



REQUEST FOR PROPOSAL

2023-04-FLOOR CLEANING SERVICES

October 20, 2023

Issued by:



**New Hampshire
Liquor Commission
50 Storrs Street
Concord, NH 03301**

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TABLE 1: SCHEDULE

This table sets forth the Schedule for this Request for Proposal (“RFP”). The Schedule is subject to change at the sole discretion of the New Hampshire Liquor Commission (“NHLC”). The NHLC will post any changes on its website, https://www.nh.gov/liquor/public_notices.shtml Proposers are responsible for monitoring the website for changes.

<u>Events</u>	<u>Responsibility</u>	<u>Date</u>
Request for Proposals Issued	NHLC	Friday, October 20, 2023
Deadline to Submit Inquiries By Electronic Mail to NHLC Issuing Officer	Potential Proposers	Wednesday, November 1, 2023 by 2:00 p.m.
Anticipated Response Date to Inquiries	NHLC	Wednesday, November 8, 2023 by 2:00 p.m.
Deadline for Submission of Proposals	Proposers	Friday, December 1, 2023 by 2:00 p.m.

PART I - GENERAL INFORMATION AND SCOPE OF WORK

1. PURPOSE

The New Hampshire Liquor Commission (“NHLC” or the “State”) seeks to establish **one (1) to three (3) non-exclusive contracts** for floor cleaning services for select retail outlet stores located throughout New Hampshire. The NHLC intends to enter a three-year contract with **up to three contracts for floor care companies** (“Contractors” or “Proposers”), with the possibility for two additional terms of two years each, as mutually agreed.

2. PROPOSER INSTRUCTIONS

Interested Proposers must read the entire RFP and submit the required documents in the manner specified in the RFP. Proposers are responsible for reviewing the most updated information related to this RFP before submitting proposals. If a Proposer’s response to this RFP does not comply with the conditions for submittal, the NHLC may reject it without further consideration.

3. SCOPE OF WORK

- A. The Contractor shall furnish all materials, equipment, labor, and transportation necessary to provide the services described herein.
- B. The Contractor shall clean, polish, and maintain floor space in a retail environment at select NHLC Liquor and Wine Outlets, subject to change as outlet stores are renovated, closed, relocated, or opened. Size of the floor space varies across stores. Flooring consists of vinyl composite tile (“VCT”). Appendix B to this RFP provides retail square footage for each NHLC Liquor and Wine Outlet.
- C. Contractor shall strip, clean, and wax the VCT flooring in each store listed in Appendix B two (2) times per year, with the option to schedule additional cleanings as necessary.
- D. Contractor shall provide all cleaning, stripping, and waxing supplies to complete the work. All supplies shall meet current industry quality standards for commercial applications.
- E. Work shall be performed according to a prearranged schedule, which shall be coordinated with the NHLC Representative or his or her designee. It is anticipated that work shall be completed outside of the NHLC’s normal retail store hours.
- F. Upon arrival at the job site, the Contractor shall either sign in or log in (if paperless) with the manager of the store or the person in charge. The Contractor shall note, and the manager or person in charge shall initial, both the time of arrival and of departure.
- G. At the completion of each service, the Contractor shall provide a work order to the NHLC Representative and to the NHLC Accounts Payable department. A work order shall be made for each service and included with the invoice for payment.
- H. The Contractor’s staff shall consist of qualified persons completely familiar with the products and equipment they will be required to use. The NHLC Representative may require the Contractor to dismiss from the work such employees as they deem incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the public interest or inconsistent with the best interest of security.

- I. At the NHLC's request, the Contractor shall provide security clearance and/or background checks for any Contractor representative or approved subcontractors that may complete work or be present during the completion of work at any NHLC location.
- J. Contractor shall provide employee photo identification badges identifying the company and name of each employee working on any resulting contract. Contractor employees or representatives shall wear the photo identification badges when working at any NHLC location.
- K. The NHLC shall require correction of defective work or damages to any part of the building or its appurtenances when caused by the Contractor's employees, approved subcontractors, equipment, or supplies. The Contractor shall correct all defective work and damages rendered thereby or any other damages incurred. Upon failure of the Contractor to proceed promptly with the necessary corrections, the State may withhold any amount necessary to correct all defective work or damages from payments to the Contractor.
- L. The Contractor or their personnel shall not represent themselves as employees or agents of the State. While on the State of New Hampshire's property, Contractor's personnel shall be subject to control of the State, but under no circumstances shall such persons be deemed to be employees of the State.
- M. Contractor's personnel shall observe all regulations or special restrictions in effect at the NHLC.
- N. Contractor's personnel shall be allowed only in areas where work is being performed. The use of NHLC telephones by the Contractor's personnel is prohibited.
- O. The Contractor shall perform all work and furnish all materials, tools, equipment, and safety devices necessary to perform the work in the proper manner and within the time specified. The Contractor shall complete the work to the satisfaction of the NHLC and in accordance with the specifications herein described, and at the agreed-upon price. All the work to be done and labor and equipment to be furnished under the Contract shall be completed and provided strictly pursuant to, and in conformity with, the specifications described herein, the best standards and practices of the trade, and any directions from the NHLC representatives as given from time to time during the progress of the work, under the terms of the Contract.
- P. The Contractor shall, at its own expense, whenever necessary or required, provide safety devices, and take such other precautions as may be necessary to protect life or property.
- Q. The Contractor shall secure and pay for all permits, inspections, and licenses necessary for the execution of work.
- R. The Contractor shall take all responsibility for the work under the contract, for the protection of the work, and for preventing injuries to persons and damage to property and utilities on or about the work. The Contractor shall in no way be relieved of its responsibility by any right of the NHLC to give permission or issue orders relating to any part of the work or by any such permission given on orders issued or by failure of the State to give such permission, or by failure of the NHLC to give such permission or issue such orders. The Contractor shall bear all losses on account of the amount or character of the work performed, or due to any error on the part of the Contractor in their estimation or expectation of project requirements or on account of the weather, elements, or other causes.
- S. Contractor shall not subcontract any portion of the agreed-upon services without prior written approval from the NHLC. In the event the NHLC approves the use of a subcontractor in the performance of the Contract, the prime Contractor is not relieved of its responsibility and obligation to meet all the requirements of the contract.

- T.** Unsatisfactory response to any or all of the listed services or requirements will be a basis for termination of any contract. The NHLC reserves the right to terminate any contract at any given time with a 30-day written notice.
- U.** Contractor shall maintain a Certificate of Good Standing with the Office of the Secretary of State at all times and shall produce the same, dated within sixty (60) days, upon request.

PART II - CONTRACT TERMS AND CONDITIONS

1. TYPE OF CONTRACT AND CONTRACT PERIOD

Any contract resulting from this RFP shall be a not-to-exceed contract. The contract will be for a period of three (3) years with the possibility of two, two-year extensions.

Contract Continuity: Upon expiration of the initial contract term or any extension to it, the Contractor shall continue to provide all services required under the same terms and conditions of the then-in-force contract on a month-to-month basis for a period not to exceed four (4) months to enable the NHLC to identify a satisfactory replacement.

2. PROPOSALS AND AWARDS; NON-EXCLUSIVE AGREEMENT

The NHLC intends to award **non-exclusive contracts to up to three proposers**. Notwithstanding the foregoing or any provision of this RFP to the contrary, the NHLC reserves the right, at any time and in its sole discretion, to reject any or all proposals, wholly or in part, and/or to award contracts to one or more proposers, wholly or in part. No Contractor will retain any exclusive rights to provide the services and supplies described in this RFP during the term of a contract or any extension thereto. The NHLC may, at its sole discretion, obtain services and related materials from other Contractors.

3. STANDARD CONTRACT TERMS

The NHLC will require the selected Contractor to execute a contract using the Standard Terms and Conditions of the State of New Hampshire (Form P-37) which is attached as Appendix A. In no event is a vendor to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this RFP.

The terms of this RFP and the selected Contractor's Proposal will be used to form the terms of any resulting contract. The resulting contract may incorporate some or all of the selected Contractor's Proposal. References in the P-37 to Exhibits A, B, and C are references to the required structure of any resulting contract (Exhibit A – Special Provisions/Amendments to the P-37, Exhibit B – Scope of Services, and Exhibit C – Payment Terms) are not references to sections of this RFP.

To the extent that a Contractor believes that exceptions to the contract terms in Appendix A will be necessary for the Contractor to enter into the contract, the Contractor must note those issues during the RFP Inquiry and Response Period by requesting an exception to the provision at issue. In response to requested exceptions to Form P-37, the NHLC will review the requested exception at its sole discretion.

PART III: REQUEST FOR PROPOSAL PROCESS

1. ISSUING OFFICER

The Issuing Officer and the sole point of contact for this RFP is:

Janet Donnelly, Paralegal
NH Liquor Commission
50 Storrs Street
Concord, NH 03301
(email: janet.donnelly@liquor.nh.gov)

2. PROHIBITED COMMUNICATIONS

From the issue date of this RFP until an award is made and announced regarding the selection of a Contractor, the Issuing Officer shall serve as the sole point of contact for this RFP. Proposers are prohibited from distributing any part of their proposals except to the Issuing Officer as required under this RFP. All communication with personnel employed by or under contract with the NHLC regarding this RFP is prohibited unless first approved by the RFP Issuing Officer. NHLC employees have been directed not to hold conferences and/or discussions concerning this RFP with any potential Contractor during the selection process, unless otherwise authorized by the RFP Issuing Officer. Proposers may be disqualified for violating this restriction on communications.

3. RFP INQUIRIES AND RESPONSES

All inquiries concerning this RFP, including but not limited to, requests for clarification, questions, requests for changes to the RFP, and questions regarding New Hampshire Form P-37, which is attached to this RFP as Appendix A, shall be submitted via email to Issuing Officer Janet Donnelly at janet.donnelly@liquor.nh.gov. Inquiry emails will contain the information RFP-2023-04-Floor Cleaning Services in the subject line. Proposers shall not contact the Issuing Officer by phone. Proposers shall not contact the Issuing Officer after the close of the inquiry period. All inquiries must be received by the Deadline to Submit Inquires (see Table 1: Schedule herein).

The NHLC intends to issue responses to inquiries on or before the date specified in Table 1: Schedule; however, this date is subject to change at the NHLC's discretion. The NHLC may consolidate or paraphrase questions for sufficiency and clarity. Oral statements, representations, clarifications, or modifications shall not be binding upon the NHLC. The NHLC will post responses at: https://www.nh.gov/liquor/public_notices.shtml. Proposers are responsible for reviewing the most updated information related to this RFP before submitting a proposal.

4. AMENDMENT TO THE RFP

The NHLC may amend this RFP at any time at its sole discretion. The NHLC will post any amendments to the RFP on its website: https://www.nh.gov/liquor/public_notices.shtml. In the event of an amendment, the NHLC may extend deadlines and/or invite submission of additional information. Proposers are responsible for checking the website periodically for new information or amendments to the RFP. The NHLC shall not be bound by any verbal information or any written information that is not contained within the RFP or formally issued as an amendment by the Issuing Officer.

5. PROPOSAL FORMAT

Proposers must submit a complete response to this RFP using the format specified in this Part III. Proposers must provide all information requested. An official authorized to bind the Proposer to its proposal must sign the proposal. If the Proposer’s response does not comply with the conditions for submittal to this RFP, the NHLC may reject it.

6. PROPOSAL SUBMISSION

A. Proposal Submission Deadline: Proposals must be submitted in hard copy marked “New Hampshire Liquor Commission, Response to RFP 2023-04-FLOOR CLEANING SERVICES.” Proposals must be submitted no later than the Deadline for Submission of Proposals in Table 1: Schedule. Any Proposer that elects to mail its proposal must allow sufficient delivery time to ensure timely receipt of its proposal. The NHLC accepts no responsibility for mislabeled, damaged, undeliverable, or delayed mailed proposals. The NHLC will not accept proposals via email or facsimile transmission.

If due to inclement weather or any other cause NHLC headquarters is closed on the Deadline for Submission of Proposals in Table 1: Schedule, the deadline for submission shall be automatically extended until the next day the office is open, unless the Proposers are otherwise notified. The time for submission of proposals shall remain the same. The NHLC will reject proposals not submitted by the Deadline for Submission of Proposals or as otherwise extended.

B. Proposal Receipt: A proposal will be considered received on the date and time of the NHLC’s receipt as officially documented by the NHLC.

C. Proposal Information:

I. Proposals shall be delivered to the address below and identified on the envelope as:

Proposals: New Hampshire Liquor Commission
ATTN: “Janet Donnelly, RFP 2023-04-FLOOR CLEANING SERVICES”
50 Storrs Street
Concord, NH 03301

From: Company/Proposer Name
Address of Proposer
Phone No. Of Proposer
Fax No. of Proposer
Email Address of Proposer:

II. All proposals submitted must consist of:

1. One (1) original (clearly identified as such) and three (3) copies of the Technical Proposal, including all required attachments; and
2. One (1) original Cost Proposal **in a separate and sealed envelope** labeled “COST PROPOSAL.”

7. RFP TERMS AND CONDITIONS

A. Proposal Preparation Cost: By submitting a proposal, the Proposer agrees that in no event shall the NHLC be either responsible for or held liable for any costs incurred by a Proposer in the preparation of or in connection with the proposal, or for work performed prior to the Effective Date of a resulting contract.

- B. Validity of Proposal:** Proposals must be valid for one hundred and eighty (180) days following the Deadline for Submission of Proposals in Table 1: Schedule, or until the Effective Date of any resulting contract, whichever is later, and can be further extended by mutual agreement.
- C. Debarment:** Contractors who are ineligible to bid on proposals, bids or quotes issued by the New Hampshire Department of Administrative Services, Division of Procurement and Support Services pursuant to the provisions of RSA 21-I:11-c shall not be considered eligible for an award under this RFP.
- D. Non-Collusion:** The Proposer's signature on a proposal submitted in response to this RFP guarantees that the prices, terms, and conditions and work quoted have been established without collusion with other Contractors and without effort to preclude the NHLC from obtaining the best possible competitive proposal.
- E. Property of the NHLC:** All material received in response to this RFP shall become the property of the NHLC and will not be returned to the Proposer. Upon contract award, the NHLC reserves the right to use any information presented in any proposal.
- F. Proposal Confidentiality:** Unless necessary for the approval of a contract, the substance of a proposal must remain confidential until the Effective Date of any contract resulting from this RFP. A Proposer's disclosure or distribution of proposals other than to the NHLC may be grounds for disqualification.
- G. Non-Commitment:** Notwithstanding any other provision of this RFP, this RFP does not commit the NHLC to award a contract. The NHLC reserves the right, at its sole discretion, to reject any and all proposals, or any portion thereof, at any time; to cancel this RFP; and to solicit new proposals under a new acquisition process.
- H. Electronic Posting of RFP Results and Resulting Contract:** At the time of receipt of proposals, the NHLC will post the number of responses received with no further information. No later than five (5) business days prior to final approval, or submission of a contract to the Department of Administrative Services, the NHLC may post the ranks or scores of each responding contractor. By submitting a proposal, Proposers acknowledge and agree that the NHLC may make any contract resulting from this RFP accessible to the public online.
- I. Challenges to Identification of Selected Contractor:** Within five (5) business days of the NHLC's posting of its selection on its website, Proposers may, in accordance with RSA 21-G:37, request that the NHLC review its selection process. The request must be in writing and must specify all points on which the Proposer believes the NHLC erred in its process and shall contain such argument in support of its position as the Proposer seeks to present. In its request for review, a Proposer shall not submit, and the NHLC will not accept nor consider, any substantive information that was not included in the original proposal. The NHLC will respond to the request within (5) business days of its receipt.
- J. Ethical Requirements:** From the time this RFP is published until a contract is awarded, no Proposer 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 will or has selected, evaluated, or awarded an RFP, or similar submission. Any Proposer that violates RSA

21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any Proposer who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such offense, shall be disqualified from bidding on the RFP, or similar request for submission issued by any state agency.

K. Public Disclosure:

- I.** The information submitted in response to this RFP (including all materials submitted in connection with it, such as attachments, exhibits, addenda, and presentations), any resulting contract, and information provided during the contractual relationship may be subject to public disclosure under Right-to-Know law, including RSA 91-A. In addition, any contract entered into as a result of this RFP may be made accessible to the public online.
- II.** Confidential, commercial, or financial information may be exempt from public disclosure under RSA 91-A:5, IV. If a Proposer believes that any information submitted in response to this RFP should be kept confidential, the Proposer must specifically identify that information where it appears in the submission in a manner that draws attention to the designation and must mark/stamp each page of the materials that the Proposer claims must be exempt from disclosure as “CONFIDENTIAL.” Proposers must also provide a letter to the Issuing Officer, identifying the specific page number and section of the information the Proposer considers to be confidential, commercial, or financial and providing the rationale for each designation. Marking or designating an entire proposal, attachment, or section (*e.g.* pricing) as confidential shall neither be accepted nor honored by the NHLC. Proposer pricing will be subject to disclosure upon contract approval.
- III.** Notwithstanding a Proposer’s designations, the NHLC is obligated under the Right-to-Know law to conduct an independent analysis of the confidentiality of the information submitted in a proposal. If a request is made to the NHLC to view or receive copies of any portion of a proposal, the NHLC shall first assess what information it is obligated to release. The NHLC will then notify the Proposer that a request has been made, indicate what, if any, information the NHLC has assessed is confidential and will not be released, and specify the planned release date of the remaining portions of the proposal. To halt the release of information by the NHLC, a Proposer must initiate and provide to the NHLC, 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.
- IV.** By submitting a proposal, Proposers acknowledge and agree that:
 - 1.** The NHLC 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 Issuing Officer.
 - 2.** The NHLC is not obligated to comply with a Proposer’s designations regarding confidentiality and must conduct an independent analysis to assess the confidentiality of the information submitted in the proposal; and
 - 3.** The NHLC may, unless otherwise prohibited by court order, release the information on the date specified in the notice described above without any liability to a Proposer.

PART IV: EVALUATION OF PROPOSALS

1. CRITERIA FOR EVALUATION AND SCORING

The NHLC Evaluation Team will review and evaluate each responsive proposal according to the criteria outlined below using a scoring scale of 100 points:

CATEGORIES	POINTS	
TECHNICAL PROPOSAL		60
Experience: Proposer’s prior experience performing the services listed withing the RFP	30	
Capability: Proposer’s organizational capacity to handle the services listed withing the RFP	30	
COST PROPOSAL		40
TOTAL POTENTIAL POINTS		100

2. PLANNED EVALUATIONS

The NHLC will use the following process for evaluation of submitted proposals:

- Initial screening for compliance with submission requirements;
- Evaluation of Technical Proposals and scoring;
- Review of Cost Proposals and scoring;
- Best and Final Offer (BAFO), if deemed beneficial; and
- Final selection of the highest scoring Proposer and begin contract negotiation.

3. INITIAL SCREENING

The NHLC will conduct an initial screening to verify that a Proposer is in compliance with the proposal submission requirements set forth in this RFP. The NHLC may reject a proposal that fails to satisfy the requirements. The NHLC may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of the NHLC.

4. REVIEW OF TECHNICAL PROPOSALS

The NHLC will select an Evaluation Team to score Technical Proposals.

5. SCORING OF COST PROPOSALS

The Evaluation Team will unseal and review Cost Proposals after scoring the Technical Proposals. Each Cost Proposal will be scored according to the following formula:

$$\text{Proposer's Cost Proposal Score} = \left(\frac{\text{Lowest Proposed Cost}}{\text{Proposer's Proposed Cost}} \right) \times \text{Total Possible Points}$$

Proposers are advised that this **is not a lowest bid award**, and that the score of the Cost Proposal will be combined with scoring of the Technical Proposal to determine the overall highest-scoring Proposer.

6. BEST AND FINAL OFFER

Upon completion of the scoring process, the NHLC may, at its sole option, invite the highest scoring Proposers to submit a “Best and Final Offer” (BAFO) for the NHLC’s consideration. The NHLC reserves the right to select a Contractor based solely on the initial proposals and is under no obligation to solicit or accept a BAFO from any Proposers. As the NHLC may not request a BAFO, Proposers are encouraged to provide their most competitive prices in their initial proposals.

The BAFO is a one-time invitation only process for a Proposer to submit its lowest priced offer for the NHLC’s consideration. The NHLC will provide a deadline submission date for the BAFO and may uniformly communicate in writing any price/cost targets that the NHLC is seeking in the BAFO. All restrictions on contact with State employees outlined in this RFP shall remain in effect.

Each invited Proposer may only make one BAFO. The BAFO may not alter the substance of the Proposer’s Technical Proposal. The BAFO may only amend the Proposer’s initial Cost Proposal.

To the extent the NHLC solicits and receives a BAFO pursuant to this section, the NHLC will re-score the BAFO participants’ Cost Proposals after review of the BAFO in accordance with Paragraph 5: Scoring of Cost Proposals above. The NHLC will not select a contractor based on the lowest priced BAFO proposal. A final selection, if any, shall be based on the combined score of the Technical Proposal and BAFO pricing. Only those Proposers who were invited to submit a BAFO will be considered for the award.

7. FINAL SELECTION

The NHLC will conduct a final selection based on the final evaluation of the proposals or, if requested, as a result of a BAFO. If the NHLC elects to make an award, the NHLC will issue an “intent to negotiate” notice to the highest-scored Proposer. Should the NHLC be unable to reach agreement with the selected Proposer, the NHLC may negotiate with the second Proposer and so on, or the NHLC may reject all proposals, cancel this RFP, or solicit proposals under a new procurement process.

8. RIGHTS IN PROPOSAL EVALUATION AND CONTRACT NEGOTIATION

The NHLC reserves the right to:

- A. Make independent investigations and consider any source of information, including but not limited to, State employees, previous customers, internet research, and rating agencies;
- B. Request additional information to clarify elements of a proposal;
- C. Waive minor or immaterial deviations from the RFP and contract requirements, if determined to be in the best interest of the State;
- D. Omit any planned evaluation step if, in the NHLC’s view, the step is not needed;
- E. At its sole discretion, reject proposals at any time; or cancel this RFP;
- F. Open contract discussions with the second highest scoring Contractor and so on, if the NHLC is unable to reach an agreement on contract terms with the highest scoring Contractor(s).

PART V - INFORMATION REQUIRED FROM THE PROPOSER

Proposers must submit proposals in the following format, including heading descriptions:

1. TECHNICAL PROPOSAL

A. Experience and Company Profile

Provide a detailed summary of the company's background and its experience providing commercial floor cleaning and polishing services, with emphasis on commercial and/or retail environments. Include examples of current commercial or retail business and/or government entity clients most similar in size and scope to the NHLC. In addition to describing your company's experience, please provide the following information:

- I. Full legal company name;
- II. Year business started;
- III. If applicable, information on any parent or subsidiary relationships;
- IV. State of formation;
- V. Location of headquarters;
- VI. Current number of individuals employed; and
- VII. Relevant licenses or certifications held.
- VIII. Provide three (3) customer references, including the name, current address, and telephone number and email of the responsible official who may be contacted by the NHLC.

B. Company Capability

Describe how your company intends to provide the NHLC with the deliverables set forth in RFP Part I, Section 3: Scope of Work above. Include in your description an overview of your company's capability to provide timely and quality floor cleaning and polishing services to the NHLC, such as the number of employees with related work experience, number of and type of equipment and/or facilities, and ability to meet timelines and service all retail outlet stores. Additionally, list and describe the products your company proposes to use to clean and polish the VCT flooring in the NHLC's retail outlet stores.

2. COST PROPOSAL

A. Cost per Store

Indicate the price to provide the services described in this RFP twice per year to the retail outlet stores as listed below. Price includes materials, equipment, labor, and transportation.

The listing of stores provided below is subject to change. If, at any time during the life of any contract resulting from this RFP, a store is closed, opened, remodeled, or relocated, that change and/or store shall be considered part of the contract.

NHLC ZONE 1

Store	Location	Price for <u>Two</u> Services per Year December __, 2023 – December __, 2024	Price for <u>Two</u> Services per Year December __, 2024 – December __, 2025	Price for <u>Two</u> Services per Year December __, 2025 – December __, 2026	Total Price
7	Littleton	N/A	N/A	N/A	N/A
16	Woodsville	\$ _____	\$ _____	\$ _____	\$ _____
18	Colebrook	N/A	N/A	N/A	N/A
19	Plymouth	N/A	N/A	N/A	N/A
37	Lancaster	N/A	N/A	N/A	N/A
44	New Hampton	N/A	N/A	N/A	N/A
47	Lincoln	\$ _____	\$ _____	\$ _____	\$ _____
65	Campton	\$ _____	\$ _____	\$ _____	\$ _____
84	Tilton	N/A	N/A	N/A	N/A
				TOTAL ZONE 1:	\$ _____

NHLC ZONE 2

Store	Location	Price for <u>Two</u> Services per Year December __, 2023 – December __, 2024	Price for <u>Two</u> Services per Year December __, 2024 – December __, 2025	Price for <u>Two</u> Services per Year December __, 2025 – December __, 2026	Total Price
5	Berlin	\$ _____	\$ _____	\$ _____	\$ _____
12	Center Harbor	\$ _____	\$ _____	\$ _____	\$ _____
23	Conway	\$ _____	\$ _____	\$ _____	\$ _____
39	Wolfeboro	\$ _____	\$ _____	\$ _____	\$ _____
42	Meredith	\$ _____	\$ _____	\$ _____	\$ _____

52	Gorham	\$ _____	\$ _____	\$ _____	\$ _____
54	Glen	\$ _____	\$ _____	\$ _____	\$ _____
56	Gilford	\$ _____	\$ _____	\$ _____	\$ _____
57	Center Ossipee	\$ _____	\$ _____	\$ _____	\$ _____
				TOTAL ZONE 2:	\$ _____

NHLC ZONE 5

Store	Location	Price for Two Services per Year December __, 2023 – December __, 2024	Price for Two Services per Year December __, 2024 – December __, 2025	Price for Two Services per Year December __, 2025 – December __, 2026	Total Price
2	West Chesterfield	\$ _____	\$ _____	\$ _____	\$ _____
8	Claremont	N/A	N/A	N/A	N/A
11	Lebanon	\$ _____	\$ _____	\$ _____	\$ _____
15	Keene	N/A	N/A	N/A	N/A
21	Peterborough	\$ _____	\$ _____	\$ _____	\$ _____
22	Brookline	\$ _____	\$ _____	\$ _____	\$ _____
30	Milford	\$ _____	\$ _____	\$ _____	\$ _____
35	Hillsboro	\$ _____	\$ _____	\$ _____	\$ _____
40	Walpole	\$ _____	\$ _____	\$ _____	\$ _____
48	Hinsdale	\$ _____	\$ _____	\$ _____	\$ _____
60	W. Lebanon	N/A	N/A	N/A	N/A
64	New London	N/A	N/A	N/A	N/A

77	Rindge	N/A	N/A	N/A	N/A
82	Warner	N/A	N/A	N/A	N/A
				TOTAL ZONE 5:	\$ _____

APPENDICES

APPENDIX A FORM NUMBER P-37 (version 2/23/2023)

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

AGREEMENT

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

GENERAL PROVISIONS

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

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

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

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

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

9. TERMINATION.

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

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

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

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

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

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

14. INSURANCE.

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

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

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

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

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

15. WORKERS' COMPENSATION.

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

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

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

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

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

19. CHOICE OF LAW AND FORUM.

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

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

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

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

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

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

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

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

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

APPENDIX B

STORE LOCATIONS AND SQUARE FOOTAGE

NHLC ZONE 1

Store	Location	Flooring Type	VCT Square Footage
7	Littleton 804 Meadow Street Littleton, NH	N/A	N/A
16	Woodsville 1 Forest Street Woodsville, NH	VCT	1,509
18	Colebrook 16 Metallak Place Colebrook, NH	N/A	N/A
19	Plymouth 22 Ridge View Lane Plymouth, NH	N/A	N/A
37	Lancaster 199 Main Street Lancaster, NH	N/A	N/A
44	New Hampton 325 NH RTE 104 New Hampton, NH	N/A	N/A
47	Lincoln 165 Main Street Lincoln, NH	VCT	3,200
65	Campton 25 Vintinner Road Campton, NH	VCT	1,960
84	Tilton 80 Market Street Tilton, NH	N/A	N/A

NHLC ZONE 2

Store	Location	Flooring Type	VCT Square Footage
5	Berlin 17 Pleasant Street Berlin, NH	VCT	1,524
12	Center Harbor 12A Main Street Center Harbor, NH	VCT	2,604

23	Conway 234 White Mountain Hwy Conway, NH	VCT	5,115
39	Wolfeboro 35 Center Street Wolfeboro Falls, NH	VCT	2,205
42	Meredith 71 NH RTE 104 Meredith, NH	VCT	4,956
52	Gorham 159 Main Street Gorham, NH	VCT	2,430
54	Glen 65 US RTE 302 Glen, NH	VCT	6,500
56	Gilford 18 Weirs Road Gilford, NH	VCT	5,500
57	Center Ossipee 240 NH RTE 16B Center Ossipee, NH	VCT	1,655

NHLC ZONE 5

Store	Location	Flooring Type	VCT Square Footage
2	West Chesterfield 100 NH RTE 9 West Chesterfield, NH	VCT	6,000
8	Claremont 367 Washington Street Claremont, NH	N/A	N/A
11	Lebanon 12 Centerra Parkway Lebanon, NH	VCT	4,452
15	Keene 6 Ash Brook Court Keene, NH	N/A	N/A
21	Peterborough 19 Wilton Road Peterborough, NH	VCT	6,500
22	Brookline 44A NH RTE 13 Brookline, NH	VCT	2,744
30	Milford 21 Jones Road Milford, NH	VCT	2,058
35	Hillsboro 15 Antrim Road Hillsboro, NH	VCT	2,240

40	Walpole 32 Ames Plaza Lane Walpole, NH	VCT	1,423
48	Hinsdale 849 Brattleboro Road Hinsdale, NH	VCT	2,427
60	West Lebanon 265 Plainfield Road West Lebanon, NH	N/A	N/A
64	New London 293 Newport Road New London, NH	N/A	N/A
77	Rindge 493 US RTE 202 Rindge, NH	N/A	N/A
82	Warner 14 Nichols Mill Lane Warner, NH	N/A	N/A

APPENDIX C
ZONE MAP

Legend

- Belknap
- Carroll
- Cheshire
- Coos
- Grafton
- Hillsborough
- Merrimack
- Rockingham
- Strafford
- Sullivan

