

STANDARD CONTRACT

1. **Parties.** This is a contract between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting (hereinafter called “State”), and Peckham Industries, d/b/a William E Dailey, Inc, with a principal place of business in Shaftsbury, VT, (hereinafter called “Contractor”). Contractor’s form of business organization is Corporation. 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 Bituminous Concrete. 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 \$100,000.00.

4. **Contract Term.** The period of contractor’s performance shall begin on June 1, 2023 and end on May 31, 2024.

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 8 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: Jennifer M.V. Fitch

Name: _____

Title: Commissioner - Buildings and
General Services

Title: _____

ATTACHMENT A – STATEMENT OF WORK

The Contractor shall provide:

1. Types M, I, II, III, IV, V, and VI, as applicable, of Marshall and/or Superpave Bituminous Concrete Pavement which will be used by all Agency of Transportation Districts. Contracts will also be made available to the Agency of Natural Resources, Military Department, and Additional Purchasers.
2. Bituminous Concrete Pavement; Section 702, 704, and 406 of the Vermont Agency of Transportation Standard Specifications for Construction dated 2018 along with any applicable General Special Provisions and Supplemental Specifications as published to the AOT web site: <https://vtrans.vermont.gov/highway/construct-material/construct-services/precontractsSpecifications/2018>
3. SPECIFICATIONS:
 - a. All bituminous materials and aggregate for bituminous concrete material shall conform to the specifications prescribed in the and Section 702 and 704.10 respectively, of the State of Vermont Agency of Transportation Standard Specifications for Construction, and State of Vermont Agency of Transportation General Special Provisions and Supplemental Specifications.
 - b. Quote on 50 Blow Marshall Bituminous Concrete, VT Agency of Transportation Item 406.27, and 50 gyration Superpave Bituminous Concrete, VT Agency of Transportation Item 406.35. The grade of Performance Graded Binder will be 58-28.
 - c. Bituminous Concrete pavement shall be produced according to an approved mix design, in accordance with 406.03A and 406.03B. Mix designs for this contract are not required to include performance testing data prescribed in the General Special Provision sections 406.03A(c)(4) and 406.03A(c)(5).
 - d. The vendor shall furnish the DTA and Maintenance Paving Manager with daily certified test results of the actual material produced.
 - e. The sampling frequency is based on one sample per day or one test for every 500 tons of mix produced whichever is greater. Mix samples which do not comply with the specification will require the vendor to take corrective action and verify results with additional samples and tests. The cost of all testing shall be included in the price bid per ton. Sampling will be done in accordance with the Materials Sampling Manual in effect at time of delivery; the current document is at:
<https://outside.vermont.gov/agency/vtrans/external/docs/construction/04MatTestCert/Material%20Sampling%20Manual.pdf>
 - f. Failure to maintain a quality product as required in these specifications could lead to a reduction in price or removal of mix at no cost to the State of Vermont.
4. Bidders will be notified in writing by the Purchasing and Contract Administration division of any changes or variations in the specification. Verbal instruction, from any source, will not be considered.

5. **PRICING:**

a. **POSTED INDEX PRICE FOR ASPHALT CEMENT:** The posted index price for asphalt cement at the time of the RFP leading to this contract was \$496.00 per U.S. ton (2000 pounds) and is generally published at: <https://vtrans.vermont.gov/contractadmin/resources/construction-contracting/asphalt-price-adjustment>

b. It is a condition of bids submitted, leading to the award of this contract, and a condition of this contract, that the Contractor agrees that their bid prices include no allowances for any contingencies to cover increased costs in connection with this adjustment

c. ACTUAL PRICING OF PRODUCT AT TIME OF DELIVERY WILL BE BASED UPON THE ASPHALT PRICE ADJUSTMENT METHOD SET FORTH IN 406.18 “ASPHALT PRICE ADJUSTMENT” OF THE VERMONT AGENCY OF TRANSPORTATION STANDARD SPECIFICATIONS FOR CONSTRUCTION.

d. Contractor’s base price, based upon “a,” above, and subject to adjustment in accordance with “c,” above, is:

Plant Location:	Bituminous Concrete Price per U.S. Ton:	
Shaftsbury, VT	MARSHALL	
1358 VT Rt 7A	Type I:	
Plant Capacity per 8 hour day: 1600 Tons	Type II:	\$68.00
	Type III:	\$70.00
	Type IV:	\$72.00
	Type VI	
	SUPERPAVE	
	Type MS	
	Type IS	
	Type IIS	\$68.00
	Type IIIS	\$70.00
	Type IVS	\$72.00
	Type VS	
	Type VIS	

6. **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.

7. **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.
8. **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.
9. **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.
10. **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.
11. **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:
- e. **For the Contractor:**

Name: Dan Dearstyne
Phone: 518/791-7417

Email: ddear@peckham.com

f. *For the State:*

Name: State of Vermont, Mike Kennedy
Address: 133 State Street, 5th Floor, Montpelier, VT 05633-8000
Phone: 802/249-5058
Fax: 802/828-2222
Email: Michael.n.kennedy@vermont.gov

12. **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 (including, but not limited to, cities, towns, and school districts) 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. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.
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 agency.
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 and that training, 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.
8. 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.

**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>.