

STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508

Telephone: (402) 471-6500
Fax: (402) 471-2089

**CONTRACT NUMBER
15738 OC**

PAGE 1 of 2		ORDER DATE 08/30/22	
BUSINESS UNIT 9000		BUYER JULIE DABYDEEN (AS)	
VENDOR NUMBER: 2660689			
VENDOR ADDRESS: LOWES COMPANIES INC DBA LOWES HOME CENTERS LLC 1000 LOWES BLVD MOORESVILLE NC 28117-8520			

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

SEPTEMBER 01, 2022 THROUGH JULY 31, 2027

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE MATERIALS AND/OR SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR MATERIALS AND/OR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Awarded from NASPO ValuePoint Master Agreement State of Utah #MA3875

Contract to supply and deliver Walk-In Building Supplies for State of Nebraska agencies and political sub-divisions for the period of September 1, 2022 through July 31, 2027.

The intent of this contract is for walk-in convenience purchases at any Lowe's Retail Outlet for those public entities that choose to obtain a Lowe's customer identifier/savings card.

Payment Terms: Net 30

(For the File – This RFP and Contract are bid and awarded by the State of Utah. All backup bids, etc. are retained by the State of Utah, Division of Purchasing).

(For the File: The NASPO ValuePoint/Lowe's Home Centers, LLC Price Agreement contract period was effective August 1, 2022. The NASPO ValuePoint/Lowe's Home Centers, LLC for Nebraska became effective on September 1, 2022.)

The Lowe's Home Centers, LLC NASPO ValuePoint website:
<https://www.naspovaluepoint.org/portfolio/walk-in-building-supplies-2022-2027/>

National Account Manager: Lisa Minton
Cell: 980-287-6417
Email: Lisa.C.Minton@Lowes.com

National Account Manager – West
Gary Turnage
Cell: 346-436-9185
Email: gary.turnage@lowes.com

(MH 8/30/22)

DocuSigned by:
Julie Dabydeen 8/30/2022
0FA0706F43004ED...

BUYER

DocuSigned by:
Amara Block 9/1/2022
4CFF2711162A4A2...

MATERIEL ADMINISTRATOR

STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508

Telephone: (402) 471-6500
Fax: (402) 471-2089

CONTRACT NUMBER
15738 OC

PAGE 2 of 2		ORDER DATE 08/30/22
BUSINESS UNIT 9000		BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 2660689		

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	WALK-IN BUILDING SUPPLIES	500,000.0000	\$	1.0000



DS
JD

BUYER INITIALS

15738 OC, Lowe's Home Centers, LLC

Contract Instructions

Walk-In Building Supplies

Contract Summary

This is a Statewide Contract in participation with NASPO ValuePoint Cooperative Contract for the purchase of **Walk-in Building Supplies**.

The registration process to utilize the contract is easy. Order your contract savings cards (barcoded Key Fobs) at [Purchasing With NASPO ValuePoint \(lowes.com\)](https://www.lowes.com). Select your state and following the drop-down boxes to place your order. You can order as many key fobs as needed for your buyers for business purchases. Please do not use for personal use.

Contract Manager/Email

Julie Dabydeen, julie.dabydeen@nebraska.gov

Order Instructions

- Request a Quote:** Please reach out your National Account Manager below for any quotes or issues. You can visit the Pro Sale Desk at your local store to receive a quote also. You can locate the store closes to you by visiting www.Lowes.com/store
- Purchase Orders:** Lowe's will accept a purchase with a form of tender, such as, a Purchase Card
- Online Accounts:** To shop online visit: <https://www.lowesforpros.com/account/login>
Register and create your online account. Follow the prompts and choose the NASPO contract.
- List of Distributors:** N/A
- Additional ways to procure:** Shop In-Store using the barcoded key fobs. Have the cashier scan the key fob to receive Point-of Sale contract pricing.
- Payments:** The agency will pay at the register when purchasing material with their Purchase Card.

Vendor Contact information

National Account Manager – West
Gary Turnage
Cell: 346-436-9185
Email: gary.turnage@lowes.com



Lowe's has been awarded a Walk-in Building Supplies and Related Materials contract through the NASPO ValuePoint Cooperative Purchasing Organization. In participating states, the contract can be utilized by state agencies, cities, K-12 schools, higher education, special districts and special authorities.



CONTRACT BENEFITS

- Competitively awarded
- Deeper discount for cost savings
- Instant savings with no RFP process
- No participation fee
- Pro sales and support
- Multiple ways to purchase
- Works with all payment types
- No minimum order requirements
- 1,700+ Stores nationwide
- Access to 40,000 products in store and 500,000+ products online

PAYMENT METHODS

Multiple payment types are accepted for walk-in and online purchasing.

VISIT [LOWESFORPROS.COM/NASPO](https://www.lowesforpros.com/naspo) TO ORDER GOVERNMENT CONTRACT SAVINGS CARDS.



PROCUREMENT SYSTEMS

Email NASPO@Lowes.com to take advantage of a powerful, efficient resource for your agency with benefits including:

- Over 1 million products online
- Access to real-time product availability across 1,700 stores
- Tax-exempt purchasing
- Custom product catalog
- Lowe's Account Receivable (LAR)

HOW TO PARTICIPATE

POINT OF SALE DISCOUNT

Walk in:

Use your key fob in store to save 7%* on every purchase, every day.

Online:

1. Create your [Lowe'sForPros.com](https://www.lowesforpros.com) account and save 7%
2. Start shopping on [Lowe'sForPros.com](https://www.lowesforpros.com)

FOR MORE INFORMATION ON GOVERNMENT PROGRAMS

Gary Turnage, Lowe's Companies, Inc.
346.436.9185
gary.turnage@Lowes.com

NASPO ValuePoint

PARTICIPATING ADDENDUM**WALK-IN BUILDING SUPPLIES**Led by the **State of Utah****Master Agreement #:** MA3875**Contractor:** Lowe's Home Centers, LLC**Participating Entity:** STATE OF NEBRASKA CONTRACT 15738 OC

This Participating Addendum is entered into by Contractor and Participating Entity (collectively, the "Parties").

Scope and Participation:**1. Scope:**

This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above.

2. Participation: This Participating Addendum covers participation of Participating Entity in the above-referenced Master Agreement between the State of Utah and Contractor for Walk-in Building Supplies. This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Term:

This Participating Addendum shall become effective as of the date of the last signature below and shall terminate on July 31, 2027, unless terminated sooner or otherwise amended in accordance with the terms set forth herein. Notwithstanding the previous, in no event shall the term of the Participating Addendum exceed the term of the Master Agreement, as amended.

4. Primary Contacts: The following (or their named successors) are the primary contact individuals for this Participating Addendum:

CONTRACTOR:

Name:	Lisa Minton
Address:	1000 Lowe's Blvd, Mooresville, NC 28117
Telephone:	980-287-6417
Fax:	877-793-8455
Email:	NASPO@Lowes.com

PARTICIPATING ENTITY:

Name:	Julie Dabydeen
Address:	1526 K Street, Suite 130, Lincoln, NE 68509-4847
Telephone:	402-471-1429
Fax:	402-471-2089
Email:	julie.dabydeen@nebraska.gov

NASPO ValuePoint

PARTICIPATING ADDENDUM



WALK-IN BUILDING SUPPLIES

Led by the **State of Utah**

Participating Entity Modifications and Additions to the Master Agreement

This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, **subject to the following limitations, modifications, and additions:**

Any limitations, modifications, or additions specified herein apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addendums or the Master Agreement itself.

5. **Lease Agreements:** Lease Agreements are not authorized by this Participating Addendum.

Subcontractors: All contactors, dealers, and resellers authorized in the State of Nebraska, 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. Lowe's Home Centers, LLC ("Lowe's") is a fully owned subsidiary of Lowe's Companies, Inc. ("LCI"), a publicly traded company. LCI's operating entities (together or individually "Lowe's Co"), including Lowe's, 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. Lowe's Co uses third party independent contractors to perform ancillary services for Lowe's Co during the normal course of business on a daily basis. These ancillary services may include, but are not limited to, appliance decommissioning, product delivery, and janitorial services for Lowe's stores, and are provided to Lowe's Co on an ongoing basis through pre-existing and established business relationships. Lowe's does not consider the use of these ancillary services to trigger any subcontractor specific or subcontractor approval requirements for this supply contract. Lowe's agrees to comply with all subcontracting requirements should Lowe's enter into a new contract to specifically fulfill the State of Nebraska's requirements. By awarding the above referenced project to Lowe's, the State of Nebraska accepts and agrees with the foregoing analysis.

6. **Orders:** Any order placed by Participating Entity or a Purchasing Entity for a product or service offered through this Participating Addendum shall be deemed to be a sale under, and subject to the pricing and other terms and conditions of, the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to the order.

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

State of Nebraska
Standard Terms and Conditions Below

I. TERMS AND CONDITIONS

A. TERM PERIOD

Contract Period: August 20, 2022, through July 31, 2027, with no renewal options.

B. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS (§ 21-2,203 Statutory)

All contractors must be authorized to transact business in the State and comply with all Nebraska Secretary of State registration requirements. The bidder who is the recipient of an Intent to Award may be required to certify that it has complied and produced a true and exact copy of its current (within ninety (90) calendar days of the intent to award) Certificate of Good Standing, or in the case of a sole proprietorship, provide written documentation of sole proprietorship and complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>. This must be accomplished prior to execution of the contract.

C. DOCUMENTS/ORDER OF PRECEDENCE

The Participating Addendum from this contract shall incorporate the following documents:

1. Participating Addendum;
2. Master Agreement MA3875;
3. Amendments/Addendums to the Contract.

The above listed documents constitute the entirety of the Participating Addendum.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment/Addenda to the Contract with the most recent dated amendment/addenda having the highest priority.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

D. NOTIFICATION

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses, or at such other addresses as may be specified in writing by either of the parties. The contractor should send notices to the Buyer. The State will send notices to the Authorized Contact provided in this Participating Addendum. All notices, requests, or communications shall be deemed effective upon personal delivery or five (5) calendar days following deposit in the mail.

Either party may change its address for notification purposes by giving notice of the change and setting forth the new address and an effective date.

E. BUYER'S REPRESENTATIVE/CONTRACT MANAGER

The State reserves the right to appoint a Buyer's Representative to manage [or assist the Buyer in managing] the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the Contractor will be provided a copy of the appointment document and is required to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

F. GOVERNING LAW

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State; (3) any action to enforce the provisions of this contract must be brought in the State per state law; (4) the person signing this contract on behalf of the State does not have the authority to waive the State's sovereign

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third-party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

G. AMENDMENT

This Contract may be amended in writing, within scope, upon the agreement of both parties.

H. CHANGE ORDERS

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the Participating Addendum. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes. The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's bid, were foreseeable, or result from difficulties with or failure of the Contractor's bid or performance. Requests to substitute a similar item that meets the original specifications or better, the State may accept or reject the requested substitute.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

In the event any product is discontinued or replaced upon mutual consent during the contract period or prior to delivery, the State reserves the right to amend the contract or purchase order to include the alternate product.

*****Contractor will not substitute any item that has been awarded without prior written approval of SPB*****

I. VENDOR PERFORMANCE REPORT(S)

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or specifications. The State Purchasing Bureau may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

J. NOTICE OF POTENTIAL CONTRACTOR BREACH

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

K. BREACH

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. In case of breach by the Contractor, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the contractor. The State may recover from the Contractor as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the contract price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Contractor's breach.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections, including, but not limited to, charging interest to the State (Refer to Prompt Payment Act).

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

L. NON-WAIVER OF BREACH

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed. Allowing time to cure a breach of contract does not waive the State's right to terminate the contract for the same or different contract breach which may occur at a different time.

M. SEVERABILITY

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

N. INDEMNIFICATION

1. GENERAL

Indemnification shall be governed by Paragraph 33 of Attachment A of the Master Agreement.

2. SELF-INSURANCE

The State is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this contract, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (§ 81-8,294), Tort (§ 81-8,209), and Contract Claim Acts (§ 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this contract to the extent provided by law.

3. ATTORNEY GENERAL

The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

O. ATTORNEY'S FEES

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney's fees and costs, if the other Party prevails.

P. ASSIGNMENT, SALE, OR MERGER

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

Q. CONTRACTING WITH OTHER STATE POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. § 81-145, to use this contract. The terms and conditions, including price, of the contract May not be Amended. The State Shall not be contractually obligated or liable for any contract entered into pursuant to this clause. The Contractor May, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but May be Amended upon mutual consent of the Parties. The State of Nebraska Shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State Shall be notified if a contract is executed based upon this contract.

Nothing in this contract shall be construed as an indemnification by one public entity of the other for liabilities of a Party or third parties for property loss or damage or death or personal injury arising out of and during the performance of this contract. Any liabilities or claims for property loss or damages or for death or personal injury by a Party or its Agents, employees, Contractors or assigns or by third persons, Shall be determined according to applicable law.

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

R. FORCE MAJEURE

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other Party and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party's own employees will not be considered a Force Majeure Event.

S. CONFIDENTIALITY

Except as provided by law, all materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

T. EARLY TERMINATION

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
2. Either Party may terminate the contract for any reason upon thirty (30) calendar day's written notice. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination, the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
 - a. if directed to do so by statute;
 - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
 - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
 - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
 - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor;
 - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
 - g. Contractor intentionally discloses confidential information;
 - h. Contractor has or announces it will discontinue support of the deliverable; and,
 - i. In the event funding is no longer available.

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

II. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

B. EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing work within the State. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website.

1. If the Contractor indicates on such attestation form that they are a qualified alien, the Contractor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
2. The Contractor understands and agrees that lawful presence in the United States is required, and the Contractor may be disqualified, or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The State Fair Employment Practice Act prohibits Contractors of the State, and their subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 to 48-1125). The Contractor guarantees compliance with the State Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for goods and services to be covered by any contract resulting from this Participating Addendum.

D. COOPERATION WITH OTHER CONTRACTORS

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

E. CONTRACTOR CUSTOMER SERVICE

In addition to any specified requirements contained in this contract, the Contractor agrees and understands that satisfactory customer service is required. Contractor will develop or provide technology and business procedures designed to enhance the level of customer satisfaction and to provide the customer appropriate information given their situation. Contractor, its employees, Sub-Contractors, and agents must be accountable, responsive, reliable, patient, and have well-developed communication skills as set forth by the customer service industry's best practices and processes.

F. PERMITS, REGULATIONS, LAWS

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

G. CONFLICT OF INTEREST

The contractor certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its goods and services hereunder or which creates an actual or an appearance of conflict of interest.

The contractor certifies that it will not knowingly employ any individual known by contractor to have a conflict of interest.

The Parties shall not knowingly, for a period of two (2) years after execution of the contract, recruit or employ any employee or agent of the other Party who has worked on the project, or who had any influence on decisions affecting the project (other than pursuant to general non-targeted public job advertisements or job postings).

H. ADVERTISING

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

STATE TECHNOLOGY ACCESS STANDARDS (Statutory)

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or goods provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the Contractor's performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

I. DISASTER RECOVERY/BACK UP PLAN

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

J. DRUG POLICY

Contractor certifies it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Contractor agrees to confidentially provide a copy of its drug free workplace policy at any time upon request by the State.

K. WARRANTY

The Contractor agrees that the Purchasing Entity and the State of Nebraska shall receive any warranty provided by a manufacturer of the goods sold under this Agreement. Contractor does not warrant the goods **AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

L. PAYMENT

P-card payment for product(s) under \$2,000 may be used. Otherwise, agencies will utilize a purchase order through a Lowe's Commercial Account ("LCA") account that will include a monthly itemized statement report for all purchases made by the Authorized User for the agency.

Purchase Orders: To issue a Purchase Order, payment must take place on a Lowe's Commercial Account ("LCAR"). A LCA 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 LCA accounts. If there is any conflict in terms between this Participating Addendum and any terms or conditions from the LCA account, this Participating Addendum shall control.

Payment will be made by the responsible party within 45 calendar days after the goods have been received and accepted by the State. The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services. 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.

NASPO ValuePoint

PARTICIPATING ADDENDUM**WALK-IN BUILDING SUPPLIES**Led by the **State of Utah****M. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)**

No goods or services shall be paid for until they are received by the agency. Goods and services are deemed to be received by an agency only after such goods or services are completely delivered and finally accepted by the agency.

N. LATE PAYMENT (Statutory)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §§ 81-2401 through 81-2408).

O. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this contract. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

P. SHIPPING AND DELIVERY

Shipping and Delivery shall be governed by the Master Agreement.

Q. INVOICES

Invoices for payments must be submitted by the Contractor to the agency requesting the products with sufficient detail to support payment. The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

R. INSPECTION AND APPROVAL

Final inspection and approval of all work required under the contract shall be performed by the designated State officials.

S. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal year following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

T. RIGHT TO AUDIT (First Paragraph is Statutory)

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. § 84-304 et seq.) The State May audit and the Contractor Shall maintain the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of Business or a location acceptable to both Parties during normal Business hours. If this is not practical or the Contractor so elects, the Contractor May provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of Contractor's Business operations, nor Will Contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to the Contractor.

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or conditions as a result of the audit and caused or are related to the overpayment.

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

U. REPORTING METHODS

State Agency and political sub-divisions itemized spend reports are available through NASPO ValuePoint and Lowes.

Quarterly utilization report will be provided reflecting new sales to the State during the associated quarter to the Nebraska State Purchasing Bureau. The report shall be in the format agreed upon by both parties. The report will be provided in secure electronic format and/or submitted electronically to the State contact listed in the Addendum.

1. Invoice Number;
2. Description;
3. Quantity; and
4. Price.

These reports will be provided in Excel format and sent via e-mail on a quarterly basis as follows:

<u>Period End</u>	<u>Report Due</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

V. ADMINISTRATIVE FEE /REBATE

The Contractor agrees to provide a quarterly administrative fee in the form of a check. The fee will be payable to the State for an amount equal to one percent (1%) of the net sales (net of any returns, credits, or adjustments under this Addendum for the period. The Contractor's NASPO ValuePoint pricing to the State shall not be adjusted to offset for the equivalent fee amount. Payments shall be made in accordance with following schedule:

<u>Period End</u>	<u>Fee Due</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

W. ADMINISTRATIVE FEE/REBATE REMITTANCE LOCATION

All Administrative Fees/Rebates will be sent to the following address:

State Purchasing Bureau
c/o Central Finance, Administrative Services
1526 K Street
Lincoln, NE 68508

OR
Contact the Nebraska State Treasurer's Office to set up electronic funds transfer.
Below is the address:
State Capitol, Room 2005
PO Box 94788
Lincoln, NE 68509-4788
Phone (402) 471-2455

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

PARTICIPATING ENTITY

CONTRACTOR

Signature: <small>DocuSigned by:</small> <i>Amara Block</i> <small>4CFF2711162A4A2...</small>	Signature: <small>DocuSigned by:</small> <i>Scott Matthews</i> <small>426A9EBAC2F0494...</small>
Name: Amara Block	Name: scott Matthews
Title: Chief Procurement officer	Title: vp pro
Date: 9/1/2022	Date: 8/24/2022

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at info@naspovaluepoint.org.

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to pa@naspovaluepoint.org.