.

Contractor Initials B.D.
Date 3/25/23

It is the responsibility of the Vendor to maintain this or 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://das.nh.gov/purchasing/vendorregistration/(S(a0fzcv55ahaegs45ipya5i45))/welcome.aspx

IF AWARDED A CONTRACT:
The successful Vendor after awarded, shall complete the following sections of the State of New Hampshire Agreement Form #P-37 (See sample below; pages 14 of 19 through 17 of 19):

Section 1.3 Contractor Name
Section 1.4 Contractor Address
Section 1.11 Contractor Signature
Section 1.12 Name & Title of Contractor Signatory (if Vendor is not a sole proprietor)

- Provide certificate of insurance indicating the coverage amounts required by Section 14 of the Form Number P-37.
- Provide proof of sufficient workers' compensation insurance coverage or evidence of exemption from RSA Chapter 81-A.
- 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.
- Certificate of Vote/Authority: Each contract between the State and a business organization (not individual) must have attached to it evidence of authority of the individual executing the contract to bind the business organization. See: RSA 5:18-a, as of the date the individual signs the contract. The name of the business organization on the Certificate of Vote/Authority must match the name in the Certificate of Good Standing and the name of the contractor identified in the contract in P-37 Contract Form, block 1.3, Contractor Name. The Certificate of Vote/Authority must not be executed by the same individual executing the contract, unless the Certificate of Vote/Authority states that the individual is the sole shareholder, member, director, or officer of the business organization.

SPECIFICATION COMPLIANCE:
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.

The product indicated in this bid are equivalent to the type and quality required. You may bid different products separately; 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. Product that does not meet the minimum standards shall not be accepted. Product literature and specifications may be enclosed.

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

SCOPE OF WORK:
Vendor shall supply all labor, tools, transportation, materials, product and permits as necessary and required to perform services as described herein should services be required.

Unless otherwise specified herein, all deliveries performed under awarded Contracts shall be performed between the hours of 7:30 A.M. and 4:00 P.M. for State business days, unless other arrangements are made in advance with the State. No premium charges shall be paid for any off-hour work.

Contractor Initials B.D.
Date 3/25/23

The Vendor shall not commence delivery 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).

The Vendor or their personnel shall not represent themselves as employees or agents of the State.

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.

WARRANTY REQUIREMENTS:
The successful Vendor shall be required to provide warranties on all product provided by the Vendor for a period of not less than one (1) year or the suppliers standard warranty period, whichever is greater, commencing on the date that the product is received, inspected, and accepted by the State of New Hampshire. The warranty shall cover 100% of repair or replacement costs, including all product, shipping, labor, travel, lodging, and expenses.

OBLIGATIONS AND LIABILITY OF THE VENDOR:
The successful Vendor shall perform all work and furnish all product, tools, equipment and safety devices necessary to perform the requested supply in the manner and within the time hereinafter specified. The Vendor shall provide said product to the satisfaction of the State and in accordance with the specifications and at the price set forth herein. All product to be supplied and all equipment utilized to furnish product 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.

The successful Vendor shall take full responsibility for the order of product to be provided 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 order. 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 order, 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 or quality of required product of supply, or because the nature or characteristics of the delivery location is different from what the Vendor estimated or expected, or due to delays or other complications caused by weather, elements, or other natural causes.

The successful Vendor agrees that any injury or damage to any buildings, materials, equipment, or other appurtenances when caused by the Vendors employees or equipment resulting from the Vendors performance of the requested delivery shall be corrected, replaced, or repaired at the Vendors own expense so that such injury or damage to buildings, materials, equipment, or other property are satisfactorily rendered thereby or restored to their prior condition.

Upon failure of the Vendor to proceed promptly with the necessary corrections as noted above, the State may withhold any amount necessary to correct all damages from payments to the Vendor.

DISASTER RECOVERY:
Do you provide emergency preparedness plan to aid the State during an emergency or disaster recovery with specifics as to response time, availability of supplies and goods and services offered? **Yes or No**

If yes, please include hard copy and/or link to website for further information. This information is not considered part of award criteria and considered informational only.

Contractor Initials B.D
Date 5/25/23

DELIVERY TIME:
The successful Vendor shall be required to accomplish delivery of any item ordered under the contract within three (3) working days from the placement of the order.

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

RETURNED GOODS:
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 ten (10) business days of notification with no restocking or freight charges and shall be replaced with specified products or the agency shall be refunded/credited for the full purchase price. Unauthorized substitutions for any products are not allowed.

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

IMPORTANT CHECKLIST FOR COMPLIANT BIDS

The historical "**customary aggregate agreement**" better known to some as the "Product of the Soils Agreement" has been updated over the course of the approximate 10 plus years since the bidding and RFQ's took place for this commodity. In order to be classified as a "Contracted" Vendor for a Statewide "Aggregate" Supplied and/or Delivered Contract, one must participate in the bidding process providing a bid submission, to be later followed by the completion and submission of a P-37 and accompanied by required documentation (as noted above in the bid document in page 8 of 19).

This bid document will form the "Statewide" purchasing contracts for all Aggregates purchased for supply (State will acquire from your location) and/or delivered by any submissions provided by participating vendors, constituting said vendors as contractors upon completion of bid, P-37 and other required document submissions.

Vendor Responsibility and Addenda's Pages 2 of 19 and 7 of 19
It is the prospective Vendor's responsibility to forward a signed copy of any/all addendum(s) requiring the Vendor's signature to the Bureau of Purchase and Property with the bid response or bid submission can be deemed non-compliant.

Terms of Submission Page 3 of 19:
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.

Offer Section and Balance of Product for Bid Page Revisions
NO revision(s)or alterations of bid pages or published price lists or vendor quotes shall be accepted in lieu of authorized offer submittal page(s) or bid submission can be deemed non-compliant.

Other related products may be provided under balance of product (see page 12 of 20) or added separately on additional pages or noted attachment(s), as well vendors published price lists (if available).

Bid Prices Page 5 of 19:
Special charges, surcharges (including credit card transaction fees) or load 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

Freight on Board Page 5 of 19:
F.O.B. Destination is applicable on delivered orders only

Contractor Initials B.D.
Date 05/15/23

OFFER:
Vendor hereby offers to provide product to the State of New Hampshire as specified at the prices quoted below, in complete accordance with the general and detailed specifications included herewith. Offered product may include but are not limited to gravel, sand and stone. The items in either of the Offer Sections include the items most commonly purchased by State of New Hampshire agencies by either Cubic Yards or Ton and shall be used for award purposes.

All product shall meet specifications and be in conformance with and as defined in the latest version of the NHDOT Standard Specifications for Road and Bridge Construction, Sections 304, 583 and 585, located at:

www.nh.gov/dot/org/projectdevelopment/highwaydesign/specifications/index.htm

Offer Sheets to be filled out shall be as follows. Be sure to fill out either Attachment 1 or Attachment 2 of which is most applicable per unit of measure for your location(s). Published price lists or vendor quotes shall not be accepted in place of Offer Sheets but may be attached separately in conjunction to offer sheets for additional posting information.

Attachment 1 for UOM by Ton
Or
Attachment 2 for UOM by Cubic Yard

Please only use Attachment A - Cubic Yard or Attachment B – Ton, for the Offer Section of offer submission regarding bidder preferred Unit of Measure (ton or per cubic yard).

MULTIPLE PIT/QUARRY LOCATIONS:
If multiple pit locations available, one offer sheet submittal page shall be filled out for each location and applicable price submission.

Overall Discount Offered off of Current Market Pricing _____%

Please attach any other product or services your location(s) may provide.

THE FOLLOWING BALANCE OF PRODUCT IS ADDITIONAL INFORMATION: Not for consideration of award.

VENDOR'S BALANCE OF PRODUCT LINE ITEMS:
During the term of contract, the state may purchase other items in relation to Aggregates Delivered and/or Supplied from the successful Vendor's Balance of Product Line. Product purchased off balance of product line(s) must offer equal to or greater than the percentage offered for the assigned categories on the main offer section. All products ordered shall include all shipping/delivery charges as specified above in "Bid Prices" unless delivery is outside the normal business delivery area.

Balance of Products may include the following but are not limited to (Indicate below products offered with corresponding discount(s) or price(s)):

Check Box
☐ Discount % or ☐ Price

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Contractor Initials BD.
Date 03/15/23

DELIVERY LOCATIONS:
If multiple pit locations available, please attach (separately) a current list of available pit/quarry locations/addresses for supply and/or delivery from; as well as a list of your facility contacts, applicable contact information (i.e., telephone number(s) and email address), normal operating hours and emergency operating hours (if applicable).

For applicable delivery purposes, please provide an approximate delivery coverage location via the linked map (see link below) showing/highlighting radius wherein normal deliveries will be in compliance with Department of Transportation requirements and/or specifications.

Please highlight NH District Map for approximate areas serviceable by your company and attach to your bid:
https://www.nh.gov/dot/org/operations/highwaymaintenance/documents/DistrictEngineersMap-August2015.pdf

INDICATE DELIVERY CHARGE PER MILE or UOM IF OUTSIDE NORMAL DELIVERY AREA: $ NA /mile/uom

All orders must be delivered within the agreed upon timeframe. For large quantity orders, the above required delivery timeframe may be extended to the agreed upon date between the requesting agency and vendor.

VENDOR CONTACT INFORMATION:
Please provide contact information below for a person knowledgeable of and who can answer questions regarding, this bid response.

Brad Deans	603-512-1891	
Contact Person	Local Telephone Number	Toll Free Telephone Number
bdeans@broxindustries.com	broxindustries.com	
E-mail Address	Company Website.	
Brox Industries	1500 Hooksett Rd Hooksett, NH 03106	
Vendor Company Name	Vendor Address	

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

Contractor Initials B.D.
Date 03/27/23

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

Attachment A: **Sample** P-37 Form
Attachment 1: Aggregates Offer Sheet per Ton
Attachment 2: Aggregates Offer Sheet per Cubic Yard

The Bid Opening is open to the public online at the following:

Microsoft Teams meeting
Join on your computer, mobile app or room device
Click here to join the meeting
Meeting ID: 269 327 682 78
Passcode: hU4dTy
Download Teams | Join on the web:
Join with a video conferencing device
nhgov@m.webex.com
Video Conference ID: 118 991 334 6
Alternate VTC instructions
Or call in (audio only)
+1 603-931-4944,345913454# United States, Concord
Phone Conference ID: 345 913 454#
Find a local number | Reset PIN
Learn More | Meeting options

Contractor Initials B.D.
Date 3/25/23

ATTACHMENT A

SAMPLE FORM TO BE COMPLETED UPON AWARD

FORM NUMBER P-37 (version 12/11/2019)

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		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	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 *(if applicable)* By: Director, On:			
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: On:			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

Contractor Initials B.D.
Date 3/25/23

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

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

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

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

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

7. PERSONNEL.

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

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

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of

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any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

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

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

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

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

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

9. TERMINATION.

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

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

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

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

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise

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out of (or which may be claimed to arise out of) the acts or omission of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

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

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

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

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

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

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

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

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

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

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

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

Contractor Initials B.D.
Date 3/29/23

Hooksett

Description	UOM	Estimated Usage	Unit Cost	Extended Cost
Sand	Ton	15519	$ 12.00	$ 186,228.00
Sand (Washed/Screened)	Ton	16721	$ 18.50	$ 309,338.50
Concrete Sand (Washed)	Ton	16		$ -
Manufactured Sand (Washed)	Ton	844	$ 26.00	$ 21,944.00
Winter Sand (Washed)	Ton	1554	$ 26.00	$ 40,404.00
Gravel	Ton	12748		$ -
4" Gravel	Ton	491		$ -
3/4" Crushed Gravel	Ton	1775	$ 13.75	$ 24,406.25
3/4" Stapak (Crushed Gravel)	Ton	2279	$ 13.75	$ 31,336.25
1" Crushed Gravel	Ton	11178		$ -
1-1/2" Crushed Gravel	Ton	4163	$ 13.85	$ 57,657.55
3" Crushed Gravel	Ton	87	$ 13.50	$ 1,174.50
5" Minus Crushed Gravel	Ton	30		$ -
3/4" Crushed Bank Run Gravel	Ton	1427		$ -
1 1/2" Crushed Bank Run Gravel	Ton	435		$ -
6" Bank Run Gravel	Ton	148		$ -
6" Quarry Run Gravel	Ton	564		$ -
Stone Dust	Ton	4372	$ 23.00	$ 100,556.00
Crushed Stone	Ton	14320	$ 25.00	$ 358,000.00
Dense Crushed Stone	Ton	29692	$ 25.00	$ 742,300.00
3/8" Blend Crushed Stone	Ton	68		$ -
3/4" Crushed Stone	Ton	12475	$ 16.50	$ 205,837.50
1" Crushed Stone	Ton	5180		$ -
1 1/2 Crushed Stone	Ton	4868	$ 17.00	$ 82,756.00
7" Crushed Stone	Ton	1359	$ 19.00	$ 25,821.00
3/8" Stone	Ton	16		$ -
3/4" Stone	Ton	832		$ -
1 1/2" Stone	Ton	363		$ -
3-6" Quarry Stone	Ton	237	$ 19.00	$ 4,503.00
3" Stone	Ton	189		$ -
6+" Stone	Ton	1833	$ 19.00	$ 34,827.00
7" Crushed Stone	Ton	148	$ 19.00	$ 2,812.00
Product - Other				
Blasted Ledge	Ton	428	$ 19.00	$ 8,132.00
3/8" Ledge Pack	Ton	443		$ -
3/4" Ledge Pack	Ton	28	$ 13.75	$ 385.00
HardPak	Ton	591		$ -
Clean Fill	Ton	17,560	$ 7.00	$ 122,920.00
Screened Top Soil	Ton	142	$ 18.75	$ 2,662.50
Loam	Ton	336		$ -
Mulch	Ton	41		$ -
Tailings	Ton	160		$ -
Recycled Concrete	Ton	74	$ 12.00	$ 888.00
Recycled Asphalt	Ton	74	$ 29.00	$ 2,146.00
Slag	Ton	74		$ -
Single Pass	Ton	18		$ -
Truck Overtime Usage Hours	Hours	820		$ -

Other Available Services			
Disposal Products - Informational only - Not for Award Purposes			
Asphalt ———			FREE
Concrete - No Metal			$ 44.00
Concrete - With Metal			$ 49.00
Stumps/Brush			NA
Wood Chips			NA

Hudson

Description	UOM	Estimated Usage	Unit Cost	Extended Cost
Sand	Ton	15519	$ 24.00	$ 372,456.00
Sand (Washed/Screened)	Ton	16721	$ 24.00	$ 401,304.00
Concrete Sand (Washed)	Ton	16		$ -
Manufactured Sand (Washed)	Ton	844	$ 26.00	$ 21,944.00
Winter Sand (Washed)	Ton	1554	$ 26.00	$ 40,404.00
Gravel	Ton	12748		$ -
4" Gravel	Ton	491		$ -
3/4" Crushed Gravel	Ton	1775	$ 15.75	$ 27,956.25
3/4" Stapak (Crushed Gravel)	Ton	2279	$ 15.75	$ 35,894.25
1" Crushed Gravel	Ton	11178		$ -
1-1/2" Crushed Gravel	Ton	4163	$ 15.50	$ 64,526.50
3" Crushed Gravel	Ton	87	$ 15.25	$ 1,326.75
5" Minus Crushed Gravel	Ton	30		$ -
3/4" Crushed Bank Run Gravel	Ton	1427		$ -
1 1/2" Crushed Bank Run Gravel	Ton	435		$ -
6" Bank Run Gravel	Ton	148		$ -
6" Quarry Run Gravel	Ton	564		$ -
Stone Dust	Ton	4372	$ 28.50	$ 124,602.00
Crushed Stone	Ton	14320	$ 25.00	$ 358,000.00
Dense Crushed Stone	Ton	29692	$ 25.00	$ 742,300.00
3/8" Blend Crushed Stone	Ton	68		$ -
3/4" Crushed Stone	Ton	12475	$ 18.75	$ 233,906.25
1" Crushed Stone	Ton	5180		$ -
1 1/2 Crushed Stone	Ton	4868	$ 19.25	$ 93,709.00
7" Crushed Stone	Ton	1359	$ 18.50	$ 25,141.50
3/8" Stone	Ton	16		$ -
3/4" Stone	Ton	832		$ -
1 1/2" Stone	Ton	363		$ -
3-6" Quarry Stone	Ton	237	$ 18.50	$ 4,384.50
3" Stone	Ton	189		$ -
6+" Stone	Ton	1833	$ 18.50	$ 33,910.50
7" Crushed Stone	Ton	148	$ 18.50	$ 2,738.00
Product - Other				
Blasted Ledge	Ton	428	$ 19.00	$ 8,132.00
3/8" Ledge Pack	Ton	443		$ -
3/4" Ledge Pack	Ton	28	$ 15.75	$ 441.00
HardPak	Ton	591		$ -
Clean Fill	Ton	17,560	$ 8.00	$ 140,480.00
Screened Top Soil	Ton	142	$ 21.00	$ 2,982.00
Loam	Ton	336		$ -
Mulch	Ton	41		$ -
Tailings	Ton	160		$ -
Recycled Concrete	Ton	74	$ 12.00	$ 888.00
Recycled Asphalt	Ton	74	$ 13.50	$ 999.00
Slag	Ton	74		$ -
Single Pass	Ton	18		$ -
Truck Overtime Usage Hours	Hours	820		$ -

Other Available Services			
Disposal Products - Informational only - Not for Award Purposes			
Asphalt			FREE
Concrete - No Metal			$ 24.00
Concrete - With Metal			$ 29.00
Stumps/Brush			NA
Wood Chips			NA

Rochester

Description	UOM	Estimated Usage	Unit Cost	Extended Cost
Sand	Ton	15519	$ 18.75	$ 290,981.25
Sand (Washed/Screened)	Ton	16721	$ 20.50	$ 342,780.50
Concrete Sand (Washed)	Ton	16		$ -
Manufactured Sand (Washed)	Ton	844	$ 24.00	$ 20,256.00
Winter Sand (Washed)	Ton	1554	$ 24.00	$ 37,296.00
Gravel	Ton	12748		$ -
4" Gravel	Ton	491		$ -
3/4" Crushed Gravel	Ton	1775	$ 17.75	$ 31,506.25
3/4" Stapak (Crushed Gravel)	Ton	2279	$ 17.75	$ 40,452.25
1" Crushed Gravel	Ton	11178		$ -
1-1/2" Crushed Gravel	Ton	4163	$ 18.25	$ 75,974.75
3" Crushed Gravel	Ton	87	$ 17.25	$ 1,500.75
5" Minus Crushed Gravel	Ton	30		$ -
3/4" Crushed Bank Run Gravel	Ton	1427		$ -
1 1/2" Crushed Bank Run Gravel	Ton	435		$ -
6" Bank Run Gravel	Ton	148		$ -
6" Quarry Run Gravel	Ton	564		$ -
Stone Dust	Ton	4372	$ 20.00	$ 87,440.00
Crushed Stone	Ton	14320	$ 25.00	$ 358,000.00
Dense Crushed Stone	Ton	29692	$ 25.00	$ 742,300.00
3/8" Blend Crushed Stone	Ton	68		$ -
3/4" Crushed Stone	Ton	12475	$ 20.75	$ 258,856.25
1" Crushed Stone	Ton	5180		$ -
1 1/2 Crushed Stone	Ton	4868	$ 22.00	$ 107,096.00
7" Crushed Stone	Ton	1359	$ 25.50	$ 34,654.50
3/8" Stone	Ton	16		$ -
3/4" Stone	Ton	832		$ -
1 1/2" Stone	Ton	363		$ -
3-6" Quarry Stone	Ton	237	$ 25.50	$ 6,043.50
3" Stone	Ton	189		$ -
6+" Stone	Ton	1833	$ 25.50	$ 46,741.50
7" Crushed Stone	Ton	148	$ 25.50	$ 3,774.00
Product - Other				
Blasted Ledge	Ton	428	$ 24.00	$ 10,272.00
3/8" Ledge Pack	Ton	443		$ -
3/4" Ledge Pack	Ton	28	$ 17.75	$ 497.00
HardPak	Ton	591		$ -
Clean Fill	Ton	17,560	$ 8.50	$ 149,260.00
Screened Top Soil	Ton	142	$ 23.50	$ 3,337.00
Loam	Ton	336		$ -
Mulch	Ton	41		$ -
Tailings	Ton	160		$ -
Recycled Concrete	Ton	74	$ 12.00	$ 888.00
Recycled Asphalt	Ton	74	$ 29.00	$ 2,146.00
Slag	Ton	74		$ -
Single Pass	Ton	18		$ -
Truck Overtime Usage Hours	Hours	820		$ -

Other Available Services			
Disposal Products - Informational only - Not for Award Purposes			
Asphalt ———			FREE
Concrete - No Metal			$ 44.00
Concrete - With Metal			$ 49.00
Stumps/Brush			NA
Wood Chips			NA

Hooksett Quarry

BROX

BROX INDUSTRIES, INC.

2023 PRODUCT CARD LIST PRICES - EFFECTIVE JANUARY 9TH

ID	PRODUCT DESCRIPTION	DRACUT 2023	HUDSON 2023	HOOKSETT 2023	ROCHESTER 2023	MARLBORO 2023	AMHERST 2023	IPSWICH 2023	KEENE 2023	MERRIMAC 2023
791	Performance Patch	$155.00	$160.00			$165.00				
005C	1/4" Landscape Crushed Stone	$62.00								
008	Erosion Stone	$23.00	$18.50	$19.00	$25.50					$28.00
009	Shot Rock	$24.00	$19.00	$19.00	$24.00					
007	6" Rip Rap				$25.50					
001SB	1 1/2" Ballast Stone	$34.00								
021DG	1 1/2" Dense Graded Base	$20.00	$15.50							
001	1 1/2" Crushed Stone	$22.00		$17.00	$22.00			$27.00		$27.00
001W	1 1/2" Washed Stone		$19.25							
020SB	3/4" Stone Base	$17.75	$13.75			$20.50	$21.50	$20.75		$20.75
020SBF	3/4" Stone Base Fine			$13.75	$17.75					
002	3/4" Crushed Stone	$21.75		$16.50	$20.75	$26.25	$26.25	$26.25	$26.25	$26.25
002W	3/4" Washed Stone		$18.75							
067	#67 3/4" Crushed Stone	$25.00	$18.50							
003	1/2" Crushed Stone	$24.00		$25.00	$26.50	$26.25	$26.25	$26.25	$26.25	$26.25
003W	1/2" Washed Stone		$14.00							
004	3/8" Crushed Stone	$22.25		$26.00	$27.50	$26.25	$26.25	$26.25	$26.25	$26.25
004W	3/8" Washed Stone		$18.00							
027BC	Crushed Stone Coarse Grade		$15.25	$13.50	$17.25					
027BF	Crushed Stone Fine Grade		$15.50	$13.85	$18.25					
020R	Crushed Rap Base - 3/4"							$19.00		$14.00
030R	Crushed Rap Base - 1/2"	$13.75	$13.50	$29.00	$29.00	$29.00	$29.00	$29.00	$39.00	
029	Crushed Concrete Base	$12.00	$12.00	$12.00	$12.00					
012	Stone Dust	$24.00		$23.00				$28.00		$29.00
010	Stone Dust Blend / Ballfield mix		$23.00							
012SB	Stone Dust (Blue)		$28.50		$33.00					
012W	Stone Dust (White)				$20.00					
016	Mortar Sand	$33.00	$33.00							
015	Screened Sand	$27.00	$24.00	$18.50	$20.50	$28.00	$28.00	$28.00		$28.50
013	Washed Stone Sand	$30.00	$28.00	$26.00	$24.00	$29.00	$29.00	$29.00		$29.00
017	Salted Sand (Through 4/30/23)	$122.00	$122.00							
018	Bank Run Sand				$18.75					
033	Silt	$3.25	$3.00	$3.00	$7.00					
016C	High G Sand	$11.00	$11.50							
028	Fill	$8.50	$8.00	$7.00	$8.50					
026S	Structural Crushed Gravel		$9.75	$9.75	$11.50					
026	Bank Run Gravel				$18.50					
032S	Screened Loam A Ton	$26.00	$21.00	$18.75	$23.50					$24.00
037I	Rap (unprocessed) Incoming	$5.00				$13.00		$9.00		$6.00
036I	Concrete (Incoming Clean)	$24.00	$24.00	$44.00	$44.00					
036IS	Concrete (oversize and steel reinf.)	$29.00	$29.00	$49.00	$49.00					
038	PCS (Petroleum Contaminated Soil)	$130.00								
094	Stumps (20-39 C.Y. Trailer)		$525.00							
093	Stumps (Tri-Axle & 10 Wheeler)		$425.00							
091	Stumps- Pick up Truck		$70.00							
092	Stumps- 6 Wheeler (6 CY.MAX)		$170.00							
096	Stumps (Trailer 40-49 CY)		$625.00							
082	Emulsion - Per Pail	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00

BROX

BROX INDUSTRIES, INC.

Hudson Quarry

2023 PRODUCT CARD LIST PRICES - EFFECTIVE JANUARY 5TH

ID	PRODUCT DESCRIPTION	DRACUT 2023	HUDSON 2023	HOOKSETT 2023	ROCHESTER 2023	MARLBORO 2023	AMHERST 2023	IPSWICH 2023	KEENE 2023	MERRIMAC 2023
781	Performance Patch	$155.00	$180.00			$165.00				
003C	1/4" Landscape Crushed Stone	$63.00								
006	Erosion Stone	$21.00	$18.50	$19.00	$25.50					$28.00
009	Shot Rock	$34.00	$19.00	$19.00	$34.00					
007	6" Rip Rap				$25.50					
001SB	1 1/2" Ballast Stone	$34.00								
021DG	1 1/2" Dense Graded Base	$20.00	$15.50							
001	1 1/2" Crushed Stone	$22.00		$17.00	$22.00			$27.00		$27.00
001W	1 1/2" Washed Stone		$18.25							
020SB	3/4" Stone Base	$17.75	$15.75			$20.50	$21.50	$20.75		$20.75
020SBF	3/4" Stone Base Fine			$13.75	$17.75					
002	3/4" Crushed Stone	$21.75		$18.50	$20.75	$26.25	$26.25	$26.25	$26.25	$26.25
002W	3/4" Washed Stone		$18.75							
087	#57 3/4" Crushed Stone	$25.00	$18.50							
003	1/2" Crushed Stone	$24.00		$25.00	$26.50	$26.25	$26.25	$26.25	$26.25	$26.25
003W	1/2" Washed Stone		$14.00							
004	3/8" Crushed Stone	$22.25		$26.00	$27.50	$26.25	$26.25	$26.25	$26.25	$26.25
004W	3/8" Washed Stone		$18.00							
027SC	Crushed Stone Coarse Grade		$15.25	$13.50	$17.25					
027SF	Crushed Stone Fine Grade		$15.50	$13.85	$18.25					
020R	Crushed Rap Base - 3/4"							$19.00		$14.00
030R	Crushed Rap Base - 1/2"	$13.75	$13.50	$29.00	$29.00	$29.00	$29.00	$28.00	$39.00	
029	Crushed Concrete Base	$12.00	$12.00	$12.00	$12.00					
012	Stone Dust	$34.00		$23.00				$28.00		$29.00
010	Stone Dust Blend / Bailfield mix		$23.00							
012SB	Stone Dust (Blue)		$28.50		$35.00					
012W	Stone Dust (White)				$20.00					
018	Mortar Sand	$33.00	$33.00							
015	Screened Sand	$27.00	$24.00	$18.50	$20.90	$28.00	$28.00	$28.00		$28.50
013	Washed Stone Sand	$30.00	$28.00	$26.00	$24.00	$29.00	$29.00	$29.00		$29.00
017	Ballast Sand (Through 4/30/23)	$122.00	$122.00							
019	Bank Run Sand				$18.75					
033	Silt	$3.25	$3.00	$8.00	$7.00					
019C	High G Sand	$11.00	$11.50							
028	Fill	$8.50	$8.00	$7.00	$8.50					
028S	Structural Crushed Gravel		$9.75	$9.75	$11.50					
026	Bank Run Gravel				$18.50					
032S	Screened Loam A Ton	$28.00	$21.00	$18.75	$23.50					$24.00
C371	Rap (unprocessed) Incoming	$5.00				$13.00		$9.00		$6.00
030I	Concrete (Incoming Clean)	$24.00	$24.00	$44.00	$44.00					
030IS	Concrete (oversize and steel reinf.)	$29.00	$29.00	$49.00	$49.00					
038	PCS (Petroleum Contaminated Soil)	$130.00								
084	Stumps (20-30 C.Y. Trailer)		$325.00							
083	Stumps (Tri-Axle & 10 Wheeler)		$425.00							
081	Stumps- Pick up Truck		$70.00							
082	Stumps- 6 Wheeler (6 CY MAX)		$170.00							
085	Stumps (Trailer 40-49 CY)		$625.00							
082	Emulsion - Per Pail	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00

BROX

BROX INDUSTRIES, INC.

2023 PRODUCT CARD LIST PRICES - EFFECTIVE JANUARY 9TH

ID	PRODUCT DESCRIPTION	DRACUT 2023	HUDSON 2023	HOOKSETT 2023	ROCHESTER 2023	MARLBORO 2023	AMHERST 2023	IPSWICH 2023	KEENE 2023	MERRIMAC 2023
791	Performance Patch	$155.00	$160.00			$165.00				
005C	1/4" Landscape Crushed Stone	$63.00								
006	Erosion Stone	$23.00	$18.50	$19.00	$25.50					$28.00
009	Shot Rock	$24.00	$19.00	$19.00	$24.00					
007	8" Rip Rap				$25.50					
001SB	1 1/2" Ballast Stone	$24.00								
021DG	1 1/2" Dense Graded Base	$20.00	$15.50							
001	1 1/2" Crushed Stone	$22.00		$17.00	$22.00			$27.00		$27.00
001W	1 1/2" Washed Stone		$19.25							
020SB	3/4" Stone Base	$17.75	$15.75			$20.50	$21.50	$20.75		$20.75
020SBF	3/4" Stone Base Fine			$13.75	$17.75					
002	3/4" Crushed Stone	$21.75		$16.50	$20.75	$26.25	$26.25	$26.25	$26.25	$26.25
002W	3/4" Washed Stone		$18.75							
067	#67 3/4" Crushed Stone	$25.00	$18.50							
003	1/2" Crushed Stone	$24.00		$25.00	$26.50	$26.25	$26.25	$26.25	$26.25	$26.25
003W	1/2" Washed Stone		$14.00							
004	3/8" Crushed Stone	$22.25		$26.00	$27.50	$26.25	$26.25	$26.25	$26.25	$26.25
004W	3/8" Washed Stone		$18.00							
027SC	Crushed Stone Coarse Grade		$15.25	$18.50	$17.25					
027SF	Crushed Stone Fine Grade		$15.50	$18.85	$18.25					
020R	Crushed Rap Base - 3/4"							$19.00		$14.00
030R	Crushed Rap Base - 1/2"	$18.75	$13.50	$29.00	$29.00	$29.00	$29.00	$29.00	$29.00	
029	Crushed Concrete Base	$12.00	$12.00	$12.00	$12.00					
012	Stone Dust	$24.00		$23.00				$28.00		$29.00
010	Stone Dust Blend / Saltfield mix		$23.00							
012SB	Stone Dust (Blue)		$28.50		$33.00					
012W	Stone Dust (White)				$20.00					
016	Mortar Sand	$33.00	$33.00							
015	Screened Sand	$27.00	$24.00	$18.50	$20.50	$28.00	$28.00	$28.00		$28.50
013	Washed Stone Sand	$30.00	$26.00	$26.00	$24.00	$29.00	$29.00	$29.00		$29.00
017	Salted Sand (Through 4/30/23)	$122.00	$122.00							
018	Bank Run Sand				$18.75					
033	Silt	$3.25	$3.00	$3.00	$7.00					
016C	High G Sand	$11.00	$11.50							
028	Fill	$8.50	$8.00	$7.00	$8.50					
028S	Structural Crushed Gravel		$9.75	$9.75	$11.50					
026	Bank Run Gravel				$18.50					
032S	Screened Loam A.Ton	$26.00	$21.00	$18.75	$23.50					$24.00
037I	Rap (unprocessed) Incoming	$5.00				$15.00		$9.00		$6.00
036I	Concrete (Incoming Clean)	$24.00	$24.00	$44.00	$44.00					
036IS	Concrete (oversize and steel reinf.)	$29.00	$29.00	$49.00	$49.00					
038	PCS (Petroleum Contaminated Soil)	$130.00								
094	Stumps (20-39 C.Y. Trailer)		$525.00							
093	Stumps (Tri-Axle & 10 Wheeler)		$425.00							
091	Stumps- Pick up Truck		$70.00							
092	Stumps- 6 Wheeler (8 CY MAX)		$170.00							
095	Stumps (Trailer 40-49 CY)		$625.00							
082	Emulsion - Per Pail	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00