

Department of Administrative Services  
Division of Procurement and Support Services  
Bureau of Purchase & Property

REQUEST FOR CONTRACT EXTENSION

**DATE:** March 25, 2019  
**CONTRACT:** Building Material and Hardware  
**CONTRACT NO.:** 8000949 – Lowes Hardware VC # 175819  
**CONTRACT PERIOD:** March 1, 2016 through: February 28, 2019  
EXTENSION: March 25, 2019 through July 31, 2022

**Questions:** Liz Moskalenko, Purchasing Agent  
Phone: 603-271- 3290  
E-Mail: [Elizabeth.Moskalenko@DAS.NH.Gov](mailto:Elizabeth.Moskalenko@DAS.NH.Gov)

EXPLANATION

I am requesting the approval to exercise a three (3) year and four (4) month extension provision allowed for statewide contract 8000949. The current contract was implemented on March 1, 2016 for three (3) years with additional extensions, as a result of NASPO Value Point Master Agreement #MA087.

I have verified through System for Award Management that there are no records of debarment or exclusions listed. I have also surveyed DOT and they have indicated that the vendor is performing well. The estimated FY-spend on this contract is \$68,105.50 annually.

The vendor has agreed to extend under the same terms, conditions and pricing structure. I recommend the extension of the contracted based on the information provided above and believe that to do so would be in the best interest of the State.

SUBMITTED FOR ACCEPTANCE BY:

  
PURCHASING AGENT  
BUREAU OF PURCHASE AND PROPERTY

DATE 3/25/19

RECOMMENDED FOR ACCEPTANCE BY:

  
PURCHASING MANAGER/ADMINISTRATOR III

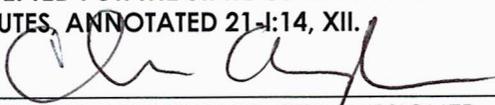
DATE 3/26/19

APPROVED FOR ACCEPTANCE BY:

  
GARY LUNETTA, DIRECTOR  
DIVISION OF PROCUREMENT & SUPPORT SERVICES

DATE 3/26/19

ACCEPTED FOR THE STATE OF NEW HAMPSHIRE UNDER THE AUTHORITY GRANTED TO ME BY NEW HAMPSHIRE REVISED STATUTES, ANNOTATED 21-1:14, XII.

  
CHARLES M. ARLINGHAUS, COMMISSIONER  
DEPARTMENT OF ADMINISTRATIVE SERVICES

DATE 3/26/19



**WALK-IN BUILDING SUPPLIES**  
Led by the State of Utah

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Master Agreement #: MA087

Contractor: **LOWE'S HOME CENTERS, LLC**

Participating Entity: **STATE OF NEW HAMPSHIRE**

The following products or services are included in this contract portfolio:

- All items in any of the Lowe's retail stores.

**Master Agreement Terms and Conditions:**

1. Scope: This addendum covers the *Walk-in Building Supplies* led by the State of Utah for use by state agencies and other entities located in the Participating State authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of *[New Hampshire]*. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Government Manager
Address:	1605 Curtis Bridge Road Wilkesboro, NC 28697
Telephone:	888-310-7791
Fax:	877-793-8455
Email:	<a href="mailto:NASPO@Lowes.com">NASPO@Lowes.com</a>



**WALK-IN BUILDING SUPPLIES**  
Led by the State of Utah

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Participating Entity

Name:	Jeff Haley
Address:	State House Annex 25 Capital Street Room 102 Concord, NH 03301
Telephone:	603-271-2202
Fax:	603-271-2700
Email:	jeffrey.haley@nh.gov

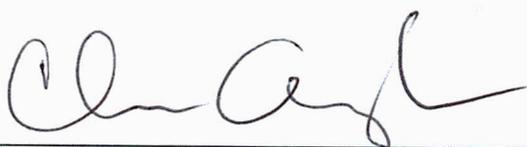
4. No Modifications or Additions: No changes to the terms and conditions of the Master Agreement are required.
  
5. Subcontractors: All contactors, dealers, and resellers authorized in the State of *[New Hampshire]*, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
  
6. Purchase Orders: To issue a Purchase Order, payment must take place on a Lowe's Account Receivable ("LAR"). A LAR is a form of proprietary credit provided by a third party creditor ("Creditor"), currently Synchrony Bank. Creditor is responsible for the collection of fees and interest on LAR accounts.

Aside from product, delivery, or shipping information, any terms, conditions, representations or certifications included on a Purchase Order or similar document ("Additional Terms") are void and superseded by the terms and conditions of this Master Agreement and this Participating Addendum. Lowe's gives notice of objection to all Additional Terms and specifically rejects all Additional Terms as a material alteration to this Master Agreement and this Participating Addendum. Lowe's may accept Additional Terms in its sole discretion after receiving separate, advance written notice of the Additional Terms, provided that no Additional Terms are valid until the buyer receives a signed acknowledgement from Lowe's agreeing to the Additional Terms. Lowe's retains sole discretion to refuse any Purchase Order that 1) contains Additional Terms or 2) does not meet Lowe's payment or tendertype requirements.



**WALK-IN BUILDING SUPPLIES**  
 Led by the State of Utah

IN WITNESS, WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of New Hampshire	Contractor: Lowe's Home Centers, LLC
Signature: 	Signature: 
Name: Charles M. Arlinghaus	Name: Michael A. Tummillo
Title: DAS Commissioner	Title: SVP Pro Sales
Date: 7-31-17	Date: July 27, 2017

*[Additional signatures may be added if required by the Participating Entity]*

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Shannon Berry
Telephone:	775-720-3404
Email:	<a href="mailto:sberry@naspovaluepoint.org">sberry@naspovaluepoint.org</a>

***[Please email fully executed PDF copy of this document to***  
*[PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org)*  
***to support documentation of participation and posting in appropriate data bases.]***

*JLC*

EXHIBIT A

Supplement between

Lowe's Home Centers, LLC and the State of New Hampshire  
to the

NASPO Valuepoint Cooperative Purchasing Organization

Contract No. MA087

Walk-In Building Supplies/Carpentry Supplies/Home Improvement Supplies and Related  
Materials

**Further Information: Personnel**

The State of New Hampshire's Contract Terms and Conditions (the "Contract Terms") require that Vendors state that no owners, directors, officers, employees, agents, or subcontractors of a Vendor are officials or employees of the State of New Hampshire. Lowe's Companies, Inc., a publicly traded company, is the parent company of Lowe's Home Centers, LLC ("Lowe's"), the entity entering into the above contract. Lowe's Companies, Inc. operating entities, including Lowe's Home Centers, LLC, operate over 1,700 stores, perform installation services nationwide, maintain relationships with thousands of suppliers, employ over 200,000 people, and serve millions of customers. Because of its large number of employees, Lowe's cannot with absolute certainty ensure that all employment relationships or officials with the State of New Hampshire are known. Therefore, to the best of its knowledge and belief, Lowe's is unaware of any employment relationships or officials with the State of New Hampshire.

**Further Information: Payments and Invoicing**

Notwithstanding the Contract Terms, all payments under this Agreement shall be due and made at time of purchase.

By executing the Participating Addendum, the State of New Hampshire accepts Lowe's payment and personnel disclosure terms contained herein and agrees this Supplement satisfies the State of New Hampshire's requirements for this Contract.

State of New Hampshire

Signature:



Name:

Charles Arlinghaus

Title:

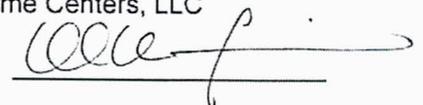
Commissioner, Administrative Services

Date:

7/31/17

Lowe's Home Centers, LLC

Signature:



Name: Michael A. Tummillo

Title: SVP Pro Sales

Date: July 27, 2017

## CONTRACT TERMS AND CONDITIONS

1. The State of New Hampshire, acting through the Division of Procurement and Support Services, engages the firm or individual ("the Vendor") to perform the services and/or sale of goods, described in the attached State documents, if any, and the Vendor's bid or quotation, both of which are incorporated herein by reference.
2. **COMPLIANCE BY VENDOR WITH LAWS AND REGULATIONS.** In connection with the performance of this agreement, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Vendor, including, but not limited to civil rights and equal opportunity laws.
3. **TERM.** The contract, and all obligations of the parties thereunder, shall become effective on a specified date and shall be completed in their entirety prior to a specified date. Any work undertaken by the Vendor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work.
4. **CONTRACT PRICE.** The contract price, a payment schedule and a maximum limitation of price shall be as specified by the bid invitation and the Vendor's bid. All payments shall be conditioned upon receipt, and approval by the State, of appropriate vouchers and upon satisfactory performance by the Vendor, as determined by the State. The payment by the State of the Contract Price shall constitute complete reimbursement to the Vendor for all expenses of any nature incurred by the Vendor in the performance by the Vendor and complete payment for the Services. The State shall have no other liability to the Vendor.
5. **DELIVERY.** If the vendor fails to furnish items and/or services in accordance with all requirements, including delivery, the state may re-purchase similar items from any other source without competitive bidding, and the original vendor may be liable to the state for any excess costs. If a vendor is unable to complete delivery by the date specified, he must contact the using agency. However, the agency is not required to accept a delay to the original delivery date. All deliveries are subject to inspection and receiving procedure rules as established by the State of New Hampshire. Deliveries are not considered accepted until compliance with these rules has been established. State personnel signatures on shipping documents shall signify only the receipt of shipments. All deliveries shall be FOB Destination.
6. **INVOICING.** All invoices must list Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted on the invitation to bid or purchase order, payment will not be due until thirty (30) days after all services have been completed, or all items have been delivered, inspected and accepted or the invoice has been received at the agency business office, whichever is later.
7. **PERSONNEL.**
  - 7.1. The Vendor shall disclose in writing the names of all owners (5% or more), directors, officers, employees, agents or subcontractors who are also officials or employees of the State of New Hampshire. Any change in this information shall be reported in writing within fifteen (15) days of their occurrence.
  - 7.2. The person signing this agreement on behalf of the State, or his or her delegee ("Contracting Officer") shall be the State's representative for purposes of this agreement. In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.
8. **EVENT OF DEFAULT; REMEDIES.**
  - 8.1. Any one or more of the following acts or omissions of the Vendor shall constitute an event of default hereunder ("Events of Default"):
    - 8.1.1. failure to deliver the goods or services satisfactorily or on schedule; or
    - 8.1.2. failure to submit any report required hereunder; or
    - 8.1.3. failure to perform any of the other covenants and conditions 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 Vendor 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 remedied, terminate this agreement, effective two (2) days after giving the Vendor notice of termination; and

**8.2.2.** give the Vendor 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 Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default, shall never be paid to the Vendor; and

**8.2.3.** set off against any other obligation the State may owe to the Vendor any damages the State suffers by reason of any Event of Default; and

**8.2.4.** treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. WAIVER OF BREACH.** 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, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of any provision hereof. No such failure or waiver 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 default on the part of the Vendor.

**10. VENDOR'S RELATION TO THE STATE.** In the performance of this agreement the Vendor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Vendor nor any of its officers, employees, agents or members shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

**11. ASSIGNMENT AND SUBCONTRACTS.** The Vendor shall not assign, or otherwise transfer any interest in this agreement without the prior written consent of the State. No work required by this contract shall be subcontracted without the prior written consent of the State.

**12. INDEMNIFICATION.** The contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Vendor. 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 shall survive the termination of this agreement.

**12.1 PATENT PROTECTION.** The seller agrees to indemnify and defend the State of New Hampshire from all claims and losses resulting from alleged and actual patent infringements and further agrees to hold the State of New Hampshire harmless from any liability arising under RSA 382-A:2-312(3). (Uniform Commercial Code).

**13. TOXIC SUBSTANCES.** In compliance with RSA 277-A Toxic Substances in the Workplace known as the Workers Right to Know Act, the vendor shall provide Safety Data Sheets (277-A:4 Safety Data Sheets) for all products covered by said law.

**14. 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 below.

**15. AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

**16. CONSTRUCTION OF AGREEMENT AND TERMS.** This agreement shall be 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.

**17. ADDITIONAL PROVISIONS.** The additional provisions (if any) have been set forth as Exhibit "A" hereto.

**18. 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 relating hereto.