

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting (the "State") and Eberl Iron Works, Inc, with a principal place of business in Buffalo, NY (the "Contractor") that the contract between them originally dated as of April 16, 2022, Contract # 43645, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$220,000.00 to \$320,000.00, representing an increase of \$100,000.00.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

State and Federal Terms for Products and Services. Contractor agrees that "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) Revision date: July 19, 2023)" which is attached as Attachment D to this amendment, applies to any products or services provided to the State, at any time, when using federal funds.

This document consists of 4 pages. Except as modified by this Amendment No. 2, all provisions of the Contract remain in full force and effect.

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Attachment D

STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)

(Revision date: *July 19, 2023*)

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

CLEAN AIR ACT

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

FEDERAL WATER POLLUTION CONTROL ACT

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

CONTRACTOR BREACH, ERRORS AND OMISSIONS

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.

3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

TERMINATION FOR CONVENIENCE

1. General

- a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
- b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
- c. No compensation will be allowed for items eliminated from the Contract.
- d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

2. Contractor Obligations

After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

- a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.
- e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
- f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

3. Claim by Contractor

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. To the extent settlement is properly based on Contractor costs, settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

EBERL IRON WORKS, INC

By: _____

By: _____

Name: Jennifer M.V. Fitch

Name: _____

Title: Commissioner - Buildings and
General Services

Title: _____

Date: _____

Date: _____

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting (the "State") and Eberl Iron Works, Inc, with a principal place of business in Buffalo, NY (the "Contractor") that the contract between them originally dated as of April 16, 2022, Contract # 43645, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$70,000.00 to \$220,000.00, representing an increase, of \$150,000.00.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

This document consists of 2 pages. Except as modified by this Amendment No. 1, all provisions of the Contract remain in full force and effect.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

EBERL IRON WORKS, INC

By: _____

By: _____

Name: Jennifer M.V. Fitch

Name: _____

Title: BGS Commissioner

Title: _____

Date: _____

Date: _____

STANDARD CONTRACT

1. **Parties.** This is a contract between the State of Vermont, Department of Buildings & General Services (hereinafter called “State”), and Eberl Iron Works, Inc., with a principal place of business in Buffalo, NY, (hereinafter called “Contractor”). Contractor’s form of business organization is incorporated. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is commodities generally on the subject of Metal Sign Post and Misc. Parts. Detailed requirements to be provided by Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the commodities to be provided by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$70,000.00.

4. **Contract Term.** The period of contractor’s performance shall begin on April 16, 2022 and end on April 15, 2024 with the option to renew up to two additional one year periods.

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination/Cancellation/Rejection.** The State specifically reserves the right upon written notice to immediately terminate the contract or any portion thereof at no additional cost to the State, providing, in the opinion of its Commissioner of Buildings and General Services, the products supplied by Contractor are not satisfactory or are not consistent with the terms of this Contract. The State also specifically reserves the right upon written notice, and at no additional cost to the State, to immediately terminate the contract for convenience and/or to immediately reject or cancel any order for convenience at any time prior to shipping notification.

8. **Attachments.** This contract consists of 7 pages including the following attachments which are incorporated herein:

Attachment A - Statement of Work

Attachment B - Payment Provisions

Attachment C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)

9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

(1) Standard Contract

(2) Attachment C (Standard Contract Provisions for Contracts and Grants)

- (3) Attachment A
- (4) Attachment B

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By the Contractor:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTACHMENT A – STATEMENT OF WORK

The Contractor shall provide:

Line	Description	UOM	Price
1	2" SQUARE POSTS, PRE-GALVANIZED, 12 GA., 10 FT	EA	\$ 50.49
2	2" SQUARE POSTS, PRE-GALVANIZED, 12 GA., 11 FT	EA	\$ 56.36
3	2" SQUARE POSTS, PRE-GALVANIZED, 12 GA., 12 FT.	EA	\$ 61.22
4	2" SQUARE POSTS, PRE-GALVANIZED, 12 GA., 14 FT.	EA	\$ 70.69
5	2.5" SQUARE POSTS, PRE-GALVANIZED, 12 GA., 20 FT	EA	\$ 120.12
6	2" SQUARE POSTS, PRE-GALVANIZED, 14 GA., 10 FT	EA	\$ 43.04
7	2" SQUARE POSTS, PRE-GALVANIZED, 14 GA., 11 FT	EA	\$ 47.34
8	2" SQUARE POSTS, PRE-GALVANIZED, 14 GA., 12 FT.	EA	\$ 51.64
9	2" SQUARE POSTS, PRE-GALVANIZED, 14 GA., 14 FT.	EA	\$ 60.25
10	2.25" ANCHOR, PRE-GALVANIZED, 4 FT	EA	\$ 27.18
11	2.25" ANCHOR, PRE-GALVANIZED, 3 FT	EA	\$ 20.39
12	CORNER BOLTS WITH NUTS, 2" X 5/16"	EA	\$.85
13	ALUMINUM RIVETS WITH WASHERS, 3/8"	EA	\$.83
14	ANCHOR, 2.75", 4 FT	EA	\$ 73.34
15	ALUMINUM SIGN BRACE ABS200 PI, 12 FT	EA	\$ 56.98
16	2" SQUARE POST CLAMPS SBPC 200SQ	EA	\$ 10.14
17	2.5" SQUARE POST CLAMPS SBPC260SQ	EA	\$ 10.56
18	3.5" ROUND POST CLAMPS SBPCS 350 RD	EA	\$ 11.56
19	4.5" ROUND POST CLAMP SBPCS 450 RD	EA	\$ 12.41
20	5.5" OD 5" ID STUB BASE TUB PIPE WITH HARDWARE	EA	\$ 644.22
21	3.5" OD 3" ID STUB BASE TUB PIPE WITH HARDWARE	EA	\$ 333.35
22	4" OD 3.5"ID TUB STEEL PIPE POST, 20 FT	EA	\$ 684.58
23	5.5" OD 5" ID STUB STEEL PIPE POST, 24 FT	EA	\$ 1302.13
24	2" SQUARE POST, 20 FT	EA	\$ 94.07
25	4" OB 3.5"ID TUB STEEL PIPE POST, 20 FT	EA	\$ 815.78
26	4" OD 3.5"ID TUB PIPE WITH HARDWARE	EA	\$ 403.37
27	J-BOLT FOR 2.5" POST AND 2.75" BASE WITH NUTS	EA	\$.74
28	J-BOLT FOR 2" POST AND 2.25" BASE WITH NUTS	EA	\$.78
29	2.5" POST TELESPAR 12 GA, 1-1/2" GP PERF 14', PART NO 24F12-14PG	EA	\$ 86.83
30	2" POST TELESPAR 12 GA, 2" PG PERF 10', PART NO. 24F12-10PG	EA	\$ 51.86
31	1 3/4" SQUARE 12-GAUGE PERFORATED GALVANIZED, 7 FT	EA	\$ 35.18
32	U-CHANNEL 84" DELINEATOR POST – GALV. UC11284HG 1.12 LBS/FT	EA	\$ 14.95
33	U-CHANNEL 96" DELINEATOR POST – GALV. UC20096HG 2 LBS/FT	EA	\$ 24.83

2. Delivery is required within two weeks or acceptance of purchase order unless the contractor has advised the customer of an alternate delivery schedule (example – longer lead-time due to manufacturing cycle when ordered from OEM). The acceptable quality level for on time delivery

will be 99%; the customer shall report any deliveries that do not meet the contractors promised delivery date to the state contract manager. Contractor's delivery performance will be reviewed in periodic contract reviews between State of Vermont (SOV) and the Contractor.

3. Ordering – Contractor shall respond to the customer's request for technical information, pricing and delivery information within 48 hours or less of the first contact by the customer. The customer shall require a 99% compliance to this requirement, with the customer reporting and contractor non—compliance to the State Contract Manager. The Contractor's customer response performance shall be reviewed in periodic contract reviews between the SOV and the Contractor.
4. **WARRANTY:** Each product purchased hereunder shall include a manufacturer's written warranty, which must be based on commercial use, and extend for a minimum term of one (1) year from the date a Product is available for use by the purchaser, or such longer period as set forth in the written warranty.
5. **REPORTING REQUIREMENTS:** Contractor will be required to submit quarterly product sales report to the Purchasing Agent pursuant to the schedule below detailing the purchasing of all items under this Contractor. 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 the Purchasing Agent.
 - 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 Participating Addendum.
 - d. Notwithstanding the fact that any payment obligation for sales by contractor to any political subdivision or college, pursuant to "Purchasing Entities," below, shall be solely between the political subdivision or college and the contractor, the contractor must include, in reporting to State, the figures on quantities sold by contractor to, and amounts paid to contractor by, any such political subdivisions or independent colleges.
6. **DELIVERY:** Responsibility for product delivery remains with Contractor until the product is properly delivered and signed for. Contractor shall securely and properly pack all shipments in accordance with accepted commercial practices. Upon delivery, all packaging and containers shall become the property of the State, unless otherwise stated. Delivered goods that do not conform to the specifications or are not in good condition upon receipt shall be replaced promptly by the Contractor.

7. **QUALITY:** All products will be new and unused. All products provided by the Contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting the requirements of this section will be deemed unacceptable and returned to the Contractor for credit at no charge to the State.
8. **DEFAULT:** In case of default of the Contractor, the State may procure the materials or supplies from other sources and hold the Contractor responsible for any excess cost occasioned thereby, provided, that if public necessity requires the use of materials or supplies not conforming to the specifications they may be accepted and payment therefore shall be made at a proper reduction in price.
9. **Primary Contacts.** The Parties will keep and maintain current at all times a primary point of contact for this contract. The primary contacts for this this Contract are as follows:

a. **For the Contractor:**

Name: Nora E. Eberl
Email: nora.eberl@eberliron.com
Telephone: 716.854.7633

b. **For the State:**

Name: State of Vermont, Trevor R. Lewis
Address: 109 State Street, Montpelier, VT 05633-3001
Phone: 802/461-6315
Fax: 802/828-2222
Email: trevor.r.lewis@vermont.gov

10. **Purchasing Entities:** This Participating Addendum may be used by (a) all departments, offices, institutions, and other agencies of the State of Vermont and counties (each a “State Purchaser”) according to the process for ordering and other restrictions applicable to State Purchasers set forth herein; 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 as authorized under 29 V.S.A. § 902 (each an “Additional Purchaser”). 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 is to make its own determination whether this Participating Addendum and the Master Agreement are consistent with its procurement policies and regulations.

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials and shall specify the address to which payments will be sent.
4. **PRICING:** Contractor shall provide all products F.O.B. delivery to the ordering facility at no additional cost to the State. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State. No charge for packing, shipping, or for any other purpose will be allowed over and above the price quoted.
5. Contractor shall submit invoice(s) to ordering entity.
6. Following complete delivery of the items, each as specified in Attachment A, and the State's written confirmation to the Contractor of the State's acceptance of those items, Contractor will, within 30 business days, invoice the State in accordance with the rates specified in Attachment A.
7. Unless otherwise indicated in a manufacturer's return policy, unopened Products can be returned with no restocking fee up to 30 days from the date of receipt.

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

“Attachment C: Standard State Provisions for Contracts and Grants” (revision version dated December 15, 2017) constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.