STANDARD CONTRACT FOR SERVICES

1. ***Parties*.** This is a contract for services between the State of Vermont Buildings and General Services (hereinafter called "State"), and Black River Design Architects, with a principal place of business in Montpelier, VT, (hereinafter called "Contractor"). Contractor's form of business organization is a limited liability company. 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 a Master Agreement for Architect and Engineering (A&E) Services. Detailed services to be provided by Contractor are described in Attachment A. Services shall be provided on an as needed basis, when requested by the State. Nothing in this contract guarantees that the State shall seek the services of the Contractor or that the State shall seek the maximum amount of $2,000,000.00 in services from the Contractor.

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 $2,000,000.00. The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. Contractor will be paid for products or services delivered or performed, as specified in Attachment A.

4. ***Contract Term.*** The period of Contractor's performance shall begin on January 1, 2023 and end on December 31, 2028.

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. ***Primary Contacts***. The Parties will keep and maintain current at all times a primary point of contact for this Agreement, which are presently as follows:

   a. For the Contractor:
   Name: Mark Montminy

   Phone: 802-223-2044

   Email: markm@blackriverdesign.com

b. For the State:
Name: James Meyers

Phone: 802-249-7275

Email: james.meyers@vermont.gov

9. ***Attachments***. This contract consists of 51 pages including the following attachments which are incorporated herein:

ATTACHMENT A: Scope of Services
ATTACHMENT B: Payment Provisions
EXHIBIT 1: Master A&E Terms and Conditions
ATTACHMENT C: Standard State Provisions for Contracts and Grants, a preprinted form (revision dated 12/15/2017).
ATTACHMENT D: Standard State Provisions - Architect/Engineer Professional Service Agreement (dated 11/14/2022)
ATTACHMENT D1: Sample Statement of Work - Request for Proposal (SOW-RFP)
ATTACHMENT D2: Sample Statement of Work Agreement
ATTACHMENT D3: Sample Statement of Work Amendment
ATTACHMENT E: BGS Maintenance District Map

10. ***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) Exhibit 1 Master A&E Terms and Conditions
(3) Attachment C (Standard Contract Provisions for Contracts and Grants)
(4) Attachment D (Standard State Provisions - Architect/Engineer Professional Service Agreement)
(5) Attachment A
(6) Attachment B
(7) Attachment D1
(8) Attachment D2
(9) Attachment D3
(10) Attachment E

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

Date: _____

Signature: _____

Name: Jennifer M.V. Fitch

Title: BGS Commissioner

By Black River Design Architects:

Date: _____

Signature: _____

Name: _____

Title: _____

ATTACHMENT A – STATEMENT OF WORK

This Master Agreement establishes the basic terms and conditions for the Contractor to provide professional architect and engineering services for State of Vermont projects on an as-needed basis. Services may be for new construction and renovation projects, including any and all phases from feasibility/programming through construction administration; including but not limited to design services, code analysis, studies, permitting, CAD drafting, surveying, and construction estimating, as required for the specific project.

a. Work awarded under this contact are not to exceed $150,000.00, including all costs associated with the individual project, such as labor, material, equipment, etc.

1. The Architect/Engineer shall provide the professional services utilizing his or her requisite skills, ability, and judgment reasonably and without neglect. Specifically, the Architect/Engineer shall: (1) be licensed by the State of Vermont as an Architect/Engineer; and (2) design the Project in compliance with all federal, state and local building codes in effect at the time including any and all permit conditions that may be imposed by authorities having jurisdiction, as well as BGS Design Guidelines https://bgs.vermont.gov/dnc/design_guidelines and BGS Space Standards https://bgs.vermont.gov/propertymanagement/space-standards.

   For purposes of this Agreement, the Architect/Engineer shall be licensed in Vermont before executing this contract and shall maintain his or her license for the duration of this project.

2. The Architect/Engineer shall complete those duties set forth in Article 1, Paragraphs 1.1 through 1.1.41 of Exhibit 1, Master A&E Terms and Conditions on or before (Substantial Completion date) and one year warranty inspection(s) as may be required of the construction contract work by (Contract Completion date) as identified in the SOW Agreement.

   a. It is understood that any delay caused by the State shall result in a corresponding extension of the period specified herein. It is the obligation of the Architect/Engineer to immediately notify State of the delay and to initiate a change order amending and extending the date in Paragraph 4 above, within 30 days.

   b. The Architect/Engineer shall include one (1) complete set of as-builts, which shall be submitted to the State prior to final payment for basic services to the Architect/Engineer.

3. Process

   a. When the State has identified specific projects and needs, the State will solicit scope of work proposals (SOW RFP) from Master Contract holders using Attachment D-1. More than one project may be included in SOW RFP.

   b. A contractor will be selected in the best interest of the State, considering such factors as cost, availability/capacity, experience/expertise, and past performance for state-funded projects. In situations where a qualification-based selection is utilized and /or where

federal funding requires a qualifications-based selection, that method shall be used. Projects with federal funding may contain special provisions required for that federal funding and/or the particular project. By returning a proposal for that project, you are indicating that you understand and will abide by any additional provisions included SOW Agreement.

c. Once a proposal has been selected, in the best interest of the State the State will execute an agreement for the specific scope of work required (SOW Agreement).

   a. For sub-contractors not named in the proposal, utilization of sub-contractor personnel will require written approval by Agency/Department prior to the sub-contractor performing any work on orders under this contract.

OR

d. The Department of Buildings and General Services may select to contract directly with a vendor. This provision is not applicable to any other State agency or department.

e. The Department of Buildings and General Services threshold limit can increase up to NTE$250,000.00. This provision is not applicable to any other State agency or department.

4. Professional Consulting Services contractor shall provide:

   a. Services in the following areas:

      ☒ Architectural Design

   b. Maintenance Districts contractor to provide service in:

      ☒ District 1 – Montpelier/Barre/Berlin
      ☒ District 2 – Waterbury/Hyde Park/Middlesex
      ☒ District 3 – Northwest
      ☒ District 4 – Northeast
      ☒ District 5 – Southwest
      ☒ District 6 – Southeast
      ☒ District 7 - W. Springfield, MA (VT Building at Eastern States Exposition)

5. Entities Authorized to Use This Agreement. This Contract may be used by (a) all departments, offices, institutions, and other agencies of the State of Vermont and counties (each a "State Purchaser") according to the process for ordering and other restrictions applicable to State Purchasers set forth herein; and (b) political subdivisions of the State of Vermont and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education as authorized under 29 V.S.A. § 902 (each an "Additional Purchaser"). State Purchasers and Additional Purchasers are also referred to herein as a "Purchasing Entity" or "Purchasing Entities". Issues concerning eligibility to purchase under this Agreement 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 Contract is consistent with its procurement policies and regulations.

6. **Cybersecurity Standard Update 2022-01.** Contractor confirms that all products and services provided to or for the use of a State Purchaser under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update 2022-01, which prohibits the use of certain branded products in State information systems or any vendor system that is supporting State information systems, and is available on-line at: https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives.

7. **State of Vermont - Federal Terms Supplement (Non-Construction).** When specified in an order made by a State Purchaser under this Participating Addendum, the terms and conditions set forth in "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) for all Contracts and Purchases of Products and Services Using Federal Funds (Revision date: July 28, 2022)" shall be incorporated by reference and apply to the products or services provided to the State Purchaser under the order, at any time, when the purchase is supported by federal funds. A copy of this document is available online at: https://bgs.vermont.gov/purchasing-contracting/forms.

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. Contractor will be paid for products or services 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
    b. A current IRS Form W-9 (signed within the last six months).
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. In consideration of the services performed by Contractor, the State shall pay Contractor in accordance with the following schedule of rates. These rates are inclusive of all fees and expenses including mileage and travel time:

Job Title	Hourly Rate
Partner	$ 150.00
Architect/Project Manager	$ 110.00
Design/Draftsperson	$ 90.00
Interiors Head	$ 140.00
Administrative	$ 90.00

4. Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State.
    a. Services may be issued on a time and materials basis or a fixed price. The following information is required on all invoices:
        - All invoices must be numbered, and include the Master Contract # and SOW Agreement # for this contract;
        - Time frame indicated of when work was performed;
        - The agreed to markup for profit and overhead unless a previously agreed to billing schedule was approved in the contract;
        - Certification that the contractor has no ownership (majority or minority) in any subcontractor they claim for profit and overhead;

- Provide supporting documentation of material costs, in accordance with the percentage specified in the contract. This supporting documentation is required for verification.

b. For projects billed on a Time & Materials basis, the following additional information must be included:

- Invoices shall include description of work, # of hours worked if applicable, including copies of time sheets and a certified payroll following the USDOL form (or comparable)**;**
- Copies of original receipts for all materials purchased or costs incurred as a result of the scope of work.

5. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly. Invoices shall be submitted to the State at the address stated in the SOW Agreement.

6. This agreement represents the entire agreement between the parties; 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. Work Product Ownership: All products of the Contractor's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents become the sole property of the State of Vermont and may not be copyrighted or resold by Contractor.

8. The State shall not pay for any unauthorized labor, materials, equipment or expenses of Contractor.

9. Any services outside of agreement shall not be allowed.

10. The amount of compensation paid to the undersigned for extra work and change orders in the following manner as directed by the State.

    a. A price agreed upon between the State and the Contractor.

11. Mark-up:

    a. The State will not consider any mark-up on consultant's reimbursable expenses.

    b. The State will not consider any mark-up exceeding 5%, by the consultant, on any work performed by subconsultants.

    c. The State will not consider any mark-up on subconsultant's reimbursable expenses.

EXHIBIT 1 – Master A&E Terms and Conditions

MASTER COPY DISTRIBUTED _____
(Contractor, Accounting, Director, Project Manager, Lavallee, DFM)
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES
(Revised 11/14/2022)

CONTRACT NO.: ***
DEPT. ID: ***
Funny Word: ***
FUND SOURCE: ***
PROJECT #: ***

(NOTE: Text that appears in orange letters is instructive only and should be deleted from the final SOW-Agreement. Text in yellow highlighting must be updated or deleted. Utilize or delete paragraphs as appropriate to the agreement. Text that appears in black letters should be included in the agreement as is.)

THE STATE OF VERMONT

STANDARD FORM OF AGREEMENT BETWEEN
STATE OF VERMONT OR ANY AGENCY
THEREOF AND ARCHITECT/ENGINEER

AGREEMENT

made this *** day of *** in the year 20***.

BETWEEN Agency of Administration
Department of Buildings and General Services
133 State Street, 5th Floor
Montpelier, Vermont 05633 the State, and

Company Name
Company Address
City, State and Zip Code the ARCHITECT/ENGINEER or A/E or Contractor.

It is the intention of the State to ***, hereinafter referred to as the Project.

The State and the ARCHITECT/ENGINEER agree as set forth below:

The period of performance under this contract shall commence on ***, and end on ***, with a Substantial Completion date of ***, a Project Completion date of ***, and a Contract Completion date of ***, to allow for one year warranty inspection(s) as may be required of the construction contract work.

Delete this paragraph if contract is not a sole source

SOLE SOURCE CONTRACT FOR SERVICES**.** This Contract results from a "sole source" procurement under State of Vermont Administrative Bulletin 3.5 process and Contractor hereby certifies that it is and will remain in compliance with the campaign contribution restrictions under 17 V.S.A. § 2950.

MAXIMUM LIMITING AMOUNT $ ***

PROJECT DESCRIPTION: ***

I. THE ARCHITECT/ENGINEER shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.

The ARCHITECT/ENGINEER shall provide the professional services for the Project utilizing requisite skills, ability, and judgment reasonably and without neglect. Prior to executing this Agreement, the ARCHITECT/ENGINEER shall be licensed by the State of Vermont as an Architect/Engineer, and the A/E shall maintain such license for the duration of this project.

In performing professional services in connection with this Agreement, the ARCHITECT/ENGINEER shall (1) comply with the applicable professional standard of care; and (2) design the Project in compliance with all federal, state and local building codes in effect at the time including any and all permit conditions that may be imposed by authorities having jurisdiction.

The Architect/Engineer shall be licensed in Vermont before executing this contract and shall maintain such license for the duration of this project.

II. THE State shall compensate the ARCHITECT/ENGINEER, in accordance with the Terms and Conditions of this Agreement in one of the following manners:

Project Manager needs to select one of the following paragraphs that identifies whether compensation is based on an Hourly Rate or Lump Sum Fixed Fee

A. Compensation based on Hourly Rate:

FOR THE ARCHITECT/ENGINEER'S BASIC SERVICES, as described in Paragraph 1.1, a Basic Fee computed as follows:

Principals' time at the fixed rate of *** dollars ($***) per hour. For the purpose of this Agreement, the Principals are: ***

Employees' time computed at a multiple of *** (***) times the employees' Direct Personnel Expenses as defined in Article 4.

Services of professional consultants at a multiple of *** (***) times the amount billed to the ARCHITECT/ENGINEER for such services.

The amount of said fee shall not in any event exceed *** dollars ($***)

OR

A. Lump Sum or Fixed Fee

FOR THE ARCHITECT/ENGINEER'S BASIC SERVICES, as described in Paragraph 1.1, a Basic Fee of a Lump Sum of dollars ($***) determined by multiplying the estimated construction cost by ***%.

B. THE ARCHITECT/ENGINEER'S REIMBURSABLE EXPENSES, amounts expended as defined in Article 5.

C. FOR THE ARCHITECT/ENGINEER'S ADDITIONAL SERVICES (if any), as described in Paragraph 1.3, a fee computed as follows:

Principals' time at the fixed rate of *** dollars ($***) per hour. For the purposes of this Agreement, the Principals are: ***

Employees' time computed at a multiple of *** times the employees' Direct Personnel Expense as defined in Article 4.

Additional services of professional consultants authorized in writing by the State at a multiple of *** (***) times the amount billed to the ARCHITECT/ENGINEER for such additional services.

D. THE TIME AND FURTHER CONDITIONS OF PAYMENT shall be as described in Article 6.

III. THE ARCHITECT/ENGINEER shall complete those duties set forth in Article 1, Paragraphs 1.1 through 1.1.41 of this Agreement on or before (Substantial Completion date) and one year warranty inspection(s) as may be required of the construction contract work by (Contract Completion date).

a. It is understood that any delay caused by the State shall result in a corresponding extension of the applicable period. It is the obligation of the Architect/Engineer to immediately notify State of the delay and to initiate a change order amending and extending the date in Paragraph III above, within 30 days.

b. THE ARCHITECT/ENGINEER shall include one (1) complete set of reproducible record prints, which shall be submitted to the State prior to final payment for basic services to the ARCHITECT/ENGINEER.

The following Paragraph, III (c), should be deleted if compensation is based on hourly rate as selected in II (A).

c. THE ARCHITECT/ENGINEER'S fee for basic services shall be adjusted at the completion of the design development phase by multiplying the accepted probable construction cost by the percentage in Paragraph II (A). For purposes of determining the ARCHITECT/ENGINEER's fee, the construction cost is exclusive of any contingency or other exclusions identified in Article 3. In the event that the State and the ARCHITECT/ENGINEER cannot agree on an "accepted probable construction cost", the State may at its option terminate the contract and pay the ARCHITECT/ENGINEER fees due up to the point of termination or direct the ARCHITECT/ENGINEER to develop construction documents and to bid these documents. In the later case, the ARCHITECT/ENGINEER's fee shall be based on the accepted construction bid or the ARCHITECT/ENGINEER's statement of probable construction cost at the design development phase, whichever is least.

OPTIONAL Need prior approval from Director before using Paragraph III (d)

d. The accepted probable construction cost used to determine the ARCHITECT/ENGINEER's fee (above) shall be converted to a "fixed limit of construction cost" by adding a bidding contingency of 5%. This fixed limit of construction cost shall be established as a condition of this Agreement per Article 3.4.

TERMS AND CONDITIONS OF AGREEMENT BETWEEN STATE AND ARCHITECT/ENGINEER

ARTICLE 1

ARCHITECT/ENGINEER'S SERVICES

1.1 BASIC SERVICES $Basic Services + Additional Services + Reimbursables

1.1.1 The ARCHITECT/ENGINEER's Basic Services consist of the phases described below. Except as specifically provided for herein, the ARCHITECT/ENGINEER shall provide to the State all landscaping architectural services as well as civil, structural, mechanical and electrical engineering in connection with the Project.

1.1.2 The ARCHITECT/ENGINEER shall ensure the project complies with all applicable codes and guidelines in effect at the time of the design, including just as an example but not limited to:

- Vermont Fire and Safety Building Code available online at http://firesafety.vermont.gov
- Vermont Commercial Building Energy Standards / http://publicservice.vermont.gov/energy_efficiency/cbes
- Vermont Department of Buildings and General Services Design Guidelines available online at http://bgs.vermont.gov/facilities/forms
- Vermont Department of Buildings and General Services Space Standards available online at

https://bgs.vermont.gov/propertymanagement/space-standards

1.1.3 Whenever applicable, ARCHITECT/ENGINEER shall be responsible for the preparation, or for modification when changes are made, of complete construction contract documents setting forth in detail the plans and specifications for the project, including full coordination of design disciplines and within each discipline, and ARCHITECT shall exercise the degree of skill and care ordinarily possessed by a reasonably prudent design professional providing services under like or similar conditions and circumstances.

1.1.4 Written reports delivered under the terms of this contract shall be printed using both sides of the paper.

PLANNING AND PROGRAMMING $INDICATE "NOT APPLICABLE" IF SECTION IS NOT APPLICABLE

1.1.5 The ARCHITECT/ENGINEER shall verify programming requirements with the Department of Buildings & General Services (BGS) and the agency/department involved and lead the programming meetings.

1.1.6 The ARCHITECT/ENGINEER shall consult with BGS, all Agency/Departments involved and Efficiency Vermont to develop a comprehensive program and the State's Project Requirements for the project. Base it upon the BGS Space Standards and Design Guidelines and specialized business needs of individual groups and collective common area needs, including public-facing client service spaces, security requirements, building wide meeting, conferencing space, building envelope and system improvement, code compliance, hazardous materials, deferred maintenance needs and site analysis assessments including key environmental areas, traffic, and development constraints.

1.1.7 The ARCHITECT/ENGINEER shall provide a planning level estimate of probable hard, soft, and contingency project costs. Include future design fees, then building and site construction, movable furniture, fixtures, and equipment, security systems, moves, permits, and fees, contractor's overhead and profit, architect and engineer's contingency, owner's contingency and a detailed schedule.

1.1.8 The ARCHITECT/ENGINEER shall determine the need for all federal, state and local permits.

1.1.9 The ARCHITECT/ENGINEER shall provide an executive summary of the work and process highlighting the recommended solution, major risks, probable cost of construction, project schedule, list of required permits.

SCHEMATIC DESIGN PHASE $INDICATE "NOT APPLICABLE" IF SECTION IS NOT APPLICABLE

1.1.10 The ARCHITECT/ENGINEER shall consult with the State to ascertain the requirements of the Project, and the ARCHITECT/ENGINEER and the State shall confirm such requirements in writing.

1.1.11 The ARCHITECT/ENGINEER shall prepare Schematic Design Studies consisting of drawings and other documents illustrating the scale and relationship of Project components for and until approval by the State.

1.1.12 The ARCHITECT/ENGINEER shall conduct meetings with the State, Efficiency Vermont, and relevant members of the design team, to review the Project and elicit ideas for consideration in developing the most energy efficient project supportable by funding opportunities and consistent with program intent.

1.1.13 The ARCHITECT/ENGINEER shall prepare for the State an initial accounting of how the Project may respond to the State's Project Requirements in the Basis of Design.

1.1.14 The ARCHITECT/ENGINEER shall submit to the State a Statement of Probable Construction Cost based on current area, volume or other unit costs for and until approved by the State.

DESIGN DEVELOPMENT PHASE $INDICATE NOT APPLICABLE IF SECTION IS NOT APPLICABLE

1.1.15 The ARCHITECT/ENGINEER shall prepare from the approved Schematic Design Studies, the Design Development Documents consisting of drawings (including at least architectural, landscaping, civil, structural, mechanical and electrical plans, building sections; and finish schedule), outline specifications following the Construction Specification Institute "CSI" Format and other necessary documents to fix and describe the size and character of the entire Project as to its site, structural, mechanical, and electrical systems, materials and other such essentials as may be appropriate, for and until approved by the State.

1.1.16 The ARCHITECT/ENGINEER shall conduct meetings with the State, Efficiency Vermont, and relevant members of the design team, to review the Design Development Documents for the purposes of furthering the energy efficiency objectives of the Project.

1.1.17 The ARCHITECT/ENGINEER shall prepare for the State a revised accounting of how the Project is responding to LEED criteria.

1.1.18 The ARCHITECT/ENGINEER shall submit to the State a revised Statement of Probable Construction Cost based thereon for and until approved by the State.

CONSTRUCTION DOCUMENTS PHASE $INDICATE "NOT APPLICABLE" IF SECTION IS NOT APPLICABLE

1.1.19 The ARCHITECT/ENGINEER shall prepare from the approved Design Development Documents the Contract Documents consisting of the working drawings and specifications (following the CSI Format) setting forth in detail the requirements for the construction of the entire Project, and all necessary bidding information; and shall assist in the preparation of bidding forms, the Conditions of the Contract, and the form of the Agreement between the State and the Construction Contractor, for and until approved by the State.

1.1.20 The ARCHITECT/ENGINEER shall prepare for the State a revised accounting of how the Project responds to LEED criteria.

1.1.21 The ARCHITECT/ENGINEER shall submit to the State in writing a Revised Statement of Probable Construction Cost based thereon, indicated by changes in requirements or general market conditions for and until approved by the State.

1.1.22 The ARCHITECT/ENGINEER shall assist the State as requested in filing the required documents for the approval of governmental authorities having jurisdiction over the Project.

1.1.23 The ARCHITECT/ENGINEER shall submit the bid set, at 90% completion of the construction documents, to Efficiency Vermont for construction document review.

1.1.24 The ARCHITECT/ENGINEER shall prepare and submit a complete set of contract bid documents; drawings to be stamped and signed in PDF format and an unstamped set in .dwg format with a complete set of specifications in Microsoft Word, to the State at no additional cost. ARCHITECT/ENGINEER shall submit all .dwgs documents to the State in AutoCAD 2019 format or newer with all items embedded including Xrefs and photos. ARCHITECT/ENGINEER shall verify compatibility with the State's CADD unit prior to using any AutoCAD specialty software suite or product (civil, mechanical, map, etc.). ARCHITECT/ENGINEER shall furnish all custom support cad files (fonts, line types, plot styles, etc.) to the State. All drawings shall include a configured layout tab with sheet border and viewports for printing. ARCHITECT/ENGINEER shall submit all electronic files to the State on an optical disc, CD or DVD in a format suitable for use by the Department of Buildings and General Services. These documents are to be provided by ARCHITECT/ENGINEER at no additional cost to the State.

BIDDING OR NEGOTIATION PHASE $INDICATE "NOT APPLICABLE" IF SECTION IS NOT APPLICABLE

1.1.25 The ARCHITECT/ENGINEER, following the State's approval of the Construction Documents and of the latest Statement of Probable Construction Cost, shall provide the State with any documents, assistance, or revised construction documents necessary for the State to: obtain bids or negotiated proposals; award and prepare construction contracts.

CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT $INDICATE "NOT APPLICABLE" IF SECTION IS NOT APPLICABLE

1.1.26 The Construction Phase will commence with the award of the Construction Contract to a selected vendor ("Construction Contractor") and will terminate when final payment is made by the State to the Construction Contractor. In any event, the construction phase will not extend beyond 60 days beyond the substantial completion date unless extended by change order. If such extension occurs, additional costs due to the ARCHITECT/ENGINEER shall be negotiated with the State.

1.1.27 The ARCHITECT/ENGINEER shall work with the State during the construction of the Project to provide the administration of the contract between the State and the Construction Contractor in accordance with these terms and consistent with the contract between the State and the Construction Contractor, and the extent of the A/E's duties and responsibilities and the limitations of the A/E's authority as assigned shall not be modified without the A/E's written consent.

1.1.28 The ARCHITECT/ENGINEER shall advise and consult with the State and all of the State's instructions to the Construction Contractor shall be issued through the ARCHITECT/ENGINEER after authorization by the State.

1.1.29 The ARCHITECT/ENGINEER shall, at all times, have access to the work wherever it is in preparation or progress.

1.1.30 The ARCHITECT/ENGINEER shall make periodic visits to the Project site, at least biweekly, and shall make such further visits when reasonably requested by the State, as to familiarize himself with the progress and quality of the work performed and as to determine, on the basis of such visits, if such progress and quality are in accordance with the Contract Documents. The ARCHITECT/ENGINEER shall be responsible for project meeting minutes. In addition to this, the ARCHITECT/ENGINEER shall periodically report the A/E's findings to the State, at such times as in the exercise of the A/E's professional judgment such findings are appropriate and at least monthly, at the conference provided for in Paragraph 1.1.32, and further at such times as the State may reasonably request. The ARCHITECT/ENGINEER shall not be required to make exhaustive or continuous on site inspections, except as required in the exercise of the A/E's professional judgment for said reports and except, in particular, to fulfill the commissioning requirements. The ARCHITECT/ENGINEER shall not be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work, and shall not be responsible for the Construction Contractor's failure to carry out the work in accordance with the Contract Documents except as provided for herein specifically between the State and the ARCHITECT/ENGINEER.

1.1.31 In preparing the bid documents, to the extent that the ARCHITECT/ENGINEER utilizes sub-consultants for their expertise, such as, but not limited to: Landscape Architects, Civil, Structural, Mechanical, and Electrical Engineers, these consultants, in effect, become an extension of the ARCHITECT/ENGINEER. Where the term ARCHITECT/ENGINEER is used in Paragraph 1.1.27 as well as 1.1.30 it shall include those sub-consultants when work is being performed in their area of expertise. For example, the Mechanical Engineer would inspect the under slab plumbing before it is backfilled, but then wouldn't necessarily be needed on site until the rest of the mechanical systems are being installed. The sub-consultant shall also be required to periodically inspect the progress of the "as-builts" and verify that they are up to date and verify such to the ARCHITECT/ENGINEER, before the ARCHITECT/ENGINEER issues the certificate of payment for that pay period.

1.1.32 Based upon the A/E's determination and reports made under Paragraph 1.1.30 of this Agreement and upon the Construction Contractor's applications for payment, the ARCHITECT/ENGINEER shall once every month, after an on site conference between the State, the Construction Contractor and the ARCHITECT/ENGINEER, determine the amount then owing to the Construction Contractor and shall then issue a certificate of payment for the amount agreed upon. The issuance of a Certificate for Payment shall constitute a representation by the ARCHITECT/ENGINEER to the State, based on such ARCHITECT/ENGINEER's determination and report and the data supplied to the A/E by the Construction Contractor (without affecting the A/E's duties defined in Paragraph 1.1.30), that the work has progressed to the point indicated; that the quality of the work is in accordance with the Contract Documents (subject to the results of any specified subsequent tests required by the Contract

Documents, to immaterial and insubstantial deviations from the Contract Documents, which will be corrected prior to completion, and to any further specific qualifications stated in the Certificate for Payment); and that the Construction Contractor is entitled to such payment in the amount certified. Provided, however, the issuance of such certificate will not affect any obligations of the Construction Contractor to the State. By issuing a certificate for payment, the ARCHITECT/ENGINEER shall not be deemed to represent that the A/E has made any examination to ascertain how and for what purpose the Construction Contractor has used the monies paid on account of the contract sum. ARCHITECT/ENGINEER shall not accept any part of the work on behalf of the State; ARCHITECT/ENGINEER may only recommend acceptance. Final acceptance is a right reserved solely to the State.

1.1.33 The ARCHITECT/ENGINEER shall be, in the first instance, the interpreter of the requirements of all Construction Documents, and shall have all requisite authority relating thereto for the purposes of authorizing the Construction Contractor to proceed or stop with any component of the project after consultation and agreement with the State. The ARCHITECT/ENGINEER shall not be liable to the State for any loss or cost incurred by the State arising from delays in the construction schedule caused by any decision made by the ARCHITECT/ENGINEER in the reasonable exercise of professional judgment either to exercise or not to exercise the A/E's authority to stop the Work.

1.1.34 The ARCHITECT/ENGINEER shall review and respond to shop drawings, samples, and other submissions of the Construction Contractor as in conformance with the design concept and information in the Contract Documents and the designs and plans relating to the project until approved or not requiring re-submission. The Architect/Engineer shall also review the submittal log at construction meetings and report to the State on a monthly basis their findings thereon.

1.1.35 The ARCHITECT/ENGINEER shall review and respond to shop drawings, samples, and other submissions of the Construction Contractor as in conformance with the design concept and information in the Contract Documents and the designs and plans relating to the project until approved or not requiring re-submission. The Architect/Engineer shall also review the submittal log at construction meetings and report to the State on a monthly basis their findings thereon.

1.1.36 The ARCHITECT/ENGINEER shall prepare all change orders and supporting data for the State's approval.

1.1.37 The ARCHITECT/ENGINEER shall conduct inspections to determine the Dates of Substantial Completion and Final Completion, and shall receive written guarantees and related documents assembled by the Construction Contractors and shall issue a final certificate of payment in accordance with Paragraph 1.1.32.

Select the appropriate paragraph based on the design team or the State providing commissioning.

1.1.38 The ARCHITECT/ENGINEER shall be responsible for system commissioning in accordance with the BGS design guidelines and as indicated in the *BGS Commissioning Guidelines* located at https://bgs.vermont.gov/dnc/design_guidelines The ARCHITECT/ENGINEER shall inspect, and document, each and every system to ensure that it complies with design intent, including but not limited to: system installation, system operation, and seasonal changeover.

Or

The ARCHITECT/ENGINEER shall be responsible for coordination with the independent commissioning agent (CxA) retained by BGS. The ARCHITECT/ENGINEER shall include the CxA in all design meetings, document reviews, and incorporate the CxA's specification section in the specification manual. The ARCHITECT/ENGINEER shall review and comment on the commissioning plan, the pre-functional and functional test check sheets and the updated State's Project Requirements and system manual prepared by the prepared by the CxA.

1.1.39 Except in the manner specifically provided for herein, the ARCHITECT/ENGINEER shall not be responsible to the State for the acts or omission of the Construction Contractor or any of the Construction Contractor's agents or employees, or any other person not an employee or agent of the ARCHITECT/ENGINEER performing work on the Project. The ARCHITECT/ENGINEER shall be responsible for and shall pay the amount of any increase in the total Contract Price or the total Change Orders Price,

which increase results from an error, inconsistency, or omission in the Contract Documents or instructions.

1.1.40 Architect/Engineer shall furnish to the State, a complete set of marked up drawings and specifications showing all the changes to the Construction Documents made by Addenda, Change Orders, Shop Drawings, RFIs and other information received from the Clerk; and General Contractor's As-built markups. The changes to the drawings are to be created on a separate layer in the .dwg set and highlighted in a box, cloud or the like in the PDF set. The specifications are also to differentiate the changes made by highlighting in a box, cloud, etc. and be provided in Microsoft Word. These drawings and specifications shall be supplied within three (3) months of the date of Substantial Completion and before final payment of the Architectural/Engineer contract.

1.1.41 Architect/Engineer (and design team members as required) shall conduct a one-year warranty inspection of the completed construction project between the eleventh and twelfth months from the date of substantial completion and shall issue a list of defective items needing correction to the Construction Contractor.

1.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

1.2.1 The State may at its option secure the services of a person or persons known as a Clerk-of-the-Works, referred to here as a "Clerk". The Clerk(s) shall, for all purposes of this Agreement, report and be solely responsible to the State. The State may at any time dismiss the Clerk(s) for cause or convenience; however, any such action shall not affect the State's and ARCHITECT/ENGINEER's obligations under this Agreement. In such event, the State shall use their best efforts to secure the services of a Clerk or clerks under this paragraph as soon as is practicable if the State deems it necessary.

1.2.2 The Clerk(s) shall make continuous and complete on-site inspections of the work performed on the Project, to the extent reasonable under all the circumstances. The on-site inspections of the work performed and any reports prepared by the Clerk(s) will be made available to the ARCHITECT/ENGINEER for use in making A/E's Determination and Report under this Agreement, however the use of the Clerk's on-site inspections or reports does not relieve the ARCHITECT/ENGINEER from his/her obligations under Paragraph 1.1.32 of this Agreement and it is solely the responsibility of the ARCHITECT/ENGINEER to ensure that that the work has progressed to the point indicated and that the quality of the work is in accordance with the Contract Documents . Further, through such on-site observations by the Clerk(s), the ARCHITECT/ENGINEER shall endeavor to provide protection for the State against defects in the Work, but the furnishing of such Clerk(s) shall not: (1) make the ARCHITECT/ENGINEER responsible for the Construction Contractor's failure to perform the Work in accordance with the Contract Documents; or (2) Relieve the ARCHITECT/ENGINEER from his/her obligation to exercise due diligence and ensure that the work has progressed to the point indicated and that the quality of the work is in accordance with the Contract Documents.

1.3 ADDITIONAL SERVICES

1.3.1 The following services are not covered in Paragraphs 1.1 or 1.2. If any of these Additional Services are authorized in writing by the State, they shall be provided by the ARCHITECT/ENGINEER and paid for by the State according to this Agreement.

1.3.2 Providing financial feasibility or other special studies.

1.3.3 Providing planning surveys, site evaluations, or comparative studies of prospective sites.

1.3.4 Revising previously approved Drawings, Specifications or other documents to accomplish changes not initiated by the ARCHITECT/ENGINEER, except as provided in Paragraphs 1.1.40 and 3.5.

1.3.5 Providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing professional services of the type set forth in Paragraphs 1.1 and 1.2 as may be required in connection with the replacement of such work.

1.3.6 Providing professional services made necessary by the default of the Construction Contractor in the performance of the Construction Contract.

1.3.7 Providing Contract administration and observation of construction after the Contract Time has been exceeded by more than sixty (60) days through no fault of the ARCHITECT/ENGINEER.

1.3.8 Providing services not caused by errors, inconsistency or an omission of the ARCHITECT/ENGINEER after final payment to the Construction Contractor.

1.3.9 Providing the services required for or in connection with the selection of furniture and furnishings.

1.3.10 Providing services for planning tenant or rental spaces.

1.3.11 Making measured drawings of existing construction when required for planning additions or alterations thereto, except as otherwise herein provided.

1.3.12 Other services as may be required such as: LEED ratings, energy modeling, commissioning beyond that required by Paragraph 1.1.38, telecommunications, audio visual design, floodway studies, laser scanning of buildings, and geotechnical investigations.

ARTICLE 2

THE STATE'S RESPONSIBILITIES

2.1 The State shall provide full information regarding its requirements for the Project on or before ***, 20***.

2.2 The State shall designate a representative authorized to act in its behalf with respect to the Project. The State or its representative shall examine documents submitted by the ARCHITECT/ENGINEER and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the ARCHITECT/ENGINEER's work.

2.3 The State shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.

2.4 The State shall secure for itself such legal, accounting and insurance counseling services as may be necessary for the Project and such auditing services as the State may require to ascertain how or for what purposes the Construction Contractor has used the monies paid under the Construction Contract.

2.5 The services, information, surveys and reports required by Paragraphs 2.3 shall be furnished at the State's expense, and the ARCHITECT/ENGINEER shall be entitled to rely upon the accuracy of the reports related to the structural, mechanical, chemical and other laboratory tests, inspections and reports required by law or the Contract Documents.

2.6 If the representative appointed under Paragraph 2.2 observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, the representative shall give prompt written notice thereof to the ARCHITECT/ENGINEER.

2.7 The State shall furnish information required of it as expeditiously as necessary for the orderly progress of the work.

ARTICLE 3

CONSTRUCTION COST

3.1 Construction Cost does not include the fees of the ARCHITECT/ENGINEER and consultants, the cost of the land, rights-of-way, or other costs, which is the responsibility of the State as provided in Paragraphs 2.3 through 2.4. or any of the contingencies available for the project unless specifically stated otherwise.

3.2 Labor furnished by the State for the Project, however, with respect only to the construction of such components thereof as have been designed by the ARCHITECT/ENGINEER, shall be included in the

Construction Cost at current market rates. Materials and equipment furnished by the State shall be included at current market prices, except that used materials and equipment shall be included as if purchased new for the Project.

3.3 Statements of Probable Construction Cost and Detailed Cost Estimates prepared by the ARCHITECT/ENGINEER represent the A/E's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the ARCHITECT/ENGINEER nor the State has any control over the cost of labor, materials, or equipment, over Construction Contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the ARCHITECT/ENGINEER cannot and does not guarantee that bids will not vary from any Statement of Probable Construction Cost or other cost estimate prepared by the A/E.

3.4 When a fixed limit of Construction Cost is established as a condition of this Agreement, it shall include a bidding contingency of five (5%) percent unless another amount is agreed upon in writing. When such a fixed limit is established, the ARCHITECT/ENGINEER in consultation with the State shall be permitted to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and to make reasonable adjustments in the scope of the Project to bring it within the fixed limit. The ARCHITECT/ENGINEER with the approval of the State may also include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit.

3.5 If the lowest responsible bid or the Detailed Cost Estimate exceeds the latest statement of Probable Construction Cost, the State shall (1) give written approval of an increase in the construction cost, or (2) authorize rebidding the Project, (3) cooperate in revising the Project scope and quality as required to reduce the probable construction cost, or (4) discontinue the project and pay the ARCHITECT/ENGINEER as specified in paragraph 6.2 up to and through Bidding or Negotiation Phase. In the case of (3), the ARCHITECT/ENGINEER, without additional charge, shall modify all drawings and specifications as necessary to bring the latest bona fide bid within the latest Statement of Probable Construction Cost; provided, however, that the ARCHITECT/ENGINEER will not be liable to the State for any loss or cost incurred by the State caused by the delay arising from the making of such modifications.

ARTICLE 4

DIRECT PERSONNEL EXPENSE

4.1 Direct Personnel Expense of employees engaged on the Project by the ARCHITECT/ENGINEER includes ARCHITECT/ENGINEERs, engineers, designers, job captains, draftsmen, specification writers and typists, in consultation, research and design in producing Drawings, Specifications and other documents pertaining to the Project, and in services during construction at the site.

4.2 Direct Personnel Expense includes actual cost and of mandatory and customary financial benefits paid.

ARTICLE 5

REIMBURSABLE EXPENSES

5.1.1 Expenses of transportation and living when traveling in connection with the Project for other than regular trips included in the contract requirements, and for long distance calls. All travel outside of the State of Vermont must be approved by the State prior to the expense thereof becoming reimbursable.

5.1.2 Expenses of reproduction, postage and handling of Drawings and Specifications, excluding copies for ARCHITECT/ENGINEER's office use and triplicate sets at each phase for the State's review, use and approval; and fees paid for securing approval of authorities having jurisdiction over the Project.

5.1.3 If authorized in advance by the State in writing, the expense of overtime work requiring higher than regular rates; perspectives or models for the State's use; and fees of special consultants for other than the normal structural, mechanical and electrical engineering services.

5.1.4 It is the intent of the State that the ARCHITECT/ENGINEER shall obtain, at the expense of the State, all necessary borings, soil engineering, and other information required in connection with the Project, but only after estimated costs thereof have been submitted and have been approved in writing by the State. The ARCHITECT/ENGINEER shall provide to the State such detailed cost estimates required by either the State or the ARCHITECT/ENGINEER, at the State's expense, but only after estimated costs thereof have been submitted and have been approved in writing by the State.

5.1.5 The ARCHITECT/ENGINEER shall furnish at the request of the State and at the State's expense, a satisfactory land survey of the site giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and full information concerning available service and utility lines both public and private.

5.1.6 The ARCHITECT/ENGINEER shall exercise the A/E's best judgment and selection in obtaining the information described in Paragraphs 5.1.4 and 5.1.5 and shall be entitled to rely on the accuracy of such information, survey and tests.

ARTICLE 6

PAYMENTS TO THE ARCHITECT/ENGINEER

6.1 Payments on account of the ARCHITECT/ENGINEER's Basic Services shall be made as follows:

6.2 Monthly payments shall be made to the ARCHITECT/ENGINEER by the State within 30 days of the receipt by the State of an itemized invoice in accordance with this Agreement. Progress payments for Basic Services shall be in proportion to the services performed within each phase of service, not to exceed the following percentages:

Delete or adjust percentages as stated in the contractor's proposal

Planning and Programming	5%
Schematic Design Phase	10%
Design Development Phase	20%
Construction Documents Phase	40%
Bidding or Negotiation Phase	5%
Construction Administration Phase	20%

6.3 In all events, the ARCHITECT/ENGINEER shall submit the A/E's completed itemized accounting of all costs monthly to the State, and the State shall make all payments within 30 days of receipt of the invoice.

6.4 No deductions shall be made from the ARCHITECT/ENGINEER's compensation on account of penalty, liquidated damages, or other sums withheld from payments to the Construction Contractor.

6.5 If the Project is suspended for more than three months or abandoned in whole or in part, the ARCHITECT/ENGINEER shall be paid the A/E's compensation for services performed prior to receipt of written notice from the State of such suspension or abandonment, together with Reimbursable Expenses then due and all terminal expenses resulting from such suspension or abandonment.

6.6 The State has 30 days from the date the State receives an invoice with full and complete supporting documentation to exercise its right to bill or credit adjustments made necessary by internal audits and quality assurance checks.

ARTICLE 7

ARCHITECT/ENGINEER'S ACCOUNTING RECORDS

7.1 Records of the ARCHITECT/ENGINEER's Direct Personnel, Consultant and Reimbursable Expenses pertaining to the Project, and records of accounts between the State and the Construction Contractor, shall be kept on a generally recognized accounting basis and shall be available to the State or its authorized representative at mutually convenient times, at no additional cost to the State.

ARTICLE 8

TERMINATION OF AGREEMENT

8.1 This Agreement may be terminated by either party upon the giving of seven (7) days written notice to the other party. In the Event of termination by the State for any reason other than a failure to perform on the part of the ARCHITECT/ENGINEER, the ARCHITECT/ENGINEER shall be entitled to receive payment for the actual services rendered and for sums the A/E irrevocably committed to the date of notice of termination. In the event that the ARCHITECT/ENGINEER shall be irrevocably committed to purchase any materials, supplies, or other tangible articles, the State shall be entitled to receive all such materials, supplies, or tangible articles when paid for. In the event of termination on the part of the ARCHITECT/ENGINEER, the ARCHITECT/ENGINEER shall be entitled to receive payment for services and disbursements actually rendered or paid to the date of notice of termination, less any expenses which the State may be put to as a result of the termination by the ARCHITECT/ENGINEER over and above the total sum agreed to herein. In the event that the ARCHITECT/ENGINEER shall have been paid in full for services and expenses previously rendered or paid as of the date of notice of termination, the ARCHITECT/ENGINEER agrees to promptly pay the State such additional expense upon submission of statement of such expense to the ARCHITECT/ENGINEER by the State.

8.2 It is understood that a breach on the part of the State of this Agreement shall be sufficient reason for the ARCHITECT/ENGINEER to be relieved of the additional expense referred to in this section.

8.3 Notwithstanding any of the foregoing, the State's obligations under this Agreement shall cease when the funds appropriated for this Agreement are expended.

ARTICLE 9

OWNERSHIP OF DOCUMENTS

9.1 Ownership of Documents: All products of ARCHITECT/ENGINEER'S work, including all drawings, specifications, estimates, and all other documents, including shop drawings, calculations, etc., prepared at any time in connection with the Project, are the sole property of the State, whether the work is executed or not and may not be copyrighted or resold by ARCHITECT/ENGINEER. ARCHITECT/ENGINEER herby agrees to furnish drawings in .dwg **and** PDF formats, final PDF drawings are to be stamped and signed; final .dwg drawings do not need to be stamped or signed. Specifications, estimates and all other electronic documents are to be in or converted to Microsoft Office: Word, Excel, Project, etc. Any project documents that are not in or converted to one of the above electronic formats, ARCHITECT/ENGINEER shall provide three (3) copies of all such documents. ARCHITECT/ENGINEER shall submit all .dwgs documents to the State in AutoCAD 2019 format or newer with all items embedded including Xrefs and photos. ARCHITECT/ENGINEER shall verify compatibility with the State's CADD unit prior to using any AutoCAD specialty software suite or product (civil, mechanical, map, etc.). ARCHITECT/ENGINEER shall furnish all custom support cad files (fonts, line types, plot styles, etc.) to the State. All drawings shall include a configured layout tab with sheet border and viewports for printing. ARCHITECT/ENGINEER shall submit all electronic files to the State on an optical disc, CD, DVD or USB storage drive in a format suitable for use by the Department of Buildings and General Services. These documents are to be provided by ARCHITECT/ENGINEER at no additional cost to the State.

PLAN SECURITY CERTIFICATION

9.2 ARCHITECT/ENGINEER acknowledges that the plans pertaining to this project have been declared exempt from public record inspection for security reasons and have been disclosed to Contractor as per 1 V.S.A. §317(c)(32) for the performance of the Work specified herein. Contractor hereby expressly acknowledges and agrees to disclose plans only to a licensed architect, engineer, or contractor who is bidding on or performing work on or related to buildings, facilities, infrastructures, systems, or other structures owned, operated, or leased by the state.

Furthermore, ARCHITECT/ENGINEER agrees to abide by BGS Administrative Policy # 35 and any existing or future directives set forth by the State concerning the copying or distribution of the plans. Fraud, misrepresentation, falsification, or concealing or covering up material facts relating to compliance with these directives may result in one or more of the following actions: termination of the contract(s), suspension of bidding privileges, withholding, deducts, forfeiture of security bonds, and criminal prosecution punishable by imprisonment of up to five years and/or up to a $10,000 fine as per 13 V.S.A. §3016.

ARTICLE 10

SUCCESSORS AND ASSIGNS

10.1 The ARCHITECT/ENGINEER hereby agrees that the A/E will not assign the performance of this Agreement to any other ARCHITECT/ENGINEER not specifically mentioned herein without the prior written consent of the State, provided; however, that this Agreement will inure to the benefit of and be binding upon the partners, successors, assigns or legal representatives of the ARCHITECT/ENGINEER.

10.2 The ARCHITECT/ENGINEER hereby agrees that the A/E shall personally perform, or personally supervise, all of the services or work in connection with the Project as are designated as the duties and obligations of the ARCHITECT/ENGINEER under this Agreement, and further, the ARCHITECT/ENGINEER agrees that the A/E is solely responsible for the performance of the services designated in this Agreement as those of the ARCHITECT/ENGINEER.

ARTICLE 11

TAXES

11.1 The State is exempt from all sales and federal excise taxes. ARCHITECT/ENGINEER will be responsible for the payment of any sales, consumer, use and other similar taxes for the Work or portions thereof provided by the ARCHITECT/ENGINEER which are legally enacted at the time bids are received, whether or not yet effective.

ARTICLE 12

CHANGES TO ARCHITECT/ENGINEER AGREEMENT

12.1 The State may increase, decrease, or alter the work or materials, or it may otherwise modify the specifications or conditions of the project to be furnished. Any changes so occasioned, including to amounts to be paid to the A/E, shall be in the form of a change order which shall be agreed to and approved in writing by the Commissioner of the Department of Buildings and General Services, and which shall become a part of this Contract. Verbal instructions, from any source, shall not be valid. No claim or defense may be made under the Contract with respect to such changes unless agreed to in writing.

ARTICLE 13

GENERAL

13.1 This Agreement consists of *** pages including the following attachments which are incorporated herein.

ATTACHMENT A: Scope of Services

ATTACHMENT B: Payment Provisions

ATTACHMENT C: Standard State Provisions for Contracts and Grants, a preprinted form (revision dated 12/15/2017).

ATTACHMENT D: Standard State Provisions - Architect/Engineer Professional Service Agreement (dated 11/14/2022)

ORDER OF PRECEDENCE

13.2 Order of Precedence: Any ambiguity, conflict or inconsistency in the documents comprising this Agreement shall be resolved according to the following order of precedence:

(1) Standard Contract
(2) Attachment D (Standard State Provisions - Architect/Engineer Professional Service Agreement)
(3) Attachment C (Standard Contract Provisions for Contracts and Grants)
(4) Attachment A
(5) Attachment B
(6) List other attachments in order of precedence

13.3 The obligations and duties contained in Articles, 4, 5, 11, of this Agreement shall apply to ARCHITECT/ENGINEER's subcontractors as well as to the ARCHITECT/ENGINEER. The ARCHITECT/ENGINEER agrees to include Articles 4, 5, 11 in all its subcontracts. The ARCHITECT/ENGINEER has complied with and shall continue to comply with all requirements with respect to qualification to do business in Vermont and registration with the office of the Secretary of State. In the event that all or a portion of the project is to be subject to a subcontract of the ARCHITECT/ENGINEER, it shall be the responsibility of the ARCHITECT/ENGINEER to determine that the subcontractor has complied with the above requirements of registration and qualification.

13.4 Paragraph headings are inserted for convenience only and are not to be relied upon for content.

ATTACHMENT A – SCOPE OF WORK OVERVIEW

Contractor shall provide all professional services necessary to satisfactorily complete *** of the *** at *** in ***, Vermont.

The Project shall be in accordance with the work described in Attachment A. The following represents a summary description of the Project.

DESCRIPTION OF WORK:

A. The work consists of, but is not limited to, the ***. Including, but not limited to, the following major components:

Delete the following paragraph if Submittal Exchange isn't going to be used:

ELECTRONIC SUBMITTALS:

Contractor shall obtain a license for the State to utilize Submittal Exchange for the purposes of this project. The State and its representatives will have full control of the use of Submittal Exchange by authorized users of the State.

A. Submittal Exchange® (www.submitalexchange.com) shall be used to provide an on-line database and repository, which shall be used to transmit and track project-related documents. The intent for using this service is to expedite the construction process by reducing paperwork, improving information flow, and decreasing submittal review turnaround time.

   a. Project submittals (shop drawing, product data and quality assurance submittals) shall be transmitted by the Contractor in PDF to Submittal Exchange®, where it will be tracked and stored for retrieval for review. After the submittal is reviewed it shall be uploaded back to Submittal Exchange® for action and use by the Contractor.
   b. The service also tracks and stores documents related to the project such as Request for Information (RFI's), Architect/Engineer's Supplemental Instructions (ASI), Information Bulletins (IB's), CAD Coordination, Commission, Construction Change Directive (CCD), Contractor's Daily Reports, Minutes, Photos, Quality Control, Shop Drawings, Testing, Closeout Documents including As-Built Drawings, Operations and Maintenance Manuals and other project related documents.
   c. The electronic submittal process shall not be used for color samples, color charts, or physical material samples.

B. The Project Manager will coordinate the initial training between the Contractor and Submittal Exchange®.

Attachment B - Payment Provisions

The State shall pay the Contractor a maximum amount of $*** upon satisfactory completion of the project and acceptance thereof by the state for all work identified in the Standard Contract Form and Attachment A, as follows:

1. **Contract Sum**: The State shall pay Contractor compensation as follows: Maximum Amount of $***; this sum includes any and all costs associated with the services provided under this contract, Including reimbursable expenses.

2. If Additional Services are required and approved in advance by the State, services shall be invoiced as follows only after an executed change order has been issued:

    a. Hourly Rate Schedules for contractor and subconsultants:

*** Title	Hourly Rate

    b. Detailed itemization of reimbursable expenses associated with the additional services.
    c. The multiplier for additional services of professional sub-consultants is ***%.

3. Contractor shall be paid based on documentation of work performed and included in invoices. Contractor shall submit invoicing and shall include:

    - A numbered invoice.
    - Description of work, # of hours worked if applicable, including copies of time sheets and a certified payroll following the USDOL form (or comparable)**;**
    - Copies of original receipts for all materials purchased or costs incurred as a result of the scope of work (if applicable);
    - Time frame indicated of when work was performed;
    - Contract number that the invoice is to be paid from;
    - Certification that the Contractor has no ownership (majority or minority) in any subcontractor they claim for profit and overhead;
    - Supporting documentation of material costs, in accordance with the percentage specified in the contract. This supporting documentation is required for verification.

4. This agreement represents the entire agreement between the parties; 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.

5. Work Product Ownership: All products of the Contractor's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents become the sole property of the State of Vermont and may not be copyrighted or resold by Contractor.

6. Contractor shall provide a detailed description of all work completed with each invoice.

7. Payment Terms: Net 30. The State has 30 days from the date the state receives an invoice with full and complete supporting documentation, free from errors, to exercise its right to bill or credit adjustments made necessary by internal audits and quality assurance checks.

8. The State shall not pay for any unauthorized labor, materials, equipment or expenses of Contractor.

9. Any services outside of agreement shall not be allowed.

10. The amount of compensation paid to the undersigned for extra work and change orders in one of the following manners as directed by the State.

    a. A price agreed upon between the State and the Contractor.
    b. A price determined by adding 15% for overhead and profit to the total direct cost of any extra work.

11. Contractor shall invoice the State at:

    State of Vermont
    Buildings and General Services
    Attention: Project Manager
    133 State St., 5th Floor
    Montpelier, VT 05633-5801

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)

Attachment D

Standard State Provisions

Architect/Engineer Professional Service Agreement (11/14/2022)

Attachment C, Paragraphs 6 and 7 are deleted in their entirety and replaced with the following:

6. Independence, Liability, Indemnity:

A. The Party will act in an independent capacity and not as officers or employees of the State.

B. This Agreement requires the Party to provide professional services in the design and/or engineering of all or a part of the Project to which this Agreement relates. This is not an Agreement for construction services. However, construction administration, observation or certification services may be required on the part of the Party if this Agreement so provides. Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for all services performed under this Agreement, with minimum coverage as required by the Agency of Administration but not less than $1,000,000 per claim and $2,000,000 policy aggregate.

C. The Party shall defend the State and its officers and employees against all 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 providing "non- professional services" under this Agreement. As used here, "non-professional services" means services provided under this Agreement other than professional services relating to the design and/or engineering of all or part of the project. The State shall notify the Party in the event of any such claim or suit covered by this Subsection C, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit arising out of "non-professional services" provided under this Agreement.

D. Notwithstanding anything to the contrary set forth in Subsection C above, the Party shall not be obligated to defend the State and its officers and employees against claims or suits arising from the Party's provision of engineering design services or architectural design services. However, the Party's obligation to defend the State and its officers and employees against all claims or suits arising out of "non-professional services" provided under this Agreement as provided in Subsection C above and the Party's other obligations under Attachment C shall remain in effect.

E. The Party agrees to indemnify and hold the State, its officers and employees, harmless from and against monetary damages to third parties, together with reasonable costs, expenses and attorney's fees incurred and paid by the State in defending claims by third parties (collectively "Damages") but only in the event and to the extent such Damages are incurred and paid by the State as the proximate cause of negligent acts, errors or omissions ("Professional Negligence") by the Party, its employees, agents, consultants and subcontractors, in providing the professional services required under this Agreement.

F. As used here, "Professional Negligence" or "negligent acts, errors or omissions" means a failure by the Party to exercise that degree of skill and care ordinarily possessed by a reasonably prudent design professional practicing in the same or similar locality providing such services under like or similar conditions and circumstances.

G. The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party arising from the provision of "non-professional services" under this Agreement.

H. The Party shall not be obligated to indemnify the State for any Damages incurred by the State attributable to the State's own negligent acts, errors or omissions or the negligent acts, errors or omissions of its officers, agents or employees, or the acts, errors, omissions or breach of Agreement by persons or entities other than the Party, its employees, agents, consultants and subcontractors.

I. 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.

ATTACHMENT D1

STATE OF VERMONT
STATEMENT OF WORK (SOW) Request for Proposal (RFP)

(NOTE: Text that appears in orange letters is instructive only and should be deleted from the final RFP. Text in yellow highlighting must be updated or deleted. Utilize or delete paragraphs as appropriate to the RFP. Text that appears in black letters should be included in the RFP as is.)

Architect/Engineer Professional Service Category: PROJECT NAME

Request for Proposal
Month DD, YYYY

SAMPLE

1. ADMINISTRATIVE INFORMATION

1.1. AGENCY/DEPT RESPONSIBLE FOR SOW-RFP AND SOW AGREEMENT

1.1.1. Name of the person/s, Agency/Dept.

1.2. This SOW RFP is being issued in accordance with the Master Agreement between the Contractor and the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting. After an evaluation of Contractor's response to this SOW RFP, the Contracting Agency may elect to enter into a specific SOW Agreement which will outline all SOW Agreement requirements and payment provisions.

2. SOW PROPOSAL SUBMISSIONS

2.1. All SOW Proposals are due no later than: **(Date) and Time**

2.2. Proposals must be submitted by email to: EMAIL ADDRESS OF PROJECT MANAGER. The email submission must reference the project name "**SOW-RFP Project Name**".

2.3. The SOW RFP Response is to be submitted to the contact set forth above via e-mail in Word and pdf formats. The "subject" line in the e-mail submission shall state the SOW-RFP Project Name.

2.4. There is an attachment size limit of 40 MB. It is the Bidder's responsibility to compress the PDF file containing its bid if necessary in order to meet this size limitation.

2.5. All SOW RFP Responses become the property of the State and, once the resulting SOW Agreement is finalized, are subject to disclosure under the State's Public Records Act, 1 V.S.A. §§ 315-320. If a SOW RFP Response includes material that is considered by the Contractor to be a trade secret under 1 V.S.A. § 317(c)(9), the Contractor shall clearly designate the material as such in its submission. In accordance therewith, the State will not disclose information for

which a reasonable claim of trade secret can be made pursuant to 1 VSA § 317(c)(9).

2.6. **In the cover letter to any SOW RFP Response, the Contractor must identify each page or section of the response that it believes is a trade secret and provide a written explanation relating to each marked portion to justify the denial of a public record request should the State receive such a request.**

3. PRE-BID MEETING:

3.1. The contracting Agency/Department will hold a pre-bid meeting at LOCATION on DAY, DATE and TIME

4. STATEMENT OF RIGHTS

4.1. The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. The Contractor may be asked to give a verbal presentation of its proposal after submission. Failure of Contractor to respond to a request for additional information or clarification could result in rejection of the Contractor's proposal. To secure a project that is deemed to be in the best interest of the State, the State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions. The State also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the State.

5. METHOD OF AWARD AND PROCEDURE FOR AWARDING A SOW AGREEMENT

5.1. Contractor selection, or the determination to terminate the SOW-RFP without award, shall be done in the best interest of the State.

5.2. EVALUATION CRITERIA:

5.2.1. The responses will be evaluated based on the following: (edit evaluation criteria below as appropriate for your project)

5.2.1.1. Cost
5.2.1.2. Ability to meet completion dates in proposed project schedule
5.2.1.3. Minimum Qualifications/Prior Experience with this type of work (optional, if specialized)
5.2.1.4. References (optional, if specialized)

5.3. ORAL PRESENTATIONS/INTERVIEWS: (optional)

5.3.1. Prior to making a final selection, the Contracting Agency will determine whether to conduct oral presentations. The decision will be based on the quality and quantity of responses received. If it is determined that oral presentations are needed they will be conducted at no expense to the State. Oral presentation may be by phone or in person.

SAMPLE

In-person presentations will take place as directed by the Contracting Agency on a yet to be determined date at no expense to the State.

5.3.2. As part of the selection process, the State reserves the right to interview, either in person or via phone, all candidates for on-site staff that are proposed to perform the work defined within this SOW RFP. The State may also request a change to vendor staffing after a vendor has been selected if upon on-site efforts the State deems the relationship to not be acceptable. Replacement staff will be subject to additional interviewing and approval by the State at no additional cost to the State.

6. STATEMENT OF WORK

6.1. PROJECT BACKGROUND

6.1.1. Brief description of Contracting Agency's project background and/or situation leading to this Project

6.2. STATEMENT OF WORK DESCRIPTION, REQUIRED PHASES AND SCHEDULE: (Under no circumstance should a SOW be developed, or an SOW RFP be released, where the deliverables are not quantified or the criteria for acceptance are not defined. Be clear and concise. The deliverables identified here should be directly tied to payment provisions)

6.2.1. STATEMENT OF WORK: Describe in detail the scope of work and what deliverables are required for each phase. (Indicate "not applicable" next to phases listed below that do not apply)

6.2.1.1. Planning and Programming:

6.2.1.2. Schematic Design Phase:

6.2.1.3. Design Development Phase:

6.2.1.4. Construction Documents Phase:

6.2.1.5. Bidding or Negotiation Phase:

6.2.1.6. Construction Administration Phase:

Delete the following paragraph if Submittal Exchange isn't going to be used:

6.2.2. ELECTRONIC SUBMITTALS:

Contractor shall obtain a license for the State to utilize Submittal Exchange for the purposes of this project. The State and its representatives will have full control of the use of Submittal Exchange by authorized users of the State.

A. Submittal Exchange® (www.submitalexchange.com) shall be used to provide an on-line database and repository, which shall be used to transmit and track

SAMPLE

project-related documents. The intent for using this service is to expedite the construction process by reducing paperwork, improving information flow, and decreasing submittal review turnaround time.

a. Project submittals (shop drawing, product data and quality assurance submittals) shall be transmitted by the Contractor in PDF to Submittal Exchange®, where it will be tracked and stored for retrieval for review. After the submittal is reviewed it shall be uploaded back to Submittal Exchange® for action and use by the Contractor.

b. The service also tracks and stores documents related to the project such as Request for Information (RFI's), Architect/Engineer's Supplemental Instructions (ASI), Information Bulletins (IB's), CAD Coordination, Commission, Construction Change Directive (CCD), Contractor's Daily Reports, Minutes, Photos, Quality Control, Shop Drawings, Testing, Closeout Documents including As-Built Drawings, Operations and Maintenance Manuals and other project related documents.

c. The electronic submittal process shall not be used for color samples, color charts, or physical material samples.

B. The Project Manager will coordinate the initial training between the Contractor and Submittal Exchange®.

6.3. PROPOSED PROJECT SCHEDULE: (edit schedule below as appropriate)

Project Event	Completion Date
Pre-bid Meeting	
Questions Due	
Proposals Due	
Begin Work	
Planning and Programming	
Schematic Design Phase	
Design Development Phase	
Construction Documents Phase	
Bidding or Negotiation Phase	
Construction Administration Phase	
1-Year Warranty	

SAMPLE

7. SOW AMENDMENTS

7.1. Change orders are not anticipated, however, if one becomes necessary, such work must be authorized by the State in writing before such work can proceed and requires an SOW Amendment to the SOW Agreement. Reference Attachment D3.

8. SOW PROPOSAL FORMAT

8.1. Email PDF's or Microsoft Office documents as set forth above under SOW PROPOSAL SUBMISSIONS

8.2. A SOW RFP Proposal shall provide the following: (must match evaluation criteria)

8.2.1. MINIMUM QUALIFICATIONS (Delete if not required for the project. If required, modify list as appropriate)

8.2.1.1. Identify whether firm has the years and type of experience required for this project.

8.2.1.2. Identify key personnel, including subconsultants, by name and role who will be working on the project, include resumes.

8.2.1.3. List 3 previous projects showing experience with similar work.

8.2.2. SUBCONTRACTORS (if being used)

8.2.2.1. Identify all proposed subcontractors and their full roles that may be involved completing the Scope of Work. No work shall be subcontracted without knowledge of and approval by the State.

8.2.3. REFERENCES (optional for specialized projects)

8.2.3.1. Provide the names, email addresses and/or phone numbers of at least three companies or State Agencies with whom you have transacted similar business in the last 12 months. You must include contact names who can talk knowledgeable about performance and deliverables.

8.2.4. PROJECT COST AND COMPLETION DATE

8.2.4.1. Complete table for Fixed-Cost or Time & Materials agreement.

9. REQUIRED PRICE PROPOSAL RESPONSE

9.1. All pricing must be fixed cost, inclusive of all expenses and fees if this Statement of Work proposal is for a fixed price agreement. (Remove if Time and Materials agreement)

9.2. For Time and Materials the pricing proposal must include estimated effort hours, NTE amount

SAMPLE

and completion date for each deliverable. (Remove if not Time and Materials agreement)

10. INVOICING AND PAYMENT

10.1. All work performed by the Contractor must be approved in advance by the State. Once work has been completed, delivered and accepted by the State, invoicing can occur. The State's payment terms are net 30 days.

SAMPLE

STATE OF VERMONT
PRICE PROPOSAL FOR SOW-RFP FOR
PROJECT NAME, TOWN, VERMONT

(The Price Proposal must request information to match the evaluation criteria identified in the Method of Award of this SOW-RFP and use the same deliverables as outlined in the Scope of Work of this SOW-RFP. Adjust formatting accordingly to ensure appropriate page breaks.)

1. **Minimum Qualifications** (if specialized work and prior experience is required, as outlined in the Evaluation Criteria of the SOW-RFP):

1.1. Does the firm have experience working in TYPE OF FACILITY within the last XX (##) years?

☐ Yes ☐ No

1.2. If yes to 1.1., list name, title and role of proposed team members: (including sub-consultants, if applicable, attach additional sheets if necessary)

1.2.1. _____

1.2.2. _____

1.2.3. _____

1.2.4. _____

1.3. If yes to #1, list 3 previous projects of similar experience: (attach additional sheets if necessary)

1.3.1. _____

1.3.2. _____

1.3.3. _____

2. **Complete the attached table in accordance with requirements identified in the Statement of Work** (remove if Time & Materials agreement)

Description	Price	Completion Date
Planning and Programming	$	
Schematic Design	$	
Design Development	$	
Construction Documents	$	
Bidding or Negotiation	$	
Construction Administration	$	
Reimbursable Expenses	$	
Total Project Cost	**$**	

SAMPLE

3. **Complete the attached table in accordance with requirements identified in the Statement of Work** (remove if Fixed Price agreement)

Description	Hours (hourly rates as established in the Master Contract)	NTE Amount	Completion Date
Planning and Programming		$	
Schematic Design		$	
Design Development		$	
Construction Documents		$	
Bidding or Negotiation		$	
Construction Administration		$	
Reimbursable Expenses		$	
Totals		$	

4. **References:** (If required, as outlined in the Evaluation Criteria of the SOW-RFP)

4.1. Name: _____ Company: _____

Email/phone: _____

4.2. Name: _____ Company: _____

Email/phone: _____

4.3. Name: _____ Company: _____

Email/phone: _____

5. COMMENCEMENT OF WORK UNDER A SOW AGREEMENT

5.1. Commencement of work as a result of the SOW-RFP process shall be initiated only upon issuance of a fully executed SOW Agreement and Purchase Order.

6. SOW AGREEMENTS

6.1. If selected, the Contractor will sign an SOW Agreement with the Contracting Agency to provide the deliverables set forth in its response and at prices agreed by the Contracting Agency. Minimum support levels set forth in this SOW RFP and terms, and conditions from the Master Agreement, including Attachment C thereto, will become part of each SOW Agreement. Each SOW Agreement will be subject to review throughout its term. The Contracting Agency will consider cancellation of each SOW Agreement, as well as the Master Agreement, upon discovery that the Contractor is in violation of any portion of the Master Agreement or an SOW Agreement, including an inability by the Contractor to provide the products, support, and/or

SAMPLE

service offered in its response. Each SOW Agreement shall specify the term of the Agreement.

ACKNOWLEDGEMENT OF ADDENDUMS (IF APPLICABLE)

1. _____
2. _____
3. _____

COMPANY NAME: _____

NAME: _____

SIGNATURE: _____

DATE: _____

SAMPLE

ATTACHMENT D2

STATE OF VERMONT
STATEMENT OF WORK AGREEMENT

(NOTE: Text that appears in orange letters is instructive only and should be deleted from the final SOW-Agreement. Text in yellow highlighting must be updated or deleted. Utilize or delete paragraphs as appropriate to the agreement. Text that appears in black letters should be included in the agreement as is.)

SOW-AGREEMENT #***
SOW-RFP PROJECT TITLE ***
PRE-QUALIFICATION CONTRACT # *** ("Master Agreement")

This is a Statement of Work Agreement ("SOW Agreement") between the State of Vermont, [CONTRACTING AGENCY] (hereafter called "State") and ***, with principal place of business at ***, (hereafter called "Contractor"). This SOW Agreement is entered into in accordance with the above-identified Master Agreement. The parties acknowledge and agree that all of the terms and conditions of the Master Agreement are hereby incorporated by reference into this SOW Agreement. This SOW Agreement supplements the Master Agreement only as to the below provisions that define project scope of work. Any other provisions, including those purporting to create any additional State obligation, or those that would in any way alter or qualify any term or condition of the Master Contract, shall be deemed null and void. This SOW Agreement shall supplement the Master Agreement and any provisions of this SOW Agreement which purport to amend, conflict or supersede the Master Agreement shall be void and have no effect. For purposes of this SOW Agreement, the terms and conditions of the Master Agreement shall take precedence and supersede in the event of any ambiguity, conflict or inconsistency with the provisions in this SOW Agreement, including any attachments hereto.

SAMPLE

1. Time for Performance

1.1. The term of this SOW Agreement shall begin on *** and end on *** (the "Initial Term"). The Initial Term may be extended as the parties may agree. The State may terminate this SOW for convenience upon thirty days prior written notice to the Contractor. If the Master Agreement should expire or otherwise terminate prior to the end of the term of this SOW Agreement, this SOW Agreement shall continue to the end of its existing term, unless or until terminated in accordance with the terms of this SOW Agreement, and the Parties acknowledge and agree that the terms of the Master Agreement shall survive and apply to this SOW Agreement.

2. Statement of Work

2.1. The Contractor shall, in full satisfaction of the specific requirements of this SOW Agreement, provide the services set forth herein. These services shall be provided in accordance with the Master Agreement and this SOW Agreement.

2.2. **In Scope:** (Copy and Paste Statement of Work Description and Deliverables from Attachment

D1)

2.2.1. Basic Services:
- 2.2.1.1. Planning and Programming
- 2.2.1.2. Schematic Design Phase:
- 2.2.1.3. Design Development Phase:
- 2.2.1.4. Construction Documents Phase:
- 2.2.1.5. Bidding or Negotiation Phase:
- 2.2.1.6. Construction Administration Phase

Delete the following paragraph if Submittal Exchange isn't going to be used:

2.2.2. ELECTRONIC SUBMITTALS:

Contractor shall obtain a license for the State to utilize Submittal Exchange for the purposes of this project. The State and its representatives will have full control of the use of Submittal Exchange by authorized users of the State.

A. Submittal Exchange® (www.submitalexchange.com) shall be used to provide an on-line database and repository, which shall be used to transmit and track project-related documents. The intent for using this service is to expedite the construction process by reducing paperwork, improving information flow, and decreasing submittal review turnaround time.

   a. Project submittals (shop drawing, product data and quality assurance submittals) shall be transmitted by the Contractor in PDF to Submittal Exchange®, where it will be tracked and stored for retrieval for review. After the submittal is reviewed it shall be uploaded back to Submittal Exchange® for action and use by the Contractor.
   b. The service also tracks and stores documents related to the project such as Request for Information (RFI's), Architect/Engineer's Supplemental Instructions (ASI), Information Bulletins (IB's), CAD Coordination, Commission, Construction Change Directive (CCD), Contractor's Daily Reports, Minutes, Photos, Quality Control, Shop Drawings, Testing, Closeout Documents including As-Built Drawings, Operations and Maintenance Manuals and other project related documents.
   c. The electronic submittal process shall not be used for color samples, color charts, or physical material samples.

B. The Project Manager will coordinate the initial training between the Contractor and Submittal Exchange®.

SAMPLE

PAYMENT PROVISIONS

1. The maximum amount payable under this SOW Agreement is $***. Payments of invoices shall be made in accordance with the payment provisions in the Master Agreement as further supplemented herein.

2. Contractor shall submit invoices to:

   State of Vermont, Agency/Dept.
   Attn: (Name of the Project Manager)
   Address of Agency/Department requiring work

3. **Invoices shall include the SOW Agreement # and Master Agreement # which appear atop the first page of this SOW Agreement.**

4. THE State shall compensate the ARCHITECT/ENGINEER, in accordance with the Terms and Conditions of this Agreement in one of the following manners:

   Project Manager needs to select one of the following paragraphs that identifies whether compensation is based on an Hourly Rate or Lump Sum Fixed Fee

   A. Compensation based on Hourly Rate:

      FOR THE ARCHITECT/ENGINEER'S BASIC SERVICES, as described in Paragraph 1.1, a Basic Fee computed as follows:

      Principals' time at the fixed rate of *** dollars ($***) per hour. For the purpose of this Agreement, the Principals are: ***

      Employees' time computed at a multiple of *** (***) times the employees' Direct Personnel Expenses as defined in Article 4.

      Services of professional consultants at a multiple of *** (***) times the amount billed to the ARCHITECT/ENGINEER for such services.

      The amount of said fee shall not in any event exceed *** dollars ($***)

OR

   A. Lump Sum or Fixed Fee

      FOR THE ARCHITECT/ENGINEER'S BASIC SERVICES, as described in Paragraph 1.1, a Basic Fee of a Lump Sum of dollars ($***) determined by multiplying the estimated construction cost by ***%.

   B. THE ARCHITECT/ENGINEER'S REIMBURSABLE EXPENSES, amounts expended as defined in Article 5.

SAMPLE

C. FOR THE ARCHITECT/ENGINEER'S ADDITIONAL SERVICES (if any), as described in Paragraph 1.3, a fee computed as follows:

Principals' time at the fixed rate of *** dollars ($***) per hour. For the purposes of this Agreement, the Principals are: ***

Employees' time computed at a multiple of *** times the employees' Direct Personnel Expense as defined in Article 4.

Additional services of professional consultants authorized in writing by the State at a multiple of *** (***) times the amount billed to the ARCHITECT/ENGINEER for such additional services.

D. THE TIME AND FURTHER CONDITIONS OF PAYMENT shall be as described in Article 6.

III. THE ARCHITECT/ENGINEER shall complete those duties set forth in Article 1, Paragraphs 1.1 through 1.1.41 of this Agreement on or before (Substantial Completion date) and one year warranty inspection(s) as may be required of the construction contract work by (Contract Completion date).

a. It is understood that any delay caused by the State shall result in a corresponding extension of the applicable period. It is the obligation of the Architect/Engineer to immediately notify State of the delay and to initiate a change order amending and extending the date in Paragraph III above, within 30 days.

b. THE ARCHITECT/ENGINEER shall include one (1) complete set of reproducible record prints, which shall be submitted to the State prior to final payment for basic services to the ARCHITECT/ENGINEER.

The following Paragraph, III (c), should be deleted if compensation is based on hourly rate as selected in II (A).

c. THE ARCHITECT/ENGINEER'S fee for basic services shall be adjusted at the completion of the design development phase by multiplying the accepted probable construction cost by the percentage in Paragraph II (A). For purposes of determining the ARCHITECT/ENGINEER's fee, the construction cost is exclusive of any contingency or other exclusions identified in Article 3. In the event that the State and the ARCHITECT/ENGINEER cannot agree on an "accepted probable construction cost", the State may at its option terminate the contract and pay the ARCHITECT/ENGINEER fees due up to the point of termination or direct the ARCHITECT/ENGINEER to develop construction documents and to bid these documents. In the later case, the ARCHITECT/ENGINEER's fee shall be based on the accepted construction bid or the ARCHITECT/ENGINEER's statement of probable construction cost at the design development phase, whichever is least.

OPTIONAL Need prior approval from Director before using Paragraph III (d)

d. The accepted probable construction cost used to determine the ARCHITECT/ENGINEER's fee (above) shall be converted to a "fixed limit of construction cost" by adding a bidding contingency of 5%. This fixed limit of construction cost shall be established as a condition of this Agreement per Article 3.4.

SAMPLE

5. (Delete section if Time & Materials agreement, or revise table as needed) For fixed price deliverables, Contractor shall be paid in accordance with the payment schedule included below.

Description	Price	Delivery Date
Planning and Programming	$	
Schematic Design	$	
Design Development	$	
Construction Documents	$	
Bidding or Negotiation	$	
Construction Administration	$	
Reimbursable Expenses	$	
Total Project Cost	**$**	

6. (Delete section if Fixed-Price agreement, or revise table as needed) For services performed on a time and materials basis, Contractor shall be paid in accordance with the payment schedule below, and in accordance with the schedule of rates set forth in the Master Agreement, which may be set forth herein for reference.

Description	Hours (hourly rates as established in the Master Contract)	NTE Amount	Completion Date
Planning and Programming		$	
Schematic Design		$	
Design Development		$	
Construction Documents		$	
Bidding or Negotiation		$	
Construction Administration		$	
Reimbursable Expenses		$	
Totals		$	

6.1. INSERT RATES FROM MASTER AGREEMENT

7. (Delete or revise as needed) The State shall withhold 10% of each payment as retainage. Upon completion of the SOW Project in accordance with the prescribed project timeline, and to the satisfaction of the State, Contractor may submit a single invoice for the amount of retainage.

8. **REQUIRED CONTRACTOR CERTIFICATIONS**

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

8.2. Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this SOW Agreement is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred,

SAMPLE

suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

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

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

8.4. Sole Source Contract for Services. This Contract results from a "sole source" procurement under State of Vermont Administrative Bulletin 3.5 process and Contractor hereby certifies that it is and will remain in compliance with the campaign contribution restrictions under 17 V.S.A. § 2950.

8.5. State and Federal Terms for Products and Services. Contractor agrees that "STATE OF VERMONT-FEDERAL TERMS SUPPLEMENT (Non-Construction) for all Contracts and Purchases of Products and Services Using Federal Funds (Revision date: July 28, 2022)" which is attached as Attachment *** to this amendment, applies to any products or services provided to the State, at any time, when using federal funds.

Commented [A1]: **Instruction for when to use Section:** This language must be included in all sole source contracts, regardless of dollar amount. Otherwise, for contracts that result from an RFP or simplified bid, delete this language.

Commented [A2]: **Instruction for when to use Section:** This language must be included in any amendment to a pre-existing contract for which federal funds will now be used. This language can be deleted here if this requirement is not applicable.

This document consists of *** pages.

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS SOW AGREEMENT.

Insert SOW contractor Name

_____ _____

Signature Date

STATE OF VERMONT, Insert Requesting Agency or Department Name

_____ _____

Signature Date

SAMPLE

ATTACHMENT D3

STATE OF VERMONT
STATEMENT OF WORK AMENDMENT

(NOTE: Text that appears in orange letters is instructive only and should be deleted from the final SOW-Amendment. Text in yellow highlighting must be updated or deleted. Utilize or delete paragraphs as appropriate to the amendment. Text that appears in black letters should be included in the amendment as is.)

SOW-AGREEMENT # ***Amendment No. ***
PRE-QUALIFICATION CONTRACT # ***("Master Agreement")

It is hereby agreed by and between the State of Vermont, AGENCY/DEPARTMENT (the "State") and CONTRACTOR NAME, with a principal place of business in CITY, STATE (the "Contractor") that the above SOW Agreement between them originally dated as of SOW START DATE, as amended to date, (the "SOW Agreement") is hereby amended as follows:

(remove/expand/revise the below amendment items, as applicable)

1. **Time of Performance**. The SOW Agreement end date, wherever such reference appears in the SOW Agreement, shall be changed from OLD SOW END DATE to NEW SOW END DATE.

2. **Maximum Amount**. The maximum amount payable under the SOW Agreement, wherever such reference appears in the SOW Agreement, shall be changed from $*** to $***, representing an increase / a decrease of $***.

3. **Scope of Work**. The scope of work is amended as follows:

   3.1. EXAMPLE: Section ## is amended by the addition of the following requirements [OR] Section ## is hereby deleted in its entirety and replaced as set forth below:

4. **Payment Provisions**. The payment provisions are amended as follows:

   4.1. EXAMPLE: Section ## is amended by the addition of the following requirements [OR] Section ## is hereby deleted in its entirety and replaced as set forth below:

5. REQUIRED CONTRACTOR CERTIFICATIONS

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

5.2. **Certification Regarding Suspension or Debarment**. Contractor certifies under the pains and penalties of perjury that, as of the date this SOW Amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred,

SAMPLE

suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

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

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

5.4. Sole Source Contract for Services. This Contract results from a "sole source" procurement under State of Vermont Administrative Bulletin 3.5 process and Contractor hereby certifies that it is and will remain in compliance with the campaign contribution restrictions under 17 V.S.A. § 2950.

5.5. State and Federal Terms for Products and Services. Contractor agrees that "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) for all Contracts and Purchases of Products and Services Using Federal Funds (Revision date: July 28, 2022)" which is attached as Attachment ___ to this amendment, applies to any products or services provided to the State, at any time, when using federal funds.

Commented [A1]: Instruction for when to use Section: This language must be included in all sole source contracts, regardless of dollar amount. Otherwise, for contracts that result from an RFP or simplified bid, delete this language.

Commented [A2]: Instruction for when to use Section: This language must be included in any amendment to a pre-existing contract for which federal funds will now be used. This language can be deleted here if this requirement is not applicable.

This document consists of *** pages. Except as modified by this SOW Amendment No. ***, all provisions of the SOW Agreement remain in full force and effect.

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS AMENDMENT TO THE SOW AGREEMENT.

Insert SOW Contractor Name

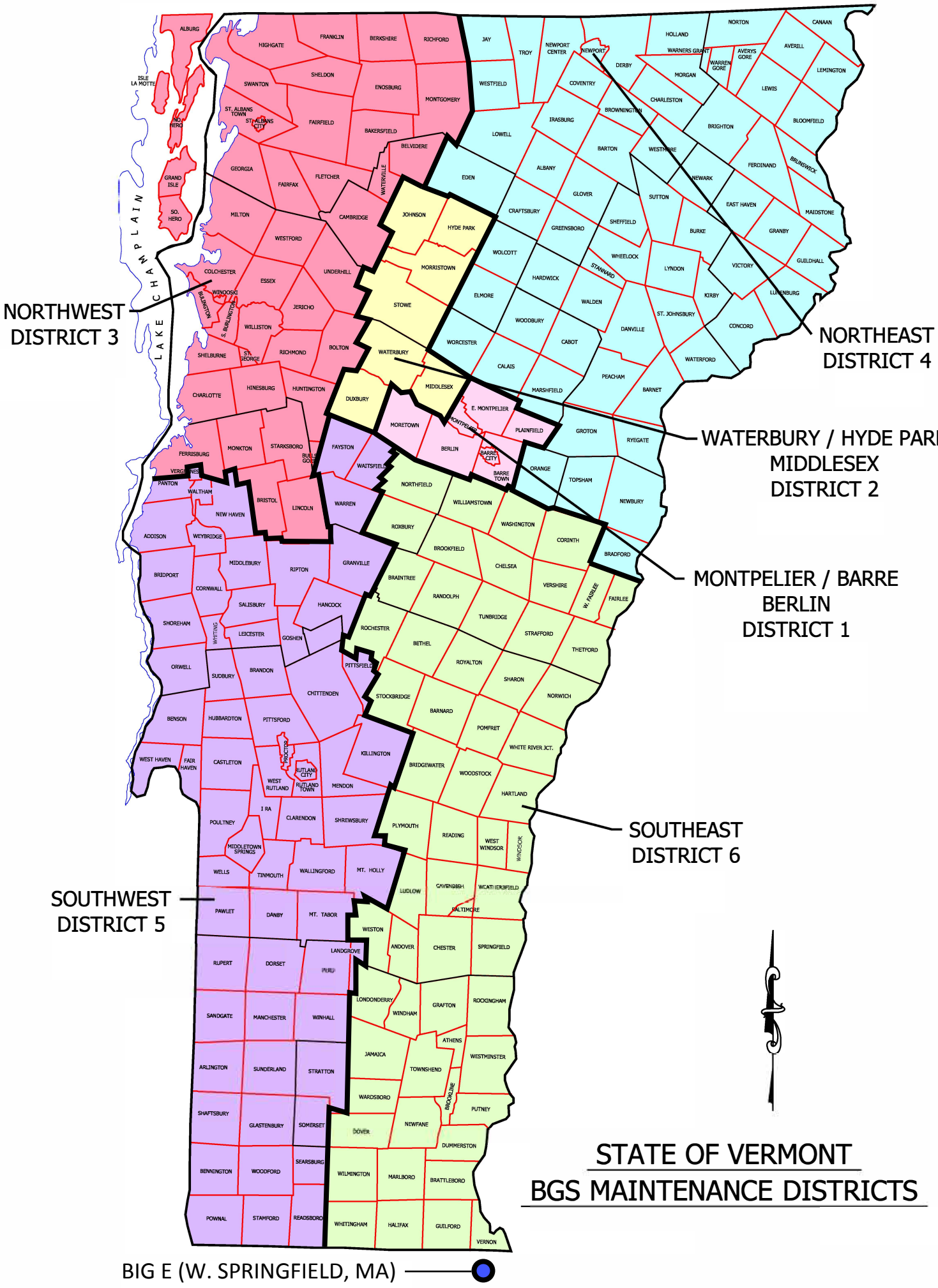
_____ _____

Signature Date

STATE OF VERMONT, Insert Requesting Agency/Department Name

_____ _____

Signature Date

SAMPLE

Attachment E