



REQUEST FOR PROPOSAL
For
Network Inspection Services

Issue Date: October 30, 2023
Response Due Date: November 17, 2023, at 11:59pm

Contact(s): Christine Hallquist, Executive Director
Vermont Community Broadband Board
112 State Street
Montpelier, VT 05620-2601
Phone: 802-636-7853
Email: christine.hallquist@vermont.gov

VERMONT COMMUNITY BROADBAND BOARD REQUEST FOR PROPOSAL

Fiber Optics Engineer

The Vermont Community Broadband Board (hereinafter the “Board”), is soliciting proposals for field inspection services to review and confirm grantee’s completed construction complies with industry standards. The inspection shall be done in coordination with the Grantee to confirm each agreed upon phase with the goal of optimizing the cost of inspection while meeting the timelines defined in the grant agreements. Additionally, the Inspection Services contractor will review optical line test results to identify any areas of concern as well as to ensure network performance meets standards. A final report will be created and reviewed by the Board prior to the Board making final payment to the grantee.

The selected contractors will perform a detailed inspection of each active node and a general ride-out to provide assurance that the grantee has followed good construction practices. The Inspection Services contractor, grantee and Board will hold a kick-off meeting to ensure all parties understand the scope and timing of the inspection project(s). The Board retains the discretion to hire alternative or additional Inspection Services Contractors during the contract period.

The contract is for a period of one year, with possible renewal if services related to the matter are not completed within this time period. **Proposals are due by 11:59 p.m. on November 17, 2023.** Late submissions will not be accepted. Please submit electronic copies and direct any questions about this Request for Proposals to:

Christine Hallquist
Executive Director
Vermont Community Broadband Board
112 State Street
Montpelier, VT 05620-2601
Phone: 802-636-7853
Email: christine.hallquist@vermont.gov

Project Background

Vermont Community Broadband Board is the state authority charged with expanding broadband service to unserved and underserved parts of the state. The Board is a public instrumentality, with a separate board, designated by statute or appointed by the Governor.

As provided by Sec. 2 § 8086 of Act No. 71 ("Act 71"), which became law on June 8, 2021, the purpose of the Broadband Construction Grant Program ("Program") is to provide grants to Eligible Providers ("Providers") for construction costs related to broadband projects providing service of at least 100/100 Mbps that are a part of a Universal Service Plan and meet other criteria as specified in Act 71 as well as those criteria established by the Vermont Community Broadband Board.

The Board has an immediate need for field inspection services to review and confirm the grantee's completed construction complies with industry standards. The Inspection Services contractor shall work with the VCBB and the grantee(s) to meet the agreed upon timelines as defined in the Grantee Agreement. Finally, the Inspection Contractor shall be highly familiar with industry accepted construction practices and qualified to make judgements on construction quality and system performance.

Scope of Services

SERVICES TO BE PROVIDED

In 2021, the Vermont General Assembly enacted Act 71, a law relating to expanding broadband to all Vermonters and Vermont addresses. The law created the Vermont Community Broadband Board as the state authority charged with expanding broadband service to unserved and underserved parts of the state. The Board is a part of the Vermont Department of Public Service and is governed by a board whose members are appointed pursuant to Act 71. VCBB staff report to the Board and are led by an Executive Director appointed by the Governor.

The VCBB has received \$95 million in ARPA State General Funds along with \$150 million in ARPA Capital Project Funds. Additionally, the VCBB has been allocated \$229 million in funding from the Infrastructure Investment and Jobs ACT (IIJA) Broadband Equity Access and Deployment (BEAD) program. Grantee networks constructed from these funds will also be required to comply with any specific design and construction requirements from these programs.

Scope of Services-

The Contractor will work at the direction of the Vermont Community Broadband Board and coordinate with the grantee and/or construction contractor to perform inspections and submit final reports of grant funded fiber networks with an agreed upon schedule. The VCBB will be relying on Contractor's expertise to provide a comprehensive review of the inspection criteria.

Inspection and Reporting Requirements

The inspection checklist can include the following.

- Compare as built conditions to the outside design requirements of the construction drawings and/or plans (Final Drawings) and confirm that the construction has been accomplished in accordance with the Final Drawings to identify any as built deviations or modifications from the Final Plans. This requirement will be confirmed at a high-level via a ride-out observation of the network.
- Determine whether routes exist as indicated in the drawings and/or maps.
- Review slack loops for anomalies.
- Generally, look for vertical distance and separation compliance, ensure proper clearances.
- Open and inspect cabinets to ensure proper configuration:
- Do a visual check in enclosures to ensure cables do not show signs of damage – cracks, pits, chips, contamination. Signs of damage may provide evidence of the need for further investigation.
- Check tray labeling. Ensure dark fibers are labeled, cable labels appear on each fiber, that tubes are properly allocated in tube holders and that buffer tube lengths in tube holder are at the correct length.
- Inspect splice protectors.
- Determine whether the cables have the minimum required coil lengths.
- Inspect to ensure the strength member is properly installed.

Preparation of Reports

- Each inspection must result in a report of the findings of the inspection site delivered via email in PDF format at or about the time the inspection is completed.

The report must include the results of the checklist outlined in the functional requirements as well as, at a minimum, the following data points:

- Inspector name
- Address of inspection
- Date of inspection
- Time of inspection

In addition to the written report of the inspection, high resolution color pictures supporting the findings must be included as part of the report.

All site inspection reports for all sites serviced via this agreement must be presented in the same format and template and adhere to the requirements defined above.

Performance Measures

1. Timely completion of inspections and resulting reports.
2. Coordination with grantee
3. Quality of the incorporation of feedback from the VCBB, review summaries, and final reports
4. Acknowledgement of receipt by Contractor within 24 hours of any Board requests.

Such performance measures assume a reasonable amount of response time, considering holidays, advance notification of key personnel, vacations. In the event the Contractor fails to meet the above-listed Performance Measures, the VCBB may request Contractor to resubmit the inadequate work immediately at no additional charge to the VCBB. If the VCBB, in its reasonable discretion, determines

that the overall quality of resubmitted work did not improve, the VCBB shall have the right to terminate this agreement without further notice.

Preferred Knowledge, Skills and Abilities:

The Fiber Optic Inspection Contractor should have:

1. Considerable knowledge of fiber optic industry including construction, installation, and maintenance.
2. Knowledge of civil engineering principles and practices used in the transportation field regarding utility construction along right-of way.
3. Hands-on experience in the design and delivery of telecommunication products.
4. Knowledge of fiber, aerial, and underground solutions.
5. Ability to prioritize design safety, security, and quality as well as have effective time management skills.

Schedule

This will be an on-call contract with the selected contractor(s), and a specific scope of services will be developed when services are needed. The selected contractor(s) must be able to provide services as needed with reasonable notice and must be able to complete assigned tasks on an agreed-upon work plan schedule in accordance with the terms and rate of the contract. The Board anticipates that the contract will be awarded for a term of up to one year, with a possibility of negotiating an extension.

Development of Deliverables

General guidance and assistance will take place in the context of a general services consulting relationship between the Board, the grantee, and the selected contractor(s). The deliverable(s) will be prepared at the selected contractor(s)' office and sent electronically to the Board, with paper copies to follow if requested. One or more in-person meetings may be required to review the deliverables and/or to provide general guidance. Selected contractor(s) shall coordinate and collaborate in the development of the work plan and work schedule, work efforts, findings, conclusions, and policy positions with the Board technical and legal staff.

Oversight

Board personnel will manage the overall contract and will be available for guidance and collaboration on inspection timelines and technical considerations.

Contracts with the Board include performance.

Final Deliverables and Work Product

Selected contractor(s) will submit an electronic copy of all reports, supporting documentation, and any other relevant materials. Selected contractor(s) shall maintain the confidentiality of information and documents as specified and directed by the Board.

Reimbursement for services will be based upon the actual staff time spent, at the rate agreed upon, and upon other actual costs incurred based upon documentation acceptable to the Board, subject to the maximum amount indicated. All invoices submitted for payment must itemize expenses and tasks performed, listing dates, hours worked and the individual(s) performing tasks.

Proposal Format

All responses to this RFP must include the following information:

1. A brief description of the consultant(s) background, which includes history, certifications, and qualifications, including resume(s) with detailed qualifications and levels of competence of all services to be provided.
2. A discussion of the respondent expertise and experience relevant to the subject matter of this RFP.
3. A list of recent work performed with a short narrative explaining the nature and extent of each engagement. Please include the name and telephone number of a reference person familiar with the respondent's work.
4. The selected contractor(s) will be compensated on a time and material basis. Proposals should include all relevant costs required to complete the work as detailed above, note any travel requirements, and include necessary costs to meet insurance requirements of the State of Vermont's Standard Attachment C. All costs and activities should conform to Section 8.0 Allowable Costs. Please indicate the following:
 - a. Fees for staff time, showing the level of staff to be assigned, title(s), hourly rate(s);
 - b. Description of all overhead and other costs that may be billed.
5. A Certificate of Insurance which meets the criteria as outlined in [Attachment C](#)
6. An IRS Form W-9 signed within the last 6 months, if respondent is not currently a State of Vermont supplier.
7. Contractor's Unique Entity Identifier (UEI) which should be obtained through [SAM.gov](https://sam.gov)
8. A declaratory statement regarding the responding contractor(s)' past, current, and anticipated relationships, obligations, and commitments with any entity engaged in developing, constructing, operating, maintaining, and/or monitoring any utility facilities in Vermont. If the contractor is involved in any way in any litigation, arbitration, mediation, or other dispute resolution process to which the State of Vermont is a party, please identify the matter (including docket number) and describe the involvement.

Performance Measures

Any contract with the State of Vermont is required to have some form of performance measures. In the contract resulting from this RFP, the Board expects that such measures will consist of:

1. Ability to logically analyze, evaluate, and resolve project problems and issues.
2. Ability to communicate effectively and on a timely basis both orally and in writing.
3. Ability to establish and maintain effective working relationships with Board staff and grantees.
4. Capacity to convene and facilitate online and in-person meetings and troubleshoot technical issues as needed.
5. Timeliness related to the contractor(s)' scheduling with grantee as well as reporting.

Such performance measures would assume a reasonable amount of response time, considering holidays, advance notification of key personnel vacation, etc. Respondents are encouraged, but not required, to suggest reasonable performance measures in response to this RFP, which the Board may, at its discretion, incorporate into the resulting contract. In the event the quality of the work described above were to deteriorate in any way, a request would be made that the work be resubmitted immediately at no additional charge to the Board. If there were not an immediate improvement in the overall quality of work, the Contractor would no longer be retained by the Board.

Requirements

All proposals must be received no later than **Proposals are due by 11:59 p.m. on November 17, 2023** in electronic format.

Electronic copies should be sent to:

christine.hallquist@vermont.gov

The Board reserves the right to accept or reject any or all bids. The proposals will be evaluated by the Board's technical and legal staff. If a respondent is selected, it will be invited to negotiate a contract.

Selection Criteria

The proposal will be evaluated based on the proposer's technical capability, approach and past performance including the following criteria and any other criteria the Board deems relevant:

- The proposal clearly indicates how the proposer will deliver timely, high-quality, compliant and cost-effective services to meet Board's needs.
- Demonstrate experience and ability with the various types of inspection services that are outlined in the Scope of Services that may be requested by the Board.
- Demonstrated innovation on projects and assignments like those types listed in the Scope of Services.
- The proposal clearly demonstrates a sound approach which indicates positive business ethics, a focus on quality assurance and partnering, and clear lines of communication between the proposer, the grantee, and the Board.
- The proposal clearly demonstrates that the proposer has the resources and capability to provide the required services in a timely and cost-effective manner.
- The past performance evaluation will examine how the proposer's past and present performance indicates the likelihood of successful completion of work under this contract. In conducting the past performance assessment, the Board may use data obtained by references provided and any other source.

Acceptance or rejection of any or all proposals will be determined by the exercise of the Board's sole discretion. All proposals are subject to an evaluation by the Board and/or non-departmental reviewers. The Board reserves the right (but in no way is obligated) to interview the top prospective candidates to aid in the selection process.

Questions Concerning RFP

Questions about this RFP should be directed to:

Christine Hallquist
Executive Director
Vermont Community Broadband Board
112 State Street
Montpelier, VT 05620-2601
Phone: 802-6365-7853
Email: christine.hallquist@vermont.gov

General Terms and Conditions

1. The contractor(s) awarded this contract shall, upon notification of award, apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. Registration instructions may be found at: <https://sos.vermont.gov/corporations/registration/> or by contacting the Corporations Division at 128 State Street, Montpelier, VT 05633-1104 or by telephone at (802) 828-2386. The Board will not execute the contract until the consultants are registered with the Secretary of State's Office.
2. Respondents' technical proposals become public records and may become available for public review and inspection upon execution of a contract. The contents of the successful respondent's proposal, as accepted by the Board, may become part of the contract awarded because of this process. If any bidding party wishes to submit confidential information, all such information must be clearly designated and include an explanation for the designation.
3. The Board reserves the right to reject any, and all proposals received because of this solicitation, to negotiate with any qualified source, to waive any formality and technicalities, or to cancel this RFP in part or in its entirety if it is in the best interest of the State.
4. The Board shall not be responsible for any costs incurred by any party in preparation of any proposal submitted in response to this RFP.
5. News releases pertaining to this RFP, contract award, or the project shall not be made without prior written approval from the Board.
6. All parties submitting proposals shall be Equal Opportunity Employers. During the duration of the performance of the contract, the consultants will be expected to comply with all federal, state, and local laws respecting non-discrimination in employment.
7. All proposals and deliverables become the property of the Board upon submission. Unselected proposals may be destroyed or returned to the bidder at the Board's discretion. This solicitation for proposals in no way obligates the Board to award a contract.
8. The Board assumes no liability in any fashion with respect to this RFP or any matters related thereto. All prospective consultants and their subcontractors or successors, by their participation in the RFP process, shall indemnify, save and hold the Board and its employees and agents free and harmless from all lawsuits, causes of action, debts, rights, judgments, claims, demands, damages, losses and expenses or whatsoever kind of law or equity known or unknown, foreseen or unforeseen, arising from or out of this RFP and/or any subsequent acts related thereto, including but not limited to the recommendation of a consultant and any action brought by an unsuccessful respondent.
9. The selected respondent shall furnish any available information in their possession to the Board upon request, if relevant to the project.
10. The selected respondent will be required to enter into a standard Vermont State Contract, which will include all conditions included in the standard "[Attachment C](#)" and the "[Federal Terms Supplement \(Non-Construction\)](#)" forms.

- i. Standard Contract For Services Form, with attachments C and D

1. **Parties.** This is a contract for services between the State of Vermont, [REDACTED] (hereinafter called "State"), and [REDACTED], with a principal place of business in [REDACTED], (hereinafter called "Contractor"). Contractor's form of business organization is [REDACTED]. 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 services generally on the subject of [REDACTED]. Detailed services to be provided by Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$ [REDACTED].00.
4. **Contract Term.** The period of Contractor's performance shall begin on [REDACTED], 20 [REDACTED] and end on [REDACTED], 20 [REDACTED].
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 for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.
8. **Attachments.** This contract consists of [REDACTED] 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)
 - Attachment D - Federal Terms Supplement for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic
 - Attachment E – Legal Services Contract Requirements
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 D
 - (3) Attachment C (Standard State Provisions for Contracts and Grants)
 - (4) Attachment E
 - (5) Attachment A
 - (6) Attachment B

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By the Contractor:

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

- 1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.
- 2. Entire Agreement:** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
- 3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.
- 4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.
- 5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
- 6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.
- 7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed
- Operations Personal Injury
- Liability Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in

32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party 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.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A. is not under any obligation to pay child support; or
- B. is under such an obligation and is in good standing with respect to that obligation; or
- C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party'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.

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

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

26. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

27. Termination:

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party’s delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party’s performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an “AS IS, WHERE IS” basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a

copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents:
- (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)
for all Contracts and Purchases
of Products and Services Connected with 2020 Pandemic

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more certify that each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the recipient who in turn will forward the certification(s) to the awarding agency

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 AND FEDERAL WATER POLLUTION CONTROL 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.
4. 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.
5. 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.

6. 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. 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.

State. 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.