

STATE OF VERMONT STATEWIDE PURCHASING AGREEMENT # 40551  
FOR SECURITY HARDWARE.

**Contractor:** Higgins Corporation

1. **Parties.** This Statewide Purchasing Agreement (“Agreement”) is a contract between the State of Vermont, through its Department of Buildings and General Services, Office of Purchasing & Contracting (“State”), and the Contractor identified above (“Contractor”). It is the Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** This Agreement authorizes Purchasing Entities (defined herein) to procure those products and/or services offered by Contractor that are identified herein, at or below the pricing established under this Agreement for such products and/or services. Contractor agrees to provide such products and/or services subject to all terms and conditions of this Agreement.
3. **Purchasing Entities.** As authorized under 29 V.S.A. § 902, this Agreement may be used by (a) all departments, offices, institutions, and other agencies of the State of Vermont and counties (each a “State Purchaser”); and (b) political subdivisions of the State of Vermont and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education (each an “Additional Purchaser”). Collectively, State Purchasers and Additional Purchasers are also referred to herein as a “Purchasing Entity” or “Purchasing Entities”. Issues concerning interpretation and eligibility for participation are solely within the authority of the State of Vermont Chief Procurement Officer. The State of Vermont and its officers and employees shall have no responsibility or liability for Additional Purchasers. Each Additional Purchaser must make its own determination whether this Agreement is consistent with its procurement policies and regulations.
4. **Contract Term.** This Agreement shall be effective on September 18, 2020 and end on September 17, 2022. Contractor agrees that this Agreement may be renewed by the State for up to two additional years beyond the initial term and in such event the parties shall execute an amendment to this Agreement.
5. **Available Products and/or Services.** The products and/or services listed in this section may be purchased under this Agreement, subject to the requirements for ordering established under this Agreement. Contractor agrees to provide such products and/or services subject to the terms and conditions of this Agreement.

<u>Manufacturer</u>	<u>Part#</u>	<u>Description</u>	<u>Category</u>	<u>Discount off MSRP</u>	<u>Price</u>
Higgins	BL-34H-Black	3/8 Flat Lanyard 34” Break away wide plastic hook	Card Access Equipment	53%	\$.26
Higgins	1840-6045	Permanent locking plastic card case	Card Access Equipment	56%	\$.68
Higgins	YMCKT-KT300	Color Ribbon 53400- 006	Card Access Equipment	43%	\$105.85
Higgins	503855-112	Duraguard Laminate 0.6mil Secure Print Custom Hologram Laminate	Card Access Equipment	60%	\$141.10

6. **Pricing.** Pricing, including discounts, for products and/or services available under this Agreement is set forth above. Purchasing Entities may solicit the Contractor for deeper discounts than the minimum contract pricing established under this Agreement (e.g., additional volume pricing, incremental discounts, firm fixed pricing or other incentives). Contractor shall list the State's contract pricing on a contract specific website listing the complete catalog of products available under this agreement.
7. **Requirements for Ordering.**
  - a. Orders placed under this Agreement must be in writing and, at a minimum, shall specify:
    - i. The product(s) being delivered (if applicable) and the place and time of delivery;
    - ii. The service(s) required (if applicable) and the place and time period for performance;
    - iii. The Purchasing Entity's billing address;
    - iv. The name and contact information for the Purchasing Entity's primary contact;
    - v. The price per unit, rates, or other pricing elements consistent with this Agreement;
    - vi. A maximum amount payable by the Purchasing Entity under the order;
    - vii. A unique identifier for the order; and
    - viii. The State of Vermont Statewide Purchasing Agreement Number.
  - b. Orders may include additional terms as necessary to comply with local, state or federal laws or regulations applicable to the Purchasing Entity.
  - c. State Purchasers must follow the ordering procedures of the State Contract Administrator to execute orders against this Agreement.
8. **Payment Provisions and Invoicing.**
  - a. Payment obligations shall be solely between the Purchasing Entity and the Contractor.
  - b. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored.
  - c. Retainage may be specified in an order in an amount mutually agreeable to the parties.
  - d. Payment terms are Net 30 days from the date the State receives an error-free invoice with all necessary and complete supporting documentation. Invoices shall itemize all work performed during the invoice period, including, as applicable, the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment. As applicable, a copy of the notice(s) of acceptance shall accompany invoices submitted for payment.

- e. Invoices shall be sent to the address identified on the Purchasing Entity's order and must specify:
- i. The address to which payments will be sent:
  - ii. The State of Vermont Statewide Purchasing Agreement Number; and
  - iii. The unique identifier for the order against which the invoice is being submitted.
- f. Reimbursement of expenses is not authorized. All rates set forth in a an order shall be inclusive of any and all Contractor fees and expenses.
- g. Unopened products can be returned with no restocking fee up to 30 days from the date of receipt.
- h. The State Purchasing Card may be used by State Purchasers for the payment of invoices. Use of the Purchasing Card requires all required documentation applicable to the purchase. The Purchasing Card is a payment mechanism, not a procurement approach and, therefore, does not relieve State Purchasers from adhering to all procurement laws, regulations, policies, procedures, and best practices.
9. **No effect of Click-Through or Other Additional Terms and Conditions.** Where a Purchasing Entity is required to click-through or otherwise accept or made subject to any electronic terms and conditions to use or access any product or service purchased hereunder, such terms and conditions are not binding and shall have no force or effect as to the product or service, this Agreement, or the applicable order for the product or service. Further, any terms and conditions of a Party's invoice, acknowledgment, confirmation, or similar documents, shall not apply to any order under this Agreement, or to this Agreement, and any such terms and conditions on any such document are objected to without need of further notice or objection.
10. **Reporting.** Contractor shall submit quarterly reports electronically detailing the purchasing of all items by all Purchasing Entities under this Agreement. Contractor's reporting shall detail the minimum requirements for orders as set out in section 7.a, above. Contractor's reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.
- a. The reports shall be an excel spreadsheet transmitted electronically to [SOV.ThePathForward@vermont.gov](mailto:SOV.ThePathForward@vermont.gov).
  - b. Reports are due for each quarter as follows:
- | Reporting Period         | Report Due |
|--------------------------|------------|
| January 1 to March 31    | April 30   |
| April 1 to June 30       | July 31    |
| July 1 to September 30   | October 31 |
| October 1 to December 31 | January 31 |
- c. Failure to meet these reporting requirements may result in suspension or termination of this Agreement.

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11. **Prior Approvals.** In accordance with current State law, bulletins, and interpretations, this Agreement shall not be binding until it has been approved by the Vermont Attorney General's Office, the Secretary of Administration, and the State's Chief Information Officer.
12. **Entire Agreement; Amendment.** This Agreement, inclusive of its attachments and/or exhibits, sets forth the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. No changes, modifications, or amendments in the terms and conditions of this Agreement shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
13. **Termination.** This Agreement may be terminated by the State at any time upon 30 days prior written notice to the Contractor. Upon termination or expiration of this Agreement, each party will assist the other in the transfer of all assets, tangible and intangible, as may facilitate the orderly, non-disrupted business continuation of each party. This provision shall not relieve the Contractor or Purchasing Entity of the obligation to perform under any order executed prior to the effective date of termination or other expiration of this Agreement.
14. **Primary Contacts.** The Parties will keep and maintain current at all times a primary point of contact for this Agreement, which are presently as follows:
  - a. **For the Contractor:**

Name: Kevin R Michel  
Address: 777 Broadway, South Portland, ME 04106  
Phone: 800-486-1312 ext 106  
Fax: 207-767-5268  
Email: kmichel@higgins3.com
  - b. **For the State:**

Name: State of Vermont, Stephen Fazekas  
Address: 109 State Street, Montpelier, VT 05633-3001  
Phone: 802/828-2210  
Fax: 802/828-2222  
Email: [Stephen.fazekas@vermont.gov](mailto:Stephen.fazekas@vermont.gov)
15. **Attachments.** The following documents are made part of this Agreement and any ambiguity or conflict among them shall be resolved by giving priority to the documents in the order in which they are listed below.
  - a. "Attachment C: Standard State Provisions for Contracts and Grants" a preprinted form, revised December 15, 2017 (available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>) is hereby incorporated by reference as if fully set forth herein and shall apply to this Agreement and all orders placed under this Agreement.
  - b. "Attachment D: Other Provisions" is attached to this Agreement and incorporated herein and shall apply to all orders placed under this Agreement.
  - c. If required in an order made by a State Purchaser under this Agreement, the terms and conditions of the State of Vermont Business Associate Agreement, revised May 2019

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(available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>) shall be incorporated by reference and apply to the order as if specifically set forth in the order.

By signing below Contractor agrees to offer the available products and services subject to the terms and conditions of this Agreement and at prices equal to or lower than the prices listed on this Agreement.

**WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT**

By the State of Vermont:

By Higgins Corporation

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
Jennifer Fitch

Name: \_\_\_\_\_

Title: \_\_\_\_\_  
Acting Commissioner - Buildings and  
General Services

Title: \_\_\_\_\_

**Attachment D: Other Provisions**

1. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES. The Contractor represents, warrants, and covenants that:
  - a. The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
  - b. There is no pending litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.
  - c. The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.
  - d. The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the services as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the services or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.
  - e. The Contractor has adequate resources to fulfill its obligations under this Contract.
  - f. Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.
  - g. Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.
  - h. Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.
  - i. To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

2. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE. In addition to the insurance required in Attachment C to this Agreement, before commencing work on this Agreement and throughout the term of this Agreement, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of \$1,000,000.00 per claim, \$2,000,000.00 aggregate. To the extent Contractor's performance requires it to access, process, collect, transmit, store or otherwise handle personally identifiable information or other confidential or sensitive information of the State or of any individual, Contractor shall maintain first party Breach Notification Coverage of not less than \$500,000.00. Before commencing work on this Agreement, the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.
3. REMEDIES FOR DEFAULT. In the event either party is in default under this Agreement, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.
4. SOV CYBERSECURITY STANDARD 19-01. All products and service provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>