

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 Apalachee LLC, with a principal place of business in Rochester, NY, (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 Highway Rock Salt. 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 \$3,000,000.00.

4. **Contract Term.** The period of contractor’s performance shall begin on September 1, 2023 and end on August 31, 2025 with an option to renew for two, twelve-month terms upon mutual agreement of both parties.

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 13 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)

Exhibit A – AOT District Map

Exhibit B - Sites and Addresses of VTrans Maintenance Districts

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
- (5) Exhibit A – AOT District Map
- (6) Exhibit B - Sites and Addresses of VTrans Maintenance Districts

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. Road salt, bulk, for de-icing pavement and other winter maintenance activities for AOT District 7 and North Montpelier Salt Shed delivered at the following prices and specifications:

AOT District 7	\$93.00
North Montpelier Salt Shed	\$87.00

- 1.1. **CHEMICAL COMPOSITION:** Any one or combination of the 3 following chlorides: (NaCl, CaCl₂, and MgCl₂ as NaCl based on dry weight and shall conform to a chemical composition of a minimum of 95%.

- 1.2. **UNIT OF MEASUREMENT:** TON. The term ton shall mean the “short ton”, an avoirdupois unit equal to 2000 pounds.

- 1.3. **GRADATION:**

Salt shall conform to the following particle size distribution specifications as determined by laboratory sieves per ASTM D632 (testing method is AASHTO T27 for gradation):

- Passing a ½” sieve 100%
- Passing a 3/8” sieve 95% - 100%
- Passing a No.4 sieve 20% - 90%
- Passing a No. 8 sieve 10% - 60%
- Passing a No. 30 sieve 0% - 15%

- 1.4. **MOISTURE REQUIREMENT:** Moisture content shall not exceed 1% at point of delivery. Laboratory testing for moisture will be done in accordance with AASHTO T255.

Material exceeding 1% moisture content may be rejected and returned to the supplier at the expense of the supplier. VTrans reserves the right to reject all deliveries for the day, or accept the delivery and exercise the penalty clause.

- 1.5. **ANTI-CAKE:** Salt shall be loose, free flowing and should not clump or cake. In order to retard caking while in storage, all bulk salt shall be uniformly treated with an approved anti-caking conditioner prior to delivery at no additional cost to the State of Vermont.

The residual amount of anti-cake conditioner should not be less than 50 parts per million. Potential bidders shall supply, at the time of the bid, a description of the anti-cake treatment used, the quantity of inhibitor per ton of salt, and lab procedure method for determining the uniform presence of the anti-cake.

- 1.6. **SAMPLING AND TESTING:** VTrans reserves the right to visit and take samples from stockpile(s), transfer points or from shipments for gradation and moisture, storage conditions, etc. prior to award of supplier and at any time during the term of the contract.

If the stockpile or stockpile site does not meet the specifications set forth in this document, VTrans reserves the right to reject the award of the contract.

At the time of delivery, any truckloads of salt that do not appear to meet the specification, according to the District's District Transportation Administrator (DTA) or designee will be sampled and tested as set forth in this document.

VTrans reserves the right to reject, at the discretion of the District's DTA or designee, all deliveries for the day, or accept the delivery and exercise the penalty clause for gradation (see *Penalties* paragraph 2.9). Rejected loads will be returned to the supplier at the expense of the supplier.

The right is also reserved to consider all truckloads of salt delivered by the supplier to any one shed in the District, (one of eight regional maintenance Districts) on a single day to be a single delivery. It is expected that deliveries will progress in a continuous manner for each order to one shed unless otherwise agreed to by the District's DTA or designee.

Penalties imposed because of deviation from specifications shall be imposed on the applicable percentage of the day's delivery. (I.E. if 3 samples are taken for a delivery of 400 tons and 1 of the 3 samples has a failing moisture content, 1/3 of the total delivery will have the penalty imposed or 133.33 tons).

VTrans Material and Research Lab in Berlin, VT, Regional VTrans Labs, or other approved laboratories may be used for testing.

VTrans will sample and test sodium chloride with only qualified personnel. Qualified personnel will be determined by the use of the Qualified Personnel Program, as in effect at time of sampling. Samples will be obtained by the VTRANS Operations Division Salt Sampling Procedures, Appendix 2 to this RFP.

- 1.7. **STORAGE/DELIVERY:** Salt shall meet Vermont specifications for moisture content, gradation, and be free of extraneous materials at the time of delivery. VTrans will not accept salt containing gravel, loose dirt or other materials that are not included in the specification.

It is the intent of the state as purchaser to provide inside storage facilities for all road salt to ensure a minimizing of increased moisture content. The supplier shall be responsible for insuring a similar concern over moisture absorption at the storage area, and during transportation to the point of delivery. The State of Vermont would prefer that delivered salt be provided from storage buildings that provide salt with the maximum protection from moisture, or directly from rail car. All salt supplied to the State of Vermont shall be stored at all times to comply with all federal, state and provincial environmental rules and requirement. Salt delivered to the VTrans that is not from protected storage (building or railcar) must be stored on a dry moisture-proof paved or other base that is in good condition and completely and securely covered at all times to protect it from moisture.

Salt shall be completely covered by a waterproof tarpaulin or other impervious membrane both during storage and delivery. Any truck attempting to deliver salt that is without an impervious cover or such a cover that does not fully cover and protect salt from moisture or torn or ripped coverings shall result in rejection of the shipment. Delivery truck must be dry without snow or ice or extraneous debris. Evidence of free flowing water/brine shall be cause for rejection.

Salt delivered in a lumpy or otherwise visibly unacceptable condition that requires reprocessing in order to make it usable shall be cause for rejection of the entire day's deliveries, with replacement deliveries to be made at no additional charge to VTrans. Emergency conditions that may necessitate the acceptance of the salt delivered and therefore reprocessing of the salt prior to use will result in all costs for reprocessing to be charged to the contractor.

1.8. **ACCEPTANCE:** The salt may be rejected if it fails to conform to any of the requirements of this specification.

1.9. **PENALTIES:**

Moisture- Salt delivered under this contract shall not exceed one percent (1%). The Districts reserves the right to accept or reject salt with moisture content over 1% at point of delivery. The contractor shall be penalized according to the table below for salt delivered that exceeds the moisture content as specified.

MOISTURE CONTENT	PERCENT (%) OF PAYMENT OF PRICE*
0 – 1%	100%
1.01 – 1.50%	98%
1.51 – 2.00%	94%
2.01 – 2.50%	90%
Above 2.5%	** See below

If the State of VT elects to accept salt exceeding 2.5% moisture content, the penalty/price reduction shall be as follows:

- Percentage (%) of payment of unit price = $100 - 10 (\text{moisture content in } \% - 1) = X\%$

Example: Moisture content of 2.5%

Percentage (%) of payment of unit price = $100 - 10 (2.5 - 1)$

Percentage (%) of payment of unit bid price = 85%

Gradation- If after delivery, the gradation of the Salt is found to be out of tolerance, a deduction from the price shall be made based on the following formula:

$$\text{Reduced price per ton} = \text{delivered contract price} \times (1.00 - X)$$

where X = the decimal equivalent of the total % out of gradation/the total samples taken. .

No penalty is to be assessed unless the proper analysis and test procedures are followed. If the supplier consistently delivers salt found to be above 1% moisture content or consistently not conforming to the gradation requirements, the contract shall be subject to cancellation.

1.10. **CHLORIDES:** Penalties will be assessed against the accumulated and mixed samples of each day's deliveries to each location for salt that does not meet the chemical composition of total chlorides as specified as follows:

Percent (%) of Sodium Chloride	Percent (%) of Payment of Unit Bid Price
95% - 100%	100%
94 - 95%	96%
93% - 94%	92%
Below 93%	Rejected

1.11. **WEIGHT:** All loads shall be weighed in accordance with 9 VSA (Vermont Statutes Annotated) Chapter 73 and 2744. NO split weighing shall be allowed. Contractor must provide a truck weight slip for each truckload of salt delivered and the slip numbers must appear on the

invoice. All weight tickets shall be mechanically or electronically printed. Hand written weight tickets will not be accepted, and loads with hand-written tickets shall be rejected. PAYMENT SHALL NOT BE MADE FOR THAT PORTION OF ANY LOAD EXCEEDING THE LEGAL MAXIMUM REGISTERED GROSS WEIGHT OF THE DELIVERING VEHICLE. All such material shall be deposited along with the balance of the load at an appropriate VTrans facility under the terms of these specifications. Repeated violations can be the subject for disqualification of the supplier, hauler, or both. All delivery vehicles will be required to obtain a tare weight daily prior to delivering any materials to VTrans. Vehicle manufacturers "Curb Weight" shall not be permissible for tare weights.

- 1.12. **REGISTRATIONS/PERMITS:** The Trucker shall provide copies of any state vehicle registration and/or permits, including IFTA (International Fuel Tax Agreement) and Overweight Permits if applicable, with maximum registered gross weight indicated, to the District's DTA or designee before acceptance of the material. Copies of permits provided after hauling has begun shall not be considered to be in effect for this contract prior to the date that the District's DTA or designee receives the required copy.

NOTE: The State of Vermont expects all deliveries of salt to be made in full conformance with existing State, National, or Provincial laws or regulations, in addition to the conditions and specifications set forth in this document and in any contracts resulting from this document. DELIVERIES WHICH DO NOT CONFORM TO THE SPECIFICATIONS OR ARE NOT IN GOOD CONDITION UPON RECEIPT SHALL BE REPLACED PROMPTLY BY THE CONTRACTOR, AND AT THE EXPENSE OF THE CONTRACTOR.

- 1.13. **DELIVERY:** All truck deliveries are to be made to the doorways of the salt shed. State Personnel will push salt into the shed.

Truck deliveries for Vermont AOT Districts will be accepted only during the hours of 7:00 am to 3:30 pm Monday through Friday (except Vermont State holidays), unless otherwise arranged with the District Transportation Administrator (DTA) or location contact (General Manager) prior to each delivery. A list of Vermont State holidays is at: <https://humanresources.vermont.gov/benefits-wellness/holiday-schedule>

Contractor shall coordinate deliveries with Districts to ensure that appropriate resources are available to inspect and receive salt deliveries.

Salt that is delivered without a VTrans employee inspecting the delivery may be considered cause for rejection of load.

Contractor shall make every effort to have deliveries be continuous until quantity ordered has been delivered to accommodate scheduling of personnel and equipment within the District.

Contractor should note that the configuration of some areas might make the use of tractor-trailer delivery unacceptable.

District's DTA or designees are to cooperate with the contractor in making adequate arrangements at salt shed locations so that the contractor can unload 20-ton loads speedily at the locations.

- 1.14. **FAILURE TO DELIVER:** The State reserves the right to order salt from another vendor when the contract supplier is unable to complete an order per these specifications and the area receiving the shipment has a salt supply on hand less than the requirement for 48 hours of storm coverage, as determined by the District's DTA or designee. Difference in cost between

contracted amount and that which is paid by the State will be charged to the account of the original contractor.

- 1.15. **SPRING FILL-UP/DEFERRED PAYMENT:** It is anticipated that a large portion of this contract will be used to fill storage sheds in the spring months. The Price Schedule provides district information for both the estimated usage as well as the capacities of the respective Sheds themselves. While usage figures across the State are estimates, requirements for Spring Fill-up (shed capacities) are known, and therefore can be reasonably gauged as seasonal activity concludes. The State of Vermont reserves the right to make payment for such spring fill-up deliveries after July 1 of the contract year.

Note. The obligation to fill the sheds at the end of the season is a separate and distinct contract requirement that is absolute no matter how much salt the state uses in a given year.

1.16. **SAMPLING AND TESTING:**

VTrans will collect a test sample at least once during the day during the course of a particular delivery, and shall have the option, in its sole discretion to test more than one individual delivered load during a multi-truckload delivery. Penalties, if any, for a multi-truckload delivery will be based on the single most unfavorable sample taken during that particular overall delivery.

VTrans will use its in-house laboratory for testing purposes.

VTrans will conduct laboratory tests of samples within not more than 15 calendar days from the date that each sample is collected.

2. **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.
3. **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.
4. **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.
5. **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.
6. **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.
7. **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: | Thomas Kowal |
| Phone: | 585/442-4131 |
| Email: | Tom@apalacheesalt.com |
- f. **For the State:**
- | | |
|----------|--|
| Name: | State of Vermont, Mike Kennedy |
| Address: | 133 State Street, 5 th Floor, Montpelier, VT 05633-8000 |
| Phone: | 802/249-5058 |
| Email: | Michael.n.kennedy@vermont.gov |

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 District's contact as specified in Exhibit B.

Each invoice must contain:

Contractor shall submit a maximum of one invoice monthly on the last day of the month.

Each invoice must be specific to, and only to, the applicable VTrans District, or other State agency, or other Additional Purchaser.

Each such invoice must contain, in precise and complete detail:

Identification of the applicable VTrans District or specific salt shed.

ALL deliveries, detailed separately by each delivery, by:

Delivery Location

Delivery Date

Product

Quantity

Contract Price

Extended Price

The following backup information must also accompany each invoice:

Weight slip for each delivery
Proof of delivery slip for each delivery.

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>.

Exhibit A
 AOT District Map

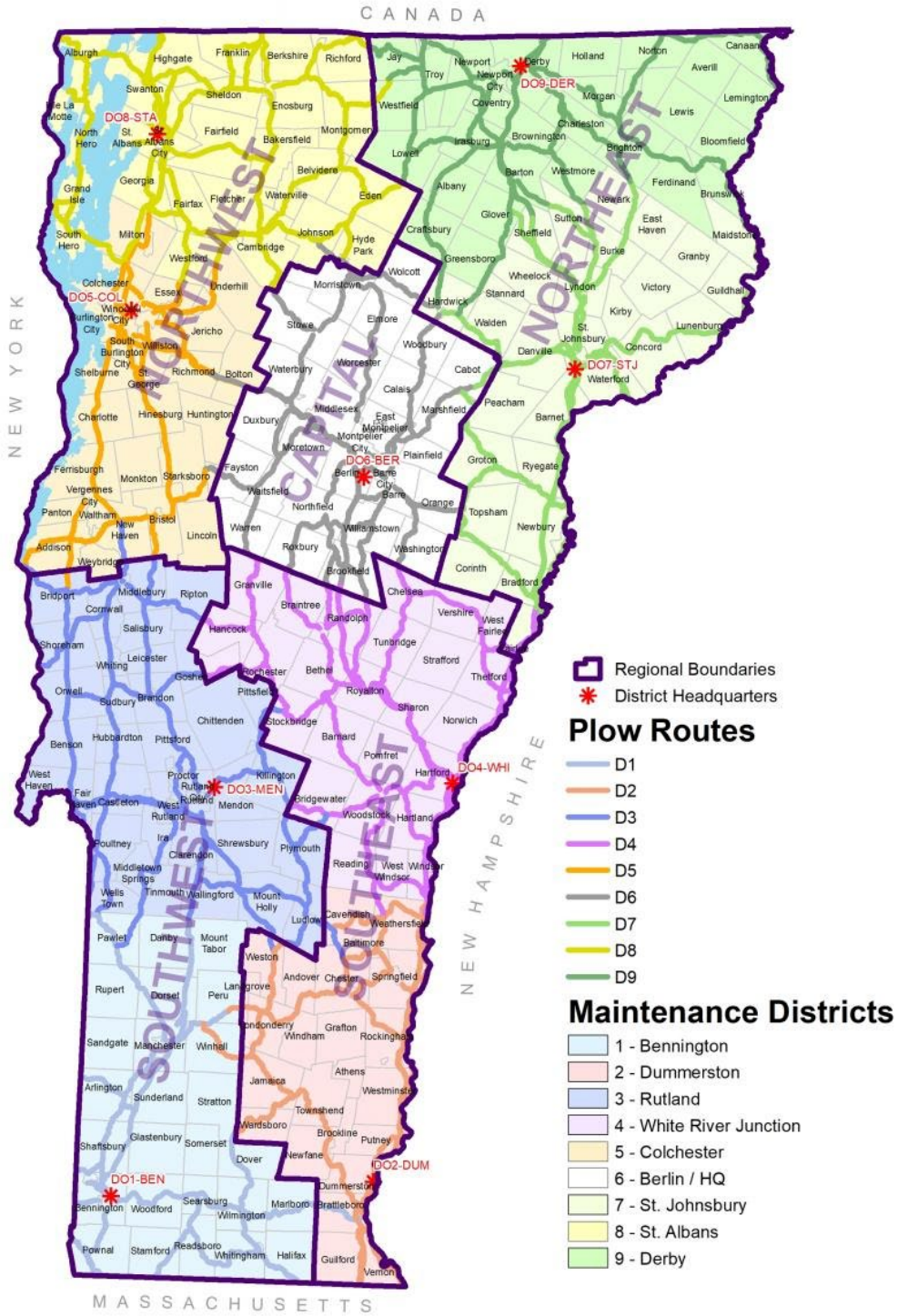


Exhibit B

Sites and Addresses of VTrans Maintenance Districts
 Covered by This Contract

District #	District Contact (General Manager)	Garage	Shed #	Physical address of shed	Shed Capacity (Tons)
7	Lance Duquette	Bradford	5	57 Fairground rd Bradford VT 05033	1,020
7	o) 802-748-6670 c) 802-461-8764	Newbury	6	249 industrial park road Newbury VT 05051	1,200
7	1068 US Rte. 5, Suite 2 St. Johnsbury, VT 05819	Saint Johnsbury	1	1098 us route 5 St. Johnsbury VT 05819	1,250
7		Saint Johnsbury	7	1098 us route 5 St. Johnsbury VT 05819	1,900
7		West Danville	3	1846 route 2 west Danville VT 05828	1,000
7		Lunenburg	4	31 Kimball rd Lunenburg VT 05906	1,000
7		Lyndon	2	1630 Gilman road Lyndon VT 05851	1,400
7		Lyndon	8	1630 Gilman road Lyndon VT 05851	1,900
DISTRICT 7 TOTALS					10,670
6		North Montpelier	6073	1876 Vermont route 214 north Montpelier VT 05666	1,250
NORTH MONTPELIER TOTALS					1,250