



*State of Vermont*

Contract Administration  
219 North Main Street, Suite 105  
Barre, VT 05641  
<http://vtrans.vermont.gov/>

*Agency of Transportation*  
*Finance & Administration*

December 18, 2023

**On-Ramp Request for Proposals (RFP): Primary Facilities Job Order  
Contracts #FC002-01 JOC Facilities – On-Ramp RFP**

Dear Bidders:

The Vermont Agency of Transportation (AOT) releases this Request for Proposals (RFP) for Facilities Job Order Contracts (JOCs) to provide equipment, personnel (operators, laborers), and necessary materials for facilities projects, related maintenance, and repairs. AOT seeks qualified contractors to perform preventive maintenance and repair services, including necessary equipment and materials for the agency of transportation in the categories of carpentry, electrical, fencing, and HVAC- plumbing. This RFP will result in the award of Primary Contracts to multiple Contractors. **This RFP is for a Contractor On-Ramp. If your organization submitted a proposal in response to the FC002 RFP and received award on all desired scopes, you do NOT need to resubmit a proposal.** If your organization did *not* receive award on all scopes desired and you wish to be reconsidered, please re-submit your proposal in response to this FC002-01 JOC Facilities-On Ramp RFP. Prior FC002 proposals will not be included for consideration for any scopes without a new proposal submission.

Each JOC awarded will specify:

- The hourly rates for the specified equipment, associated operators and for the tradespersons hourly rate
- The equipment each contractor will make available; and
- The geographical region in which the bidder is willing to operate under a JOC.

Bidders may propose one or more scopes of work and one or more regions. AOT reserves the right to award Primary Contracts that contain some, but not all, of the work types and/or regions requested by a Contractor. Bidders selected for Primary Contracts under this RFP will become part of a “pool” of Contractors who may be solicited to bid on Job Orders for specific projects in the categories of work and regions for which they are selected, which will be listed in the Primary Contract. Facility JOC contracts provide the AOT with an efficient vehicle to procure services in both planned and unplanned circumstances. Multiple primary scopes of work have been developed that would allow for successful completion of most work activities.

**SCOPE OF WORK:**

All work will be accomplished in accordance with the follow scopes. A brief description for all the available scopes is below. In the documents to follow will be the more detailed version of the scopes you see below.

- A-1 Carpentry Services
- A-3 Electrical Services
- A-4 Fencing Services
- A-7 HVAC-Plumbing Services

**Contract Term.** AOT will enter into Primary Facility Job Order Contracts, with an initial term of two (2) years with the option of extending for two (2) additional one (1) year periods. For new Contractors, AOT will enter into Primary Contracts with an initial term which will co-term with the existing Facility Job Order Contract pool end date of June 30, 2025. For existing Facility Job Order Contractors, the additional scopes of work will be added through amendment to the existing contract and the end date will remain the same.

The maximum limiting amount (MLA) will vary based upon the scopes of work awarded along with the workable region. The MLA's for JOCs does not guarantee that an awardee will receive any work under the JOC or the payment of any portion of the maximum limiting amount. ***Award of a contract does not guarantee payment of any or all of the maximum limiting amount as the minimum limited amount is \$0.00.***

**Confidentiality.** All Proposals received will become part of the contract file and will become a matter of public record, and may be disclosed to the public in accordance with the Vermont Public Records Act, 1 V.S.A. § 315 et seq. If the proposal documents include material that is considered by the bidder to be proprietary and confidential under 1 V.S.A. § 315 et seq., the bidder shall submit a cover letter that clearly identifies each page or section of the proposal that it believes is proprietary and confidential. The bidder shall also provide in their cover letter a written explanation ***for each marked section*** explaining why such material should be considered exempt from public disclosure in the event of a public records request, pursuant to 1 V.S.A. § 317(c), including the prospective harm to the competitive position of the bidder if the identified material were to be released. Additionally, the bidder must include a redacted copy of its response for portions that are considered proprietary and confidential. Redactions must be limited so that the reviewer may understand the nature of the information being withheld. It is typically inappropriate to redact entire pages, or to redact the titles/captions of tables and figures. Under no circumstances can the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.

**Pre-Bid Informational Meeting.** There will be no formal pre-bid meeting for this Request for Proposals. Please address any questions through the formal Question & Answer process below.

**Questions.** All questions related to this RFP shall be forwarded by e-mail to [aot.joc@vermont.gov](mailto:aot.joc@vermont.gov) **All such questions and requests shall be received no later than 2:00 PM on January 22, 2024.** AOT will not be bound by any oral communications. All questions or requests for clarification received will be documented and answered after this date.

**Communications.** ***Communication with AOT personnel other than the listed contracts specialist regarding this procurement is prohibited and may result in the rejection of your proposal.*** It is a condition of bidding under this RFP that by submitting a bid, bidder accepts and agrees unconditionally that if bidder in any way contacts a AOT evaluator involved in the selection process for this contract, either during or following the RFP process, regarding the selection process or outcome of the selection process, then that bidder will be completely barred from being awarded a contract by AOT for 365 days from the date that bidder contacted the AOT evaluator. ***All communications and/or questions about this RFP please submit to: AOT.JOC@vermont.gov.***

**Modifications.** In the event that it becomes necessary to revise, modify, clarify, or otherwise alter this RFP, including AOT responses to questions and requests for clarification, such modification shall be posted via Addendums to the AOT Contract Administration Advertised Projects website at:

<https://vtrans.vermont.gov/contract-admin/bids-requests/job-order-contracting>

IT IS THE BIDDER'S RESPONSIBILITY TO OBTAIN ANY RFP MODIFICATIONS ISSUED.

All modifications will be posted on the AOT Contract Administration website at:

<https://vtrans.vermont.gov/contract-admin/bids-requests/job-order-contracting>.

**Required Electronic Submission Information.** All proposals shall be received via e-mail [AOT.JOC@vermont.gov](mailto:AOT.JOC@vermont.gov).

When submitting your proposal(s) please use the following name convention: FC002-01 JOC Facilities On-Ramp RFP (Contractor Name) Proposal Submission.

Submit your proposal to the Office of Contract Administration, Agency of Transportation, via e-mail prior to **Monday January 29, 2024, prior to 2:00 PM.**

Proposals or unsolicited revisions submitted after the specified due date and time will not be accepted.

**Reservation of Rights.** All proposals become the property of AOT upon submission. The cost of preparing, submitting, and presenting a proposal is the sole expense of the proposing Contractor. Unselected proposals may be destroyed or returned to the bidder at AOT discretion. AOT reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel this RFP in part or in its entirety if it is in the best interests of AOT. This solicitation of proposals in no way obligates AOT to award a contract.

**Exceptions to Terms and Conditions.** The bidder must state in the business proposal any exceptions taken to the terms and conditions in this RFP. For each exception, the bidder shall identify the term or condition, state the reason for the exception, and provide any other information concerning the exception. Such exceptions, deviations or conditional assumptions may, however, result in rejection of the proposal as unresponsive.

**Multiple Award Anticipated.** AOT intends to award more than one JOC Primary contract.

#### Proposal Instructions – General

- The quality of proposals and adherence to solicitation response requirements and/or restrictions are considered reflective of the manner in which the bidder could be expected to conduct business and will be given due consideration throughout the evaluation process.
- Failure to provide all required information, or indications that the bidder will not conform to all terms as set forth in the RFP and attachments may make the offer non-responsive and may result in the elimination of the bidder from further consideration forward.
- The selection panel may be comprised of AOT employees from varying Departments and Bureaus and in some cases external Stakeholders. The panel members may or may not be familiar with your company. With that in mind, it is important to provide detailed information regarding the evaluation criteria listed below.

#### Technical Proposal Format and Content

The proposal shall not exceed the equivalent of twenty (20) single sided pages. All pages that count toward the page limit shall be numbered consecutively. The pages shall be formatted as 8½” x 11” sheets. Font shall be size 12.

The proposal pages shall include information as required below:

Proposal Substantive Content

1. **Attachment I- Work Types and Regions.** The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.
  - o Identify all the regions the contract will provide equipment and/or service(s). Please use the Region Map provided at: <https://vtrans.vermont.gov/operations/districts> to identify AOT Region areas. Should you desire to work in all available Regions, please indicate “ALL” in the appropriate column to indicate Statewide availability.
2. **Attachment K – Vermont Certificate of Compliance.** The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.
3. **Attachment L – Contractor’s EEO Certification.** The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.
4. **Attachment M – Past Performance** Provide a written description of why the bidder believes it has the capability and experience to meet the needs of AOT in supplying the equipment and labor indicated in the Bid Sheet, in a timely and high-quality manner. This should not exceed two (2) pages, and should describe:
  - a. Years of experience
  - b. Work types/projects successfully completed.
  - c. Special licenses or certifications possessed if any
  - d. The experience level of personnel
  - e. The company’s safety record, certifications, and trainings
5. **Attachment N –Contractor Information**
6. **Attachment P – Climate Change Considerations in State Procurements Certification.** The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.
7. **Attachment R- Equipment Rate Sheet.** Use the attached Equipment Rate Sheet to identify and list the equipment, labor rates, and designate regions.
 

Please note the following information when filling out your Equipment Rate Sheet: Equipment Descriptions. When listing equipment on the Bid Sheet, provide details such as make, model, size, and special features. If there is a piece of equipment not listed on the Bid Sheet, describe the equipment using the category of “Other.” Please note the Hourly Labor Rate column is solely for the hourly rate associated with the piece of equipment and remains separate from the Tradesperson Hourly Rates in Attachment S.

  - o **Mobilization.** Contractors must provide pricing for any trucks and trailers that will be utilized for mobilization as part of their equipment list and rates. Listed equipment and labor rates will be utilized by AOT when reimbursing contractors for mobilization costs. Do not include a standard hourly mobilization rate, this will be determined based on the equipment/labor used to mobilize and time to the particular job site as listed in the Job Order. The maximum reimbursement for mobilization will be for the time required to move equipment from the Contractor's location where equipment is usually housed, to the job site, and back.
8. **Attachment S -** Use the attached Tradesperson Hourly Rate Sheet to identify and list the differing labor rates by job title.

**Evaluation of Proposals:** AOT will award JOCs in the best interest of the State. In making best interest determinations, the selection panel will evaluate proposals based upon the following factors:

1. **Technical Capability and Experience:** The proposal indicates the bidder has the personnel, experience, and/or equipment to deliver timely, high-quality, compliant contract performance.
2. **Past Performance:** The proposal indicates successful performance and completion of similar work types in the past (not necessarily with AOT).  
NOTE: AOT may consider any information in its possession regarding past performance on AOT contracts. AOT reserves the right to discuss the Contractor's past performance with any AOT employee who has had experience with the Contractor. Debarred firms will not be considered.
3. **Price.** During the RFP process: AOT reserves the right to reach out to contractors to attempt negotiations of proposed Rate Sheets. All Primary contracts will reflect final pricing for Job Orders under that contract.
4. **Executive Order 05-16: Climate Change Considerations in State Procurements:** Preference will be given as described below to businesses that demonstrate business practices that promote clean energy and address climate change as identified in the Certification.
5. **Vermont Preference:** Preference will be given as described below to Vermont businesses.

Evaluation of Proposals

- A selection committee will review all complete and compliant proposals and rate factors 1-3 above as **pass, fail, or neutral**. Failure on any of these factors may disqualify the proposal. AOT may attempt to negotiate lower prices where unreasonably high prices alone cause a fail rating.
- With respect to factors 4 and 5, *all other considerations being equal*, preference will be given first to resident bidders of the state and, and then to bidders who have practices that promote clean energy and address climate change, as identified in the applicable Certificate of Compliance.
- Assigned ratings represent the consensus developed by the selection committee.
- When determining JOC awards in the best interest of the State, AOT, in its sole discretion, will consider which and how many JOCs will be needed to meet the state's needs in terms of necessary equipment and/ or services based on availability and geographical coverage.

Other Requirements:


- **Registration with the Secretary of State.** The Bidder awarded a contract shall, upon notification of award, apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier VT 05609-1101. The telephone number is 800-439-8683. Registration can be completed online at [www.vtsosonline.com/online](http://www.vtsosonline.com/online) . AOT will not process the contract until the contractor is registered with the Secretary of State's office.



- **Required Insurance.** The Bidder shall submit to AOT a certificate of insurance showing that minimum coverage required by Attachment C are in effect. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. ***No work may be performed for any AOT contract and/or Notice to Proceed, including mobilization, without compliant insurance being on file at AOT Contract Administration.*** It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract.
- *Additional Insurances Where Applicable.*
  - o **Railroad Protective Liability.** In normal instances this will not be required and will be specified if needed. When a Job Order requires work on, over, or under the right-of-way of any railroad, the Contractor shall provide and file with the Agency, with respect to the operation that it or its subcontractor perform under the State of Vermont Agency of Transportation contract, Railroad Protective Liability Insurance for and on behalf of the railroad as named insured, with the State, the Railroad, and Municipalities, when applicable, named as additional insured, providing coverage limits of:
    - (1) Not less than \$2,000,000.00 for all damages arising out of any one accident or occurrence, in connection with bodily injury or death and/or injury to or destruction of property; and
    - (2) Subject to that limit per accident, a total (or aggregate) limit of \$6,000,000.00 for all injuries to persons or property during the policy period.
- **Worker's Compensation:** With respect to all operations performed, the contractor shall carry worker's compensation insurance in accordance with the laws of the State of Vermont. ***NOTE: In the case of out-of-state Bidders, the Bidder's workers' compensation insurance carrier must be licensed to write workers' compensation for all work that will be conducted within Vermont and so noted on the Certificate of Insurance.***
- **Contract Execution.** The Contractor shall sign the contract documents and return them to the Agency's Office of Contract Administration within fifteen (15) calendar days from the date of the award notification. No contract shall be considered effective until it has been fully signed by all parties. Failure to sign and return all contract documents, including insurance certificates in accordance with instructions within fifteen (15) days may result in retraction of the award.
- *Bidder Assistance:*
  - o If a bidder requires assistance in preparing their proposal or needs guidance on socioeconomic certifications, the bidder may contact Vermont APEX Accelerator (formerly The Procurement Technical Assistance Center (PTAC)). They specialize in helping small businesses navigate the documentation associated with State and Federal procurement. Their website is: <https://accd.vermont.gov/economic-development/programs/ptac>
  - o The Vermont Business Development Program(VBDP) helps Disadvantage Business Enterprise(DBE) certified businesses to develop and implement business plans and increase participation on AOT federally funded projects. Businesses selected for the program receive one-on-one assistance to establish effective marketing strategies, projects, and goals

All Bidders are hereby notified that proposals must be received by the due date and time. Proposals received after the due date and time will not be considered. All proposals become the property of AOT upon submission. The cost of preparing, submitting, and presenting a proposal is the sole expense of the Bidder. VTrans reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel in part or in its entirety this RFP if it is in the best interests of AOT. This solicitation of proposals in no way obligates VTrans to award a contract.

Sincerely,

DocuSigned by:  
  
 C67F21BC357447D...  
 Stacy Andre

Administrative Services Director II Construction  
 Contracting Unit Contract Administration  
 Finance & Administration



## Enclosures:

- Attachment A: Scopes of Work
  - A-1 Carpentry
  - A-3 Electrical Services
  - A-4 Fencing Services
  - A-7 HVAC-Plumbing Services
- Attachment B: Payment Provisions
- Attachment C: Standard State Provisions for Contracts and Grants dated December 7, 2023
- Attachment D: Other Provisions
- Attachment E: AOT General Terms and Conditions for Contracts for Services – 2020
- Attachment F: *Not Applicable, Reserved for Federal Contract Provisions*
- Attachment G: *Not Applicable, Reserved for Federal Contract Provisions*
- Attachment H: Title VI Assurances, Appendices A & E
- Attachment I: Contractor's Request for Work Types and Regions
- Attachment J: Certificate of Compliance (Form CA-271)
- Attachment K: Debarment and Non-Collusion Affidavit (Form CA-91)
- Attachment L: EEO Certification Form (Form CA-109)
- Attachment M: Past Performance Questionnaire and Reference Forms
- Attachment N: Contractor Information Form
- Attachment O: Job Order Form
- Attachment P: Executive Order 05-16: Climate Change Considerations in State Procurement Certification
- Attachment Q: Equipment List
- Attachment R: Equipment Rate Sheet
- Attachment S: Tradesperson Hourly Rate Sheet

**ATTACHMENT A-1**  
**VTrans Facilities Carpentry Services**  
**Scope of Work**

Work shall consist of, but not limited to, carpentry services and repairs to AOT facilities for new construction or renovations. These facilities consist of highway maintenance facilities, state airports, rail facilities, as well as other state-owned properties. Contract is intended to be utilized for projects/repairs, emergency responses and/or on an as needed basis.

Carpentry work may include, construction of new small structures, insulation and vinyl siding projects, lean to construction, sheds, window and door repairs, minor roofing repairs, or other miscellaneous carpentry related items. All work performed must be done in accordance with all State, Federal, FAA, and Railroad codes. Contractor may be required to follow specific AOT safety guidelines. All work to be performed by a qualified employee who is properly licensed, if applicable to do such work and be of sufficient number to perform services efficiently and in a manner satisfactory to the State representative.

The Contractor shall furnish the required supplies and equipment, laborers and other employees to the State at the rates submitted with this proposal. Specific work assignments will be coordinated by the AOT Facilities Manager or his representative and may be carried out in conjunction with other State authorized personnel.

The contractor and all associated subcontractors shall provide all safeguards, safety devices and protective equipment, and take any other needed actions as it determines, or as the VTrans authorized representative may determine, to be reasonably necessary to protect the life and health of employees on the job, and the safety of the public, and to protect property in connection with the project. The contractor must follow the OSHA requirements for PPE as set forth in the Code of Federal Regulations (CFR) at 29 CFR.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the Vermont Agency of Transportation's Standard Specifications for Construction 2018.

The contractor shall submit to the State a certificate of insurance showing that the minimum coverages are in effect. Please see Attachment "C" Standard State Provisions for Contracts and Grants for the insurance requirements. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract. The contractor must also maintain a current business registration with the Vermont Secretary of State.



**ATTACHMENT A-3**  
**VTrans Facilities Electrical Services**  
**Scope of Work**

Work shall consist of, but not limited to, electrical services and repairs to AOT facilities for new construction or renovations. These facilities consist of highway maintenance facilities, state airports, rail facilities, as well as other state-owned properties. Contract is intended to be utilized for projects/repairs, emergency responses and/or on an as needed basis.

Electrical work may include general electrical activities, installation of new lighting, electrical safety upgrades, airport runway lighting, traffic lights, repairs to existing electrical systems, or other miscellaneous related items. Troubleshoot & repair of Airfield Lighting Systems and Beacons on & off airport property.

Contractor must have qualified/trained personnel who must be able to climb Beacons & steel and/or wood Towers to:

- Change / Repair lamps
- Change / Repair Flasher Controls
- Repair Solar Hazard Beacons

Beacon towers may be up to 150' in height and must be climbed by qualified personnel.

A bucket truck will be necessary for parking lot and ramp lights.

All work performed must be done in accordance with all State, Federal, FAA, and Railroad codes. Contractor may be required to follow specific AOT safety guidelines.

All work to be performed by a qualified employee who is properly licensed, if applicable to do such work and be of sufficient number to perform services efficiently and in a manner satisfactory to the State representative.

The Contractor shall furnish the required supplies and equipment, laborers and other employees to the State at the rates submitted with this proposal. Specific work assignments will be coordinated by the AOT Facilities Manager or his representative and may be carried out in conjunction with other State authorized personnel.

The contractor and all associated subcontractors shall provide all safeguards, safety devices and protective equipment, and take any other needed actions as it determines, or as the VTrans authorized representative may determine, to be reasonably necessary to protect the life and health of employees on the job, and the safety of the public, and to protect property in connection with the project. The contractor must follow the OSHA requirements for PPE as set forth in the Code of Federal Regulations (CFR) at 29 CFR.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the Vermont Agency of Transportation's Standard Specifications for Construction 2018.

The contractor shall submit to the State an electronic certificate of insurance showing that the minimum coverages are in effect. Please see Attachment "C" Standard State Provisions for Contracts and Grants for the insurance requirements. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract. The contractor must also maintain a current business registration with the Vermont Secretary of State.

**ATTACHMENT A-4**  
**VTrans Facilities Fencing Services**  
**Scope of Work**

Work shall consist of, but not limited to, fencing services and repairs to AOT facilities for new construction or renovations. These facilities consist of highway maintenance facilities, state airports, rail facilities, as well as other state-owned properties. Contract is intended to be utilized for projects/repairs, emergency responses and/or on an as needed basis.

Fencing work may include, installation of new chain link fencing, installation of swing or motorized access gates, fence post installation or straightening, fencing repairs, or other miscellaneous fencing/gate related items. All work performed must be done in accordance with all State, Federal, FAA, and Railroad codes. Contractor may be required to follow specific AOT safety guidelines.

All work to be performed by a qualified employee who is properly licensed, if applicable to do such work and be of sufficient number to perform services efficiently and in a manner satisfactory to the State representative.

The Contractor shall furnish the required supplies and equipment, laborers and other employees to the State at the rates submitted with this proposal. Specific work assignments will be coordinated by the AOT Facilities Manager or his representative and may be carried out in conjunction with other State authorized personnel.

The contractor and all associated subcontractors shall provide all safeguards, safety devices and protective equipment, and take any other needed actions as it determines, or as the VTrans authorized representative may determine, to be reasonably necessary to protect the life and health of employees on the job, and the safety of the public, and to protect property in connection with the project. The contractor must follow the OSHA requirements for PPE as set forth in the Code of Federal Regulations (CFR) at 29 CFR.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the Vermont Agency of Transportation's Standard Specifications for Construction 2018.

The contractor shall submit to the State an electronic certificate of insurance showing that the minimum coverages are in effect. Please see Attachment "C" Standard State Provisions for Contracts and Grants for the insurance requirements. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract. The contractor must also maintain a current business registration with the Vermont Secretary of State.

**ATTACHMENT A-7**  
**VTrans Facilities HVAC/Plumbing Services**  
**Scope of Work**

Work shall consist of, but not limited to, HVAC/Plumbing services and repairs to AOT facilities for new construction or renovations. These facilities consist of highway maintenance facilities, state airports, rail facilities, as well as other state-owned properties. Contract is intended to be utilized for projects/repairs, emergency responses and/or on an as needed basis.

HVAC/Plumbing work may include general HVAC and plumbing activities, installation of new heating systems, preventive maintenance, wood boiler installation, plumbing repairs, repairs to existing HVAC systems, or other miscellaneous related items. All work performed must be done in accordance with all State, Federal, FAA, and Railroad codes. Contractor may be required to follow specific AOT safety guidelines.

All work to be performed by a qualified employee who is properly licensed, if applicable to do such work and be of sufficient number to perform services efficiently and in a manner satisfactory to the State representative.

The Contractor shall furnish the required supplies and equipment, laborers and other employees to the State at the rates submitted with this proposal. Specific work assignments will be coordinated by the AOT Facilities Manager or his representative and may be carried out in conjunction with other State authorized personnel.

The contractor and all associated subcontractors shall provide all safeguards, safety devices and protective equipment, and take any other needed actions as it determines, or as the VTrans authorized representative may determine, to be reasonably necessary to protect the life and health of employees on the job, and the safety of the public, and to protect property in connection with the project. The contractor must follow the OSHA requirements for PPE as set forth in the Code of Federal Regulations (CFR) at 29 CFR.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the Vermont Agency of Transportation's Standard Specifications for Construction 2018.

The contractor shall submit to the State an electronic certificate of insurance showing that the minimum coverages are in effect. Please see Attachment "C" Standard State Provisions for Contracts and Grants for the insurance requirements. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract. The contractor must also maintain a current business registration with the Vermont Secretary of State.

## **ATTACHMENT B PAYMENT PROVISIONS**

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

**All Services shall be invoiced according to the payment provisions listed below:**

### **HOURLY CLASSIFICATION RATES:**

The hourly classification rates listed below will be in effect for the entire original term of the contract. The rates are subject to revision through an administrative adjustment during the first optional one (1) year extension period and will be in effect for both optional one (1) year extensions.

Addition of classifications are permitted with an administrative adjustment. The new classifications and the rates associated must be submitted to the Contract Manager. The Contract Manager will then submit any approved additions to Contract Administration for inclusion into the contract. The Contract Manager may negotiate the classification rates prior to approval. Addition of the new classifications will be captured formally within the contract with the next amendment. This does not apply to rate changes; this is for any new classifications not previously included in the contract.

Addition of equipment is permitted with an administrative adjustment. The new equipment and the rates associated must be submitted to the Contract Manager. The Contract Manager will then submit any approved additions to Contract Administration for inclusion into the contract. The Contract Manager may negotiate the equipment rates prior to approval. Addition of the new equipment will be captured formally within the contract with the next amendment. This does not apply to rate changes; this is for any new equipment not previously included in the contract.

Subcontractor(s), materials, and other direct expenses are allowed a markup not to exceed 10%. A copy of the invoice(s) verifying the charges must be attached to the billing sent to AOT.

### **FIRM FIXED PRICE:**

Firm fixed price assignments will be billed at the percent complete by deliverables at the time of billing and shall not be billed 100% until all final reports and requirements are complete and accepted by AOT.

Invoices shall contain the deliverables, firm fixed price of each deliverable, amount billed to date by deliverable, current billing amount by deliverable, amount remaining by deliverable, total amount billed to date, total current amount billed and total amount remaining.

Firm fixed price assignments are inclusive of all expenses. All labor, materials, subcontractor services and direct and indirect expenses are included in the firm fixed price. Invoices for any of these items will not be accepted or processed.

Firm fixed price assignments will not exceed the agreed-upon price unless at AOT sole discretion in which there is a significant change of scope to the service or product. The Project Manager and/or Contract Manager will negotiate the change with the Contractor. Once negotiations are complete the Project Manager and/or Contract Manager will submit written justification describing the change in scope and the revised firm fixed price. The change will be reflected in an amendment to the contract. No services or invoicing for the approved change will be provided until a fully signed amendment is in place.

**Mobilization:** The maximum reimbursement for mobilization will be for the time required to move equipment from the Contractor's location where equipment is usually housed, to the job site, and back, one time.

**Hourly Classification Rate Services:** Mobilization will be an hourly rate calculated based on the equipment required for that Work Order. Mobilization hourly rates will vary with each Work Order.

**Firm Fixed Price (lump sum) Services:** When the Work Order is based on a fixed fee/lump sum price, the mobilization shall be included in that firm fixed price.

**Idle Equipment:** Hourly rates do not apply to idle equipment that is at the job site. Hourly rates are for the time the equipment is being utilized to perform the services as described in the Work Order. Idle time is not reimbursable.

**Changes to Rates or Equipment Lists:** As approved by AOT, Contractors may add or delete equipment from the equipment lists that are part of the contract, as an Administrative Adjustment. Such changes will only be effective after the request has been approved by the Contract Manager and submitted to Contract Administration. Hourly classification rates may be adjusted only as part of amendments exercising the first option year in accordance with an approved request for revised pricing. The revised rates will be in effect for the two additional exercised option years.

### **Invoice Preparation and Submittal:**

Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, hours of work performed, rates of pay, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. **All invoices shall have a unique invoice number and follow a consistent numbering process. Invoices submitted without a unique invoice number will be returned.**

Invoices must clearly separate and subtotal the different services and expenses:

- Contractor Services (By Individual Task, Phase, Service or Deliverable, if applicable)
- Direct Expenses (By Individual expense)

If additional information and guidance is provided as part of this contract, it is expected that invoices will be submitted according to those requirements.

Work required during weekends, holidays, or outside of the typical working hours, shall be entitled to a rate increase. Written approval must be obtained from the AOT representative before overtime hours are utilized. **Holidays Include: New Years Day, Martin Luther King Jr. Day, President's Day, Town Meeting Day, Memorial Day, Independence Day, Bennington Battle Day, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving and Christmas Day.**

- **Hourly Rate Services/Agreements:** Any rate increase shall be identified on the Hourly Rate Sheet that is part of this agreement. Please reference **Attachment S.**
- **Firm Fixed Price Services/Agreements:** Increases are not applicable to a firm fixed price.

Should any information within the invoice submittal be missing or incorrect, processing may be delayed until a corrected invoice is provided and accepted by AOT. AOT Audit may select invoices to review for completeness, accuracy and compliance with contract terms.

For invoices that do not pertain to primary contracts with associated work authorizations, please submit your invoices to the following:

Name: Brad McAvoy, AOT Facilities Manager

Address: Agency of Transportation  
Finance & Administration Division  
219 No. Main Street  
Barre, VT 05641

Invoice must be emailed to: [brad.mcavoy@vermont.gov](mailto:brad.mcavoy@vermont.gov) and [aot.facilities@vermont.gov](mailto:aot.facilities@vermont.gov)



**ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS****REVISED DECEMBER 7, 2023**

**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. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

**3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. 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 regarding 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:**

- A.** 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.
- B.** 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.
- C.** 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.
- D.** 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:** During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: <https://aoa.vermont.gov/Risk-Claims-COI>.

**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:** Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) 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. Use and Protection of State Information:**

- A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").
- B. With respect to State Data, Party shall:
  - i. take reasonable precautions for its protection;
  - ii. not rent, sell, publish, share, or otherwise appropriate it; and
  - iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.
- C. With respect to Confidential State Data, Party shall:
  - i. strictly maintain its confidentiality;
  - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
  - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
  - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
  - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
  - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.iii above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
  - i. industry-standard firewall protection;
  - ii. multi-factor authentication controls;
  - iii. encryption of electronic Confidential State Data while in transit and at rest;
  - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
  - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;

- vi. training to implement the information security measures; and
  - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential 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 United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
- H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.

**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 this 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, and shall include this provision in all subcontracts for work performed in Vermont. 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. Offset:** The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

**16. Taxes Due to the State:** 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.

**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, Party is not under an 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. 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), as amended by Section 17 of Act No. 142 (2010) and by



Section 6 of Act No. 50 (2011).

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 (“Confidentiality and Protection of State Information”); 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. Regulation of Hydrofluorocarbons:** Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.

**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: <https://bgs.vermont.gov/purchasing-contracting/debarment>.

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

**24. Vermont Public Records Act:** Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information 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 lockouts) (“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 use the State’s logo or otherwise 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 this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement 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 Agreement immediately, and the State shall have no obligation to pay Party 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 Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. 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.
- 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 \$1,000, 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 Other Provisions**

**Job Orders.** As a need arises, AOT will place Job Orders for equipment, and any required materials and personnel with individual contractors whose JOCs include the required equipment and/or services for the respective region.

- The requesting AOT organization will utilize a standard **Job Order Form** (see Attachment S) for all tasks assigned under JOCs.
- Job Orders will be submitted and received electronically. All contractors must have the capability to electronically send and receive the **Job Order Form** (see Attachment P).
- Job Orders will be assigned to the contractor that represents the best value to the State, considering such factors as, but are not limited to, price, quality, past performance, and availability.
- All work performed must be done in accordance with all State, Federal, FAA, and FRA codes. Contractor may be required to follow specific AOT safety guidelines.
- All work is to be performed by a qualified employee who is properly licensed, if applicable, to do such work and be of sufficient number to perform services efficiently and in a manner satisfactory to the State representative.
- The Contractor shall furnish the required supplies and equipment, laborers, and other employees to the State at the rates submitted with this proposal. Specific work assignments will be coordinated by the AOT Facilities Manager or his representative and may be carried out in conjunction with other State authorized personnel.
- The contractor and all associated subcontractors shall provide all safeguards, safety devices and protective equipment, and take any other needed actions as it determines, or as the AOT authorized representative may determine, to be reasonably necessary to protect the life and health of employees on the job, and the safety of the public, and to protect property in connection with the project. The contractor must follow the OSHA requirements for PPE as set forth in the Code of Federal Regulations (CFR) at 29 CFR.
- All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the Vermont Agency of Transportation's Standard Specifications for Construction 2018.

### **Job Order Assignment Procedure.**

- AOT may decide, in its sole discretion, to place Job Orders with contractors based upon hourly rates or request lump sum pricing.
- Hourly Rates Only: If a Job Order is based on hourly rates only, and does not include lump sum pricing, AOT will review JOCs, identify contractors with the specialties sought, and select the



contractor that represents the best value to the State for that Job Order.

➤ **Lump Sum Pricing or Materials.** If a Job Order requires lump sum pricing, AOT will request at least three (3) quotes from JOC holders prior to placing the order with the contractor that represents the best value to the State.

**Job Order Limitation.** Individual Job Orders will not exceed \$100,000.00.

**Emergencies.** In emergency situations AOT may deviate from the above-described procedures to place Job Orders against JOCs.

**On-Ramp Procedures.** AOT reserves the right to add contractors to the JOC pool during the original and optional JOC periods. The evaluation and selection of awardees for any on-ramp will be the same as the evaluation and award criteria used for the initial JOC awards. Any new awardees will compete going forward with any existing or remaining contractors for all Job Orders. The period of performance for new awardees will not exceed the term of the original JOC, including options exercised.

**Off-Ramp Procedures.** In addition to any other means or methods of termination provided for in this contract, AOT reserves the right to terminate JOCs at any time when it determines that a Contractor has failed to deliver adequate performance or demonstrated inadequate availability. No JOC will be terminated via these off-ramp procedures prior to an opportunity for the contractor to respond to a proposed termination.

**Changes to Prices or Equipment Lists.** As approved by AOT, Contractors may add or delete equipment from the equipment lists that are part of the JOC contract, as an Administrative Adjustment within the terms of the contract. Such changes will only be effective when submitted to Contract Administration on the Administrative Adjustment form, and the contractor has been notified of acceptance and the effective date. Contract prices may be adjusted only as part of amendments exercising option years in accordance with an approved request for revised pricing.

**Subcontracting.** JOCs are to be utilized primarily for small maintenance and repair tasks, therefore subcontracting entire Job Orders will not be permitted, except in unusual circumstances as stated in the Job Order or with written permission from the AOT Authorized Representative.

**Performance Measures.**

At the conclusion of each Job Order or when the Contractor's performance is considered less than satisfactory, AOT will complete a contractor's performance evaluation. The evaluation will consider all aspects of the Contractor's performance. The Contractor will be provided with a copy of the performance evaluation and an opportunity to discuss the evaluation. AOT will maintain copies of evaluations for use in future procurement selections.

**Certificate of Insurance.** The contractor shall submit to the State a certificate of insurance showing that the minimum coverages are in effect. Please see Attachment "C" Standard State Provisions for Contracts and Grants for the insurance requirements. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract. The contractor must also maintain a current business registration with the Vermont Secretary of State.

**Measures to Mitigate Potential Impacts Due to the Covid-19 Pandemic.**

The Contractor is hereby notified that they should anticipate the possibility of future temporary Contract shutdowns, delays, or suspensions as a result of the COVID-19 pandemic. The Contractor shall consider risks associated with the COVID-19 pandemic as the Contractor develops project schedules and advances the work. The Contractor shall schedule work in a manner that in the event of a temporary shutdown, delay, or suspension, the impacts to mobility will be minimized. The sequence and progression of the work will be solely the Contractor's responsibility. The Contractor is expected to communicate with the Agency regularly to discuss the risks to the project and proposed mitigation measures. AOT will collaborate with the contractor to mitigate the risks to the project and adjust the sequence of work as necessary to ensure that mobility is not impaired unnecessarily.

If a shutdown, suspension or delay occurs due to the COVID-19 pandemic, the Contractor shall ensure the site is in a stable, safe, and maintainable condition by implementing mitigation measures. Such mitigation measures may include, but are not limited to, limiting the area of milled surfaces exposed at once, or limiting the number of work operations in progress at any one time. The Contractor is solely responsible for any additional maintenance activities or delays related to the sequence and progression of operations. The Agency has established a contract duration which may be longer than expected for the specified work to account for inefficiencies related to the COVID-19 pandemic. The Contractor should anticipate mobility, labor, employee protection measures and material supply issues related to the COVID-19 pandemic. The Contractor is also expected to comply with any Executive Orders.

**SITE CONDITION.** Prior to any shutdown or suspension, the site condition shall be in a stable, safe, and maintainable condition for the travelling public. Stable, safe, and maintainable condition means that the Contractor shall establish necessary erosion and environmental controls; ensure that the full width of the roadway is fully paved with no milled sections; install all safety features including guardrail, traffic signs, and pavement markings as designed or restored to the existing condition to meet the existing geometry; and undertake any additional measures as needed based on site conditions.

No lane reductions will be allowed through the winter months. Subsection 109.06 will not apply for work that is required to bring a project to a satisfactory shutdown condition. In the event of a project Suspension of Work Ordered by the Engineer, the Contractor will be reimbursed per Subsection 108.16.

**SUBSECTION 108.16(b).** Subsection 108.16(b) is hereby modified by adding the following language.

(1) The ownership costs for equipment with a current Blue Book value in excess of \$200,000.00 on site of an active project at the time of a suspension caused by the COVID-19 pandemic will be paid per Subsection 109.06(c).

**HEPA Filters and Cleaning Supplies (if applicable).**

SUBSECTION 631.02(a)(5). Subsection 631.02(a)(5) is hereby modified by adding the following as the second paragraph.

The heating and cooling systems shall be fitted with HEPA air filters meeting the requirements of the most current version of DOE-STD-3020. New HEPA filters shall be installed upon initial erection of the Field Office. All HEPA filters shall be replaced with new filters every 12 months, or when airflow through the filter becomes restricted, or as recommended by the manufacturer, whichever is more frequent.

SUBSECTION 631.02(a)(6). Subsection 631.02(a)(6) is hereby modified by being deleted in its entirety and

replaced with the following.

(6) Sanitary Facilities and Cleaning Supplies. Sanitary facilities consisting of a flush toilet, chemical toilet, or other approved type, shall be furnished by the Contractor, with proper sewage disposal as is necessary to comply with the requirements and regulations of the State and local Boards of Health and VOSHA. Sanitary facilities shall be cleaned and disinfected regularly, per the ACCD guidance at:

<https://accd.vermont.gov/news/update-new-work-safe-additions-be-smart-stay-safe-order>. The frequency of cleaning shall be a minimum of once a week or as directed by the Engineer. The degree of cleanliness shall be approved by the Engineer. Sanitary facilities shall be provided with either hot, running, potable water and soap, or an alcohol-based hand sanitizer containing at least 70% alcohol by volume, for use in washing hands.

A potable water system consisting of a sink with a faucet within the office, with a continuous supply of pressurized clean potable water, shall be supplied for the duration of the project. When clean potable water is not available, a commercial bottled drinking water system shall be installed in the Field Office complete with necessary disposable drinking cups (8 oz. size or larger), cup dispenser, and continuous water supply furnished for the duration of the project. The system shall supply both hot and cold water. The system and the bottled water shall be furnished by a commercial water service on a regular basis agreeable to the Engineer.

The Contractor shall supply the Field Office with hand sanitizer to be used for washing hands, and with a disinfectant for use in disinfecting surfaces. The hand sanitizer shall be alcohol based and shall contain at least 70% alcohol by volume. The disinfectant shall be one of the products identified on EPA List N: Disinfectants for Use Against SARS-CoV-2 (COVID-19), and shall have a contact time of 5 minutes or less, as specified on List N. If the disinfectant supplied is of the liquid or spray-on type, the Contractor shall also supply the Field Office with disposable paper towels for use in applying the disinfectant.

#### **Personal Protective Equipment (PPE).**

All Contractor personnel assigned to work under this contract shall wear approved Personnel Protective Equipment (PPE) similar to that used by employees of the State's transportation maintenance district. The Contractor shall furnish all PPE needed by the Contractor's employees during the course of work under this contract. The Contractor shall not be entitled to additional compensation for furnishing PPE to the Contractor's employees.

#### **Gender-Free Single Occupancy Restrooms.**

The Contractor shall comply with all of the requirements of Vermont Act 127 (H.333) relating to the designation and signage of single-user toilet facilities in public buildings or places of public accommodation. Any such facilities may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

#### **Contaminated Sharps (Hypodermic Needles).**

The Contractor is hereby notified that there are an increasing number of hypodermic needles (also known as contaminated sharps) being found throughout Vermont, and there is the potential to find them along any project. In accordance with Section 107.05, Sanitary Provisions, the Contractor is required to provide a neat and sanitary working environment for each of its employees and workers at no additional cost to the Agency.

The Contractor may reach out to local Police, the Town Health Officer or the Vermont Department of Health

at <https://dec.vermont.gov/content/safe-disposal-sharps> for guidance.

If the sharps are located in an area where work is required, the Contractor shall dispose of the sharps in accordance with OSHA Standard 1910.1030 for blood borne pathogens. OSHA has an e-tool for disposal of sharps on their website as well. The standard can be found at the following link:

[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=10051](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10051).

If the sharps are not in an area where the Contractor or workers will come into contact with them, it is best practice to avoid them altogether. The area can be marked, and workers should be notified to stay out of the area.

### **Wetlands.**

Debris should never be stored in a wetland, even temporarily. Debris removal from a wetland should be coordinated with DEC, USACE, and the U.S Fish and Wildlife Service. If a proposed project is located on or above a reach of a river designated as wild and scenic, it must be reviewed for compliance with the Wild and Scenic Rivers Act.

EO 11988 – Floodplain Management and EO 11990 – Protection of Wetlands require Federal Agencies to minimize or avoid activity that adversely affects floodplains and wetlands. FEMA’s regulations for applying EO’s 11988 and 11990 are outlined in 44 CFR Part 9.

The FEMA review process is not required for most projects where eligible damage is less than \$5,000.00. In addition, the review is not required for Category A (Debris Removal) and Category B (Emergency Protective Measures) projects, except for projects involving disposal of debris in Special Flood Hazard Areas or wetlands. *Prior to beginning work, the Contractor must confirm with AOT if the project involves floodplains or wetlands.*

### **FELA Coverage (where applicable).**

With respect to all operations performed under this contract involving railroad employees covered under the Federal Employer’s Liability Act (FELA) (45 U.S.C. § 51-60), the Railroad shall carry insurance covering Railroad’s liability under FELA, with limits of coverage required by federal law and at least \$1,000,000 per occurrence. To the extent that the workers’ compensation laws of Vermont are pre-empted by FELA, Railroad need not carry workers’ compensation insurance.

**Railroad Flagging (where applicable).** When the SOW requires work on, over, or under the right-of-way of an active railroad, the Contractor or its subcontractor shall submit a Railroad Worker Clearance request form at least 10 days prior to work being performed. This form is reviewed by our Rail Property Management Unit and then forwarded to the appropriate railroad for approval. Then, the railroad will schedule a flagger. The form can be found at: <https://maps.vtrans.vermont.gov/rail/flagging/form/>

### **Federal Railroad Administration (FRA) (where applicable).**

When FRA funding is being utilized the Contractor must complete a Buy American Certificate of Compliance per 49 U.S.C. Section 24405(a)(1).

### **AREMA Recommended Practices (where applicable).**

The Manual for Railway Engineering & Manual for Communications and Signals is published by the American Railway Engineering and Maintenance-of-Way Association (AREMA). It contains policies,

practices, principles, data, specifications, plans and economics pertaining to the engineering, design and construction of the fixed plant of railways. It is developed by AREMA technical committees, with the aim to assist in construction of a railway plant which will have inherent qualities of uniformity, promoting safety and economical operation as well as low maintenance cost. All work completed within the State's state-owned railroad right-of-way is subject to and certification of ARMEA standards.

**Federal Contract Provisions.**

For any Job Order that involves work on a federal aid project with a project cost of \$10,000.00 or more, Federal terms will be included with the Job Order and incorporated therein.

**Attachment E (Revised May 2020)**



# General Terms and Conditions for Contracts for Services

VERMONT AGENCY OF TRANSPORTATION



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The following terms and conditions are incorporated into the contract in addition to those contained in Attachment C, the Vermont Standard Provisions for Contracts and Grants, except where noted that the terms herein are substitutions for those contained in the Vermont Standard Provisions for Contracts and Grants.

## A. INSURANCE

### 1. Basic Insurance Requirements for All Contracts for Services:

#### a. Prime Contractor:

For any work, a prime contractor must at minimum have and maintain throughout the life of the contract insurance coverage in types and amounts meeting or exceeding the State's standard insurance requirements specified in the State's Attachment C in effect at inception of the contract.

When a contract is amended, if a new Attachment C was adopted since the execution of the original contract, then the new Attachment C insurance requirements will apply as of and after amendment.

Certain types and settings of work require additional types and amounts of insurance coverage, beyond Attachment C requirements, as specified at Sections 2.e. and 3 below, which the Contractor must obtain and maintain throughout the life of the contract.

#### b. Subcontractors:

Subcontractors are required to have insurance coverage in types and amounts meeting or exceeding the prime contractor's insurance obligations to the State, including any additional types and amounts of insurance coverage for certain types and settings of work as specified at Sections 2.e and 3 below.

As to subcontractors, a prime contractor is obligated, for each of its subcontractors, to verify and maintain evidence of verification that each subcontractor carries all VTrans-required insurances. Subcontractors must do the same for their sub-subcontractors.

### 2. Workers Compensation Verification Compliance (*applies to both prime and subcontractors*):

#### a. In accordance with Act 54 of 2009,<sup>1</sup> and as subsequently amended, for total project costs over \$250,000, all contractors and subcontractors must have, when applicable:

A payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite,

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<sup>1</sup> See: Act 54 of 2009, § 32; Act 142 of 2010, § 17; Act 50 of 2011, § 6, as available at: <https://legislature.vermont.gov/>

and a daily census of the jobsite. This information, including confirmation that contractors, subcontractors, and independent contractors have the appropriate workers' compensation coverage for all workers at the job site, and the same information for the subcontractors regarding their subcontractors shall also be provided to the Department of Labor and to the [Department of Financial Regulation], upon request, and shall be available to the public.

- b. Contractors and subcontractors must preserve and retain the above discussed documentation seven (7) years, per section JJ of this document.
- c. VTrans has the right to audit contractors' and subcontractors' compliance with the above; however, contractors and subcontractors should be in good standing at all times with this monitoring obligation, regardless of whether or how often VTrans conducts such audits.
- d. VTrans reserves the right to require contractors and subcontractors to submit periodic attestations of compliance with these workers compensation verification requirements.
- e. Contract-specific risk and insurance:
  - i. Where the subject matter of the contract gives rise to specific insurance obligations under the Federal Motor Carrier Safety Act ("FMCSA") <https://www.fmcsa.dot.gov>, which applies to both certain transport of passengers and certain materials of environmental concern, contractors and subcontractors must comply with the FMCSA insurance requirements.
  - ii. Environmental and pollution insurance coverage may also be required when the State, in its sole discretion, determines it to be required under the scope and subject matter of a contract.
  - iii. VTrans reserves the right to require other additional types or amounts of insurance for specific contracts when, in VTrans' sole discretion, it is prudent to do so in relation to the details of a particular contract.

3. Additional Types and Amounts of Insurance for Certain Subjects and Settings of Contracts for Services:

One or more types and amounts of the insurance coverages specified below will apply when the subject or setting of work falls within the scope(s) specified and described below:

- a. For Design/Engineering Professional Services for a Specific Contracts:
  - i. Where Contractor's work under the contract provides in whole or part design/engineering professional services for one or more specific projects, then before commencing work and throughout the term of this contract, contractor must provide Professional Liability insurance for all relevant services performed

under this Agreement, with minimum coverage of no less than two million dollars (\$2,000,000) per claim and two million dollars (\$2,000,000) policy aggregate.

- ii. The required Professional Liability insurance coverage must be maintained continuously for five (5) years after the final acceptance of any construction that may be developed as a result of such design work, even if the construction is performed under a separate contract or project.
- iii. Separate from task or project-specific requirements to maintain coverage, if contractor for any reason ceases operations, the contractor shall be responsible to obtain and maintain professional liability coverage that extends for not less than five (5) years after such cessation of operations.

4. Valuable Papers and Records Insurance:

Where contractor's work under the contract will in whole or part consist of providing the State with designs, plans, drawings, analyses, studies, reports, data, or other professional work product, contractor shall carry Valuable Papers and Records Insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the State or developed by the contractor, subcontractor, worker, or agent, in the event of loss, impairment, or destruction. Such coverage shall remain in force until the final work product as well as all related materials have been delivered by the contractor to, and accepted by, the State. Valuable Papers and Records Insurance shall provide coverage on an "individual occurrence" basis with limits in the amount of at least one hundred thousand dollars (\$100,000).

5. Railroad Protective Liability:

- a. When any portion of contractor's or a subcontractor's work under the contract involves work on, over, or under the right-of-way of any railroad, the contractor shall provide and file with the Agency, with respect to the operations that it or its subcontractor perform under the contract, Railroad Protective Liability Insurance for and on behalf of the railroad as named insured, with the State and its officers and employees specified as additional insured.
- b. If Railroad Protective Liability insurance is required, the contractor shall obtain and submit the minimum coverage indicated above to the State prior to the commencement of rail-related work and activities, and shall maintain coverage until contractor notifies the State and the railroad that contractor has completed and ceased work on, over, or under the railroad right-of-way, and both State and railroad have concurred that contractor may terminate the railroad protective liability. Railroad coverage limits must meet or exceed:

- i. Not less than two million dollars (\$2,000,000) for all damages arising out of any one accident or occurrence, in connection with bodily injury or death and injury to or destruction of property; and
- ii. Subject to that limit per accident, a total (or aggregate) limit of six million dollars (\$6,000,000) for all injuries to persons or property during the policy period.

The Contractor shall file the original and one (1) copy of the Railroad Protective Liability policy with the State, who will provide the original to the appropriate railroad.

6. Information Technology Contracts:

- a. For contracts determined by the State to fall within the category of “information technology activity” as defined in statute at 3 V.S.A. §3301(b)(2), additional types and amounts of insurance will typically be required, and may change over time, either as to general standards or with regard to the subject matter or potential risk exposure in a specific IT transaction.
- b. As of the issuance of these General Terms and Conditions, the required IT insurance types include: Technology Professional Liability insurance with third-party coverage, and, if contractor has access to, processes, handles, collects, transmits, stores, or otherwise deals with State Data, Contractor shall maintain first party Breach Notification Coverage, which shall include the State of Vermont and its officers and employees as additional insureds.
- c. Information technology contracts will also generally require their own set of additional specific terms and conditions, derived from the then-applicable templates issued by the Agency of Digital Services and the Office of Purchasing and Contracting within the Department of Buildings and General Services.

## B. INDEMNIFICATION

1. Basic Indemnification Requirements (any contract for services):

a. Prime Contractor:

Except as specifically provided below, a prime contractor must act in an independent capacity and defend and indemnify the State in accordance with the State’s then-current Attachment C

b. Subcontractors:

Except as specifically provided below, the prime contractor must include requirements as to independence, defense, and indemnity, matching Attachment C and identical to those in the prime contractor’s contract with State, in the prime contractor’s contracts with subcontractors. Subcontractors must do the same for their sub-subcontractors.



## 2. For Design/Engineering Professional Services for a Specific Projects:

### a. Prime Contractor:

Where a contract is for design/engineering professional services for a specific project, or, when a contract contains a mixed scope of work that in part consists of tasks of such professional design services for a specific project or projects, then as to, and only as to, those specific professional design services, the provisions of Standard Attachment C on the subjects of “Defense and Indemnity” (numbered item 7 in the December 2017 version of Attachment C, and any equivalent provisions, however numbered, in any subsequently-issued Attachment C) are stricken in their entirety and replaced in full by the following:

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 herein, “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, 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.

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.

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.

As used herein, “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.

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” (as defined herein) under this Agreement.

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.

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.

b. Subcontractors:

As to subcontractors working under a prime contractor and where the subcontractors are providing such professional design services for a specific project, the prime contractor will include the same design-specific provisions as defined in Section B(2)(a) above in the prime contractor’s own contracts with subcontractors. Subcontractors must do the same for their sub-subcontractors.

## **C. GENERAL COMPLIANCE WITH LAWS; RESPONSIBILITY FOR VIOLATION**

1. The contractor shall observe and comply with all applicable federal, state, and municipal laws, bylaws, ordinances, and regulations in any manner affecting the conduct of the work and the action or operation of those engaged in the work, including all such orders or decrees as exist at present and those which may be enacted, adopted, or issued later, during the course of the work, by bodies or tribunals having any jurisdiction or authority over the work; and the contractor shall defend, indemnify and save harmless the State, any affected railroad(s), and any affected municipality(ies), and all their officers, agents, and employees against any claim or liability arising from or based on the violation of any such law, bylaws ordinances, regulations, order, or decree, whether by the contractor in person, its employee(s), or by the contractor’s subcontractor(s) or agent(s), or employee(s) or agents thereof.
2. If the contractor discovers any provision(s) in the contract contrary to or inconsistent with any law, ordinance, regulation, order, or decree, the contractor shall immediately report it to the Project Manager in writing.

## **D. COMPLIANCE WITH DESIGN SPECIFICATIONS, STANDARDS, MANUALS, GUIDELINES, DIRECTIVES, AND POLICIES**

The contractor shall comply with all applicable statutes, regulations, ordinances, specifications, manuals, standards, guidelines, policies, directives, and any other requirements related to the

contract. In case of any conflict with the items referenced above, the contractor is responsible to ascertain and follow the direction provided by the State.

## **E. SEVERABILITY**

Provisions of the contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both parties. If for any reason a provision in the contract is unenforceable or invalid, VTrans, in its sole discretion may sever that provision from the contract, and the remaining provisions shall have the same force and effect as if the severed provisions had never been a part of the contract.

## **F. PROMPT PAYMENT**

1. The contractor, by accepting and signing the contract, agrees to fully comply with the provisions of 9 V.S.A. §§ 4001-4009, also referred to as Act No. 74 of 1991 or the Prompt Payment Act, as amended. Compliance with this clause also satisfied the requirements of 46 CFR § 26.29. applicable to Federally funded contracts.
2. In accordance with 9 V.S.A. Section 4003, notwithstanding any contrary contract provision, payments shall be made within seven days from receipt of a corresponding final or progress payment by the State to the contractor, or seven days after receipt of a subcontractor's invoice, whichever is later. Failure to comply constitutes violation of this contract.
3. On all federal-aid and state funded contracts, the contractor, during the life of the contract and on a monthly basis, shall submit electronically a listing of payments to subcontractors on the form specified by the State and made available at: <http://apps.vtrans.vermont.gov/consultants/>. Electronic reports shall be filed with VTrans Office of Civil Rights by an authorized representative and received in the VTrans Office of Civil Rights on or before the tenth working day after month end. Contractors without access to the internet shall obtain and submit manual reports to the VTrans Office of Civil Rights. Manual reports shall be signed by an authorized representative, sent to the VTrans Office of Civil Rights, and postmarked on or before the tenth working day after month end. There shall be no direct compensation allowed the contractor for this work, but the cost thereof shall be included in the general cost of the work.
4. Violations shall be reported to the VTrans Office of Civil Rights for review. Failure to resolve disputes in a timely manner will result in a complaint made to the VTrans Chief of Contract Administration. In the Agency's judgment, appropriate penalties may be invoked for failure to comply with this specification. Penalties may include debarment or suspension of the ability to submit proposals.
5. This section shall be included in the prime contractor's contract made with all of its subcontractors.

## G. TERMINATION

In addition to the Termination provisions contained in Attachment C, the following terms are included in this contract:

### Termination for Convenience

#### 1. General

- a. The Agency may, with thirty (30) days written notice to the Contractor, terminate the Contract or any portion thereof when such termination would be in the best interest of the Agency. Upon notification, the contractor may be directed to immediately stop all work and incur no further costs under the contract.
- b. Any such termination shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
- c. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
- d. No compensation will be allowed for incomplete or eliminated contract items.
- e. Termination of the Contract, or portions thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

#### 2. Contractor Obligations

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

- a. The extent specified in the Notice of Termination, cease work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portions of the work under the Contract that are not terminated.
- c. Terminate and cancel any orders or subcontracts related to the services, except as may be necessary for completion of such portions of the work under the Contract that are not terminated.

- d. Transfer to VTrans all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to VTrans.
- e. Take other actions as may be necessary or as directed by VTrans for the protection and preservation of the property related to the contract which is in the possession of the contractor and that VTrans has or may acquire any interest.
- f. Make available to VTrans all cost and other records relevant to a determination of an equitable settlement.

### 3. Claim by Contractor

After receipt of the Notice of Termination from VTrans, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within sixty (60) days of the effective termination date. Should the Contractor fail to submit a claim within the sixty (60) day period, VTrans may, at its sole discretion, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

### 4. Negotiation

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

## H. PROPRIETARY RIGHTS

- 1. If a patentable discovery or invention results from work performed under the contract, all rights to such discovery or invention shall be the sole property of the Contractor, but the State and the United States Government shall have an irrevocable, nonexclusive, non-transferable, and royalty free license to each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the contract.
- 2. Publications: All data, valuable papers, photographs, and any other documents produced under the terms of the contract shall become the property of the State of Vermont. The Contractor agrees to allow access to all data, valuable papers, photographs, and other documents at all times. The contractor shall not copyright any material originating under the contract without prior written approval of the State.
- 3. Ownership of the Work: All studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, photographs, and other material prepared or collected by the contractors ("instruments of professional

service") shall become the property of the State as they are prepared or developed during performance of the work under the contract. If a contractor uses a proprietary system or method to perform the work, only the product will become the property of the State. The Contractor shall not be liable for any reuse, misuse, or alteration of these "instruments of professional service" by the State.

4. The Contractor shall surrender to the State upon demand or submit for inspection at any time any instruments of professional service that have been collected, undertaken, or completed by the Contractor pursuant to the contract. Upon completion of the work, these instruments of professional service will be appropriately endorsed by the Contractor and turned over to the State.
5. Data and publication rights to any instruments of professional services produced under the contract are reserved to the State and shall not be copyrighted by the contractor at any time without written approval of the State. No publication or publicity of the work, in part or in total, shall be made without the consent of the State, except that contractors may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
6. Rights and Remedies Additional: The rights and remedies of the State under this section are in addition to any other rights and remedies that the State may possess by law or under this contract.
7. Decisions Final and Binding: Decisions of the State on matters discussed in this section shall be final and binding.

## I. PERSONAL CONFLICTS OF INTEREST

Contractor employees performing services for the VTrans shall not have, directly or indirectly, a personal conflict of interest with respect to any contract with VTrans and must immediately disclose to VTrans any personal conflicts of interest arising at any time from the bidding process to final contract close-out.

### Definitions

As used in this clause:

1. Contractor Employees means employees and subcontractors of a VTrans contractor.
2. Personal Conflict of Interest means a situation in which a contractor employee has a financial interest, personal activity, or relationship that could impair the individual's ability to act impartially and in the best interest of the Government when performing under the contract.
  - a. Sources of personal conflicts of interest include but are not limited to:

- i. Financial interests of the contractor employee, of close family members, or of other members of the contractor employee's household;
  - ii. Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
  - iii. Gifts, including travel.
- b. Examples. Financial interests referred to above may arise from:
  - i. Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
  - ii. Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);
  - iii. Services provided in exchange for honorariums or travel expense reimbursements;
  - iv. Research funding or other forms of research support;
  - v. Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
  - vi. Real estate investments;
  - vii. Patents, copyrights, and other intellectual property interests; or
  - viii. Business ownership and investment interests.
- 3. Acquisition Function means supporting or providing advice or recommendations to the following activities of a State agency:
  - a. Planning acquisitions;
  - b. Determining what supplies or services are to be acquired by the Government, including developing statements of work;
  - c. Developing or approving any contractual documents, including documents defining requirements, incentive plans, and evaluation criteria;
  - d. Evaluating contract proposals;
  - e. Awarding Government contracts;



- f. Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services):
  - g. Terminating contracts; and
  - h. Determining whether contract costs are reasonable, allocable, and allowable.
- 4. Non-public information means any State or third-party information that:
  - a. Is deemed by VTrans to be proprietary or confidential, or is exempt from disclosure under the Vermont Public Records Act, 1 V.S.A. § 315, et al, or otherwise protected from disclosure by statute, Executive order, or regulation; or
  - b. Has not been disseminated to the general public and the State has not yet determined whether the information can or will be made available to the public.

## **Requirements**

The Contractor shall:

- 1. Have procedures in place to screen employees for potential personal conflicts of interest;
- 2. Prevent personal conflicts of interest, including not assigning or allowing an employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency; and
- 3. Prohibit use of non-public information accessed through performance of a Government contract for personal gain.
- 4. Inform employees of their obligation:
  - a. To disclose and prevent personal conflicts of interest;
  - b. Not to use non-public information accessed through performance of a Government contract for personal gain;
  - c. To avoid even the appearance of personal conflicts of interest;
- 5. Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;
- 6. Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause;

7. Report to VTrans any personal conflict-of-interest violation by an employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation.
8. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include:
  - a. Failure by an employee to disclose a personal conflict of interest;
  - b. Use by an employee of non-public information accessed through performance of a Government contract for personal gain; and
  - c. Failure of an employee to comply with the terms of a non-disclosure agreement.
9. In the case of contractors' employees *who perform acquisition functions* for VTrans, screening procedures must include:
  - a. Maintaining and obtaining from each employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:
    - i. Financial interests of the employee, of close family members, or of other members of the covered employee's household;
    - ii. Other employment or financial relationships of the employee (including seeking or negotiating for prospective employment or business); and
    - iii. Gifts, including travel.
  - b. Requiring each employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the employee is performing.

### **Mitigation or Waiver**

1. In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required above, the Contractor may submit a request through the applicable Division Director for:
  - a. An agreement to a plan to mitigate the personal conflict of interest; or
  - b. A waiver of the requirement.
2. The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.

3. The Contractor shall:

- a. Comply, and require compliance by the employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or
- b. Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

## Disclosure

A mandatory duty is established for the Contractor to disclose procurement fraud, and overpayments, or risk debarment or suspension. The contractor must report fraud, conflicts of interest, bribery, and illegal gratuities in connection with the award or performance of a state contract.

## Code of Business Ethics

Contractors are encouraged to have a written code of business ethics and conduct. In addition, the contractor should have an ongoing ethics and compliance training program for principals and employees, as well as a system of internal controls to detect fraud and improper conduct.

## J. ORGANIZATIONAL CONFLICTS OF INTEREST (OCOI)

### Definition

Organizational conflict of interest (“OCOI”) means that because of other activities or relationships with other persons or entities, a contractor *as a business entity*:

1. Is unable or potentially unable to render impartial assistance or advice to VTrans;
2. Is or may be impaired in its objectivity in performing the contract work (Example: A firm has a contract to inspect work by firms that are its business affiliates); or
3. Has an unfair competitive advantage. (Example: a firm participates in systems engineering and technical direction; preparing specifications or work statements; participates in development and design work; or gains access to the information of other companies in performing advisory and assistance services for the government drafting a scope of work for a project, then bids on the project itself.)

### Disclosure

The Contractor shall make an immediate and full disclosure, in writing, to the VTrans Project Manager of any potential or actual OCOI or the existence of any facts that may cause a reasonably prudent person to question the contractor's impartiality because of the appearance or existence of bias or an unfair competitive advantage. Such disclosure shall include a description of the actions

the contractor has taken or proposes to take in order to avoid, neutralize, or mitigate any resulting conflict of interest.

### **Contractors in Management Support Roles**

OCOs often arise when contractors or subcontractors are employed in management support roles, such as oversight and inspection of the work of other contractors, and the development of designs, requirements, or statements of work or procurement documents such as requests for proposal. Such contracts bear particularly close monitoring to avoid OCOs. A contractor serving in a management support role may be precluded from providing additional services on projects, activities, or contracts under its oversight due to potential conflicts of interest.

### **OCOI Screening**

Prior to submitting a proposal, each submitter or proposer will conduct an internal review of its current affiliations and will require its team members to identify potential, real, or perceived OCOs relative to the anticipated procurement. Potential submitters or proposers will be notified that existing or future contractual obligations relative to the proposed procurement may present an OCOI that may require avoidance, neutralization, or mitigation.

### **Disqualification**

Prior to the award of a contract, VTrans may determine that an OCOI exists which would warrant disqualifying the bidder for award of the contract. Vtrans will discuss the matter with the contractor to determine whether the OCOI can be mitigated to VTrans satisfaction by negotiating terms and conditions of the contract to that effect.

### **Subcontracts**

1. The Contractor shall require from its subcontractors full disclosure of any actual, apparent, or potential OCOI, and report such OCOIs to the VTrans Project Manager.
2. The Contractor shall identify and avoid, neutralize, or mitigate any subcontractor OCOI prior to award of the contract to the satisfaction of the VTrans Project Manager. If the subcontractor's OCOI cannot be avoided, neutralized, or mitigated, the Contractor must obtain the written approval from the appropriate VTrans Division Director prior to entering into the subcontract.
3. If the Contractor becomes aware of a subcontractor's potential or actual OCOI after the contract award, the Contractor agrees that VTrans may require the Contractor to eliminate the subcontractor from its team.

## **K. CONFLICT OF INTEREST REMEDIES**

VTrans may terminate this contract, in whole or in part, or decline to make an award to a contractor if, in VTrans sole discretion, it is deemed necessary to avoid, neutralize, or mitigate an actual or

apparent personal or OCOI. No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates, except with the approval of the Secretary of Transportation or authorized representative.

1. If a Contractor fails to disclose facts pertaining to the existence of a potential or actual personal or OCOI or misrepresents relevant information to VTrans, VTrans may terminate the contract for default or pursue such other remedies as may be permitted by law or this contract.
2. The Contractor will have the right to appeal a finding of an actual or potential OCOI to the appropriate Division Director, whose decision will be final, subject to further review only as provided for by state law, regulation or procedure.

## **L. CONTRACTOR PERSONNEL**

1. The Contractor shall employ only qualified personnel to supervise and perform the work. VTrans shall have the right to approve or disapprove personnel hired to perform or supervise work related to the contract.
2. Upon VTrans' request, the Contractor shall supply resumes for staff proposed to work on assignment or under primary contracts for VTrans' review and acceptance or rejection. VTrans retains the right to interview the proposed staff.
3. If contractor has submitted a list of key personnel to VTrans as part of a proposal, the Contractor must notify and seek approval if any changes to the proposed personnel occur during the performance period of the contract.
4. VTrans reserves the right to require removal of any person employed by a contractor from work related to the contract as deemed necessary to protect the interests of the State. The decision of VTrans shall be final and not subject to challenge or appeal beyond the appropriate Division Director.

## **M. APPROVAL REQUIREMENT FOR HIRING CERTAIN VTRANS EMPLOYEES**

1. Contractors are required to obtain VTrans approval prior to making offers of employment to VTrans employees who are engaged in acquisition functions as defined in paragraph I.3 a-h above, or an individual who was engaged in acquisition functions for VTrans within one year of the end of employment with VTrans. Request for approval must be submitted to the appropriate Division Director.
2. Discussions with current VTrans employees engaged in acquisition functions regarding *potential* employment with a contractor creates a conflict of interest for the employee and is prohibited absent a State approved mitigation plan or waiver.

3. Contractors are encouraged to maintain an open dialogue with VTrans regarding such matters and work toward mutually acceptable avoidance and resolution of any issues.

## **N. ASSIGNMENTS, TRANSFERS, AND SUBLETTING**

1. The Contractor shall not assign, sublet, or transfer any interest in the work covered by the contract without the prior written consent of the State and appropriate federal agencies, if applicable. Further, if any subcontractor participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive the prior written consent of the State.
2. The approval or consent to assign, sublet, or assign any portion of the work shall in no way relieve the Contractor of its responsibility to perform that portion of the work so affected. Except as otherwise provided in these specifications, the form of the subcontractor's contract shall be as developed by the contractor.
3. Any authorized subcontracts shall contain all the same provisions specified for and attached to the original contract with the State.

## **O. PERFORMANCE AND COMPLETION OF WORK**

1. The Contractor shall perform the services specified in accordance with the terms of the contract and shall complete the contracted services by the completion dates specified in the contract.
2. Apart from ongoing obligations (*e.g.*, insurance, ownership of the work, and appearances), upon completion of all services covered under the contract and payment of the agreed upon fee, the contract with its mutual obligations shall be terminated.
3. If, at any time during or after performance of the contract, the Contractor discovers any design errors or other issues that warrant changes, the contractor shall notify the Project Manager immediately. This paragraph also applies to those projects that are under construction or have been constructed.

## **P. CONTINUING OBLIGATIONS**

The Contractor agrees that if, because of a death or other occurrences, it becomes impossible to effectively perform its services in compliance with the contract, neither the contractor nor its surviving principals shall be relieved of their obligations to complete the services under the contract. However, the State may terminate the contract if it considers a death, incapacity, or other removal of any principal(s) or key project personnel to be a loss of such magnitude that it would affect the contractor's ability to satisfactorily comply with the contract.

## **Q. APPEARANCES**

1. Hearings and Conferences. The Contractor shall provide professional services required by



the State that are necessary for furtherance of any work covered under the contract. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain, or defend its services provided under the contract.

2. The Contractor shall serve as a liaison if the State deems it necessary for the furtherance of the work and participate with the State, at any reasonable time, in conferences, concerning interpretation and evaluation of all services provided under the contract.
3. The Contractor further agrees to participate in meetings with the State, applicable Federal Agencies, or any other interested or affected participants for the purpose of review or resolution of any conflicts pertaining to the contract. The Contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the contract.
4. Appearance as Witness. When required by the State, the Contractor, or an appropriate representative, shall prepare for and appear in, on behalf of the State, any litigation or other legal proceeding concerning any relevant project or related contract. The contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the contract.

## R. CHANGES AND AMENDMENTS

1. VTrans may, upon written notice, require changes, additions, or deletions to the work or contract. Whenever possible, any such adjustments shall be administered under the appropriate fee schedule or payment provisions established in the contract based on the adjusted quantity of work.
2. The State may, upon written notice, and without invalidating the contract, require changes resulting from the revision or abandonment of work already satisfactorily performed by the Contractor or changes in the statement of work section of the contract.
3. If the value of such changes, additions, or deletions is not otherwise reflected in payments to the contractor pursuant to the contract, or if such changes require additional time or expense to perform the work, the contract may be amended accordingly.
4. Changes to the scope, duration or value of the contract will require amendment of the contract, approved by the State's Secretary of Transportation or other official delegated such authority.
5. The Contractor agrees to maintain complete and accurate records, in a form satisfactory to VTrans, for any extra work or additional services in accordance with the contract and the Contractor shall perform such work or services only after an amendment has been fully executed or a written notice to proceed is issued by VTrans.

## S. EXTENSION OF TIME

1. The contractor may request in writing an extension of the allotted time for completion of the work. A request for extension will be evaluated, and if VTrans determines that the justification is valid, an extension of time for completion of the work may be granted. A request for extension of time must be made before the contractor is in default.
2. The decision of VTrans relative to granting an extension of time shall be final and binding, and may result in damages owed to the State by the contractor.
3. Neither party hereto shall be held responsible for delay in performing the work encompassed herein when such delay is due to unforeseeable causes such as, but not limited to, acts of God or a public enemy, fire, strikes, floods, or legal acts of public authorities.

## T. CONTRACTOR ERRORS AND OMISSIONS

1. "Professional negligence" resulting in errors and omissions in the work product of the contractor or subcontractors must be corrected by the contractor at no cost to the State, when it is determined that the error or omission was a direct cause of the contractor's work. The contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in designs furnished under its contract.
2. When VTrans becomes aware of an error or omission on the part of the contractor or subcontractors, VTrans will inform the contractor and provide an opportunity for discussion and correction, if applicable. Discussions will not relieve the contractor from complying with any VTrans-ordered corrections.
3. VTrans' review, approval, or acceptance of or payment for the services required under this contract shall not be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
4. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

## U. DISPUTE RESOLUTION.

1. Design Professionals: In cases where VTrans believes damages are owed by a contractor, VTrans will attempt to negotiate a resolution with the contractor. If requested in writing by either party, negotiations may take the form of structured non-binding mediation with the assistance of a mediator on a "without prejudice" basis. The mediator shall be appointed by agreement of the parties, and the fees split equally between the parties. Negotiations or mediation will not bar either party from pursuing any other available remedies except as mutually agreed to in a written mediation agreement.

2. Construction Services Professionals: The parties shall attempt to resolve any disputes that may arise under the contract by informal negotiation, with the approval of the appropriate Division Director. If the dispute is not resolved, the Director shall issue a decision, which the Contractor may appeal in writing to the Transportation Board, through the Director, within 30 calendar days of the Director's decision. The notice of appeal shall completely outline the nature and extent of the issue(s) appealed and shall include copies of any and all supporting documentation. The decision of the Transportation Board may be appealed to Vermont Superior Court by either party as provided in 19 V.S.A. § 5.

## **V. RETAINAGE AND LIQUIDATED DAMAGES**

1. Pursuant to the provisions of Agency of Administration Bulletin 3.5 – Contracting Procedures, VTrans has considered whether services contracts should contain provisions that provide for liquidated damages and/or retainage. As a general principle, based on experience and policy, VTrans has generally chosen not to include liquidated damages and retainage in its services contracts.
2. Should VTrans believe that liquidated damages or retainage provision are advisable in a particular contract, VTrans will include such provisions in the contract.

## **W. NO ADVANTAGE FROM ERRORS OR OMISSIONS IN CONTRACT DOCUMENTS.**

Neither the contractor nor the State shall take advantage or be afforded any benefit as the result of apparent error(s) or omission(s) in the contract documents. If either party discovers error(s) or omission(s), it shall immediately notify the other.

## **X. HOSTILE ACTS**

Except as provided below, or otherwise agreed to in writing by a duly authorized representative of the State, the Contractor agrees that during the term of this contract, and also after termination of this contract, it will not represent or render assistance to anyone in any matter, proceeding, or lawsuit against or otherwise adverse to the interests of the State or any of its agencies or instrumentalities in a matter, proceeding, or lawsuit related to any aspects of any work or projects to which this contract relates. Contractor also agrees to include written provision in any of contractor's subcontracts with others relating to this contract, providing that such subcontractors also recognize and agree to be bound by this duty of loyalty to the State regarding any aspects of any work or projects to which this contract relates.

## **Y. RESPONSIBILITY FOR SUPERVISION**

The contractor shall be responsible for supervision of contractor employees and subcontractors for all work performed under the contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions, and contents of work performed under the contract.

## **Z. WORK SCHEDULE AND PROGRESS REPORTS**

As required by VTrans, prior to initiating any work, the Contractor shall work with VTrans' Project Manager to develop a work schedule showing how the contractor will complete the various phases of work to meet the completion date and any interim submission dates in the contract. VTrans will use this work schedule to monitor the contractor.

The Contractor during the life of the contract shall make monthly progress reports, or as otherwise determined by the Project Manager, or set forth in the statement of work, indicating the work achieved through the date of the report. The Contractor shall link the monthly progress reports to the schedule. The report shall indicate any matters that have, or are anticipated to, adversely affected progress of the work. VTrans may require the Contractor to prepare a revised work schedule in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days. The revised work schedule shall be due as of the date specified by VTrans.

## **AA. WORK ASSIGNED UNDER PRIMARY-TYPE CONTRACTS**

Specific tasks or projects under primary (ie. retainer or Indefinite Delivery/Indefinite Quantity ["IDIQ"]) type contracts will be awarded and managed as provided in the scope of work section of the contract. Contractors should not begin work on any task or project under a primary contract until they have received authorization as described in the scope of work.

## **BB. UTILITIES**

Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by proposed construction, the Contractor shall consult with the State's Utility Section and initiate contacts or discussions with the affected owners regarding requirements necessary for revision of facilities, both above and below ground. All revisions must be completely and accurately exhibited on detail sheets or plans. The Contractor shall inform the State, in writing, of all contacts with utility facility owners, and the results thereof. Further details should be provided in the scope of work section of the contract.

## **CC. PUBLIC RELATIONS**

Whenever it is necessary to perform work in the field (e.g., with respect to reconnaissance, testing, construction inspection, and surveying) the contractor shall endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the contractor shall conduct themselves with propriety. If there is a need to enter upon private property to accomplish the work under the contract, the Contractor shall inform property owners and tenants in a timely manner and in accordance with relevant statutes. All work will be done with minimum damage to the land and disturbance to the owners thereof. Upon request of the Contractor, the State shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the contractor is acting on behalf of the State.

## **DD. INSPECTION OF WORK**

1. The State and applicable federal agencies shall, at all times, have access to the contractor's work for the purposes of inspection, accounting, and auditing, and the Contractor shall provide appropriate and necessary access to accomplish inspections, accounting, and auditing.
2. The contractor shall permit the State and its representatives the opportunity at any time to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Contractor pursuant to the contract.
3. A conference, visit to a site, or inspection of the work may be held at the request of the Contractor, State, and appropriate federal agencies.

## **EE. WRITTEN DELIVERABLES/REPORTS**

All communications and deliverables presented under terms of the contract shall be in a form and format identified in the statement of work section of the contract, including, but not limited to CADD Requirements, Data Specifications, and Geographic Information System Requirements.

## **FF. ELECTRONIC DATA MEDIA.**

VTrans Web Page and File Transfer Protocol (FTP) Site Disclaimer. The files located on the VTrans web page and FTP site are subject to change. The contractor is responsible for maintaining contact with VTrans to determine if any changes affect the work produced by the contractor. Although VTrans makes every effort to ensure the accuracy of its work, it cannot guarantee that transferred files are error free.

## **GG. REVIEWS AND APPROVALS.**

All work prepared by the Contractor, subcontractors, and representatives thereof pursuant to the contract shall be subject to review and approval by VTrans. Approval for any work shall be documented in writing. Approvals shall not relieve a contractor of its professional obligation to correct any defects or errors in the work at the contractor's expense.

The pertinent federal agencies may independently review and comment on the contract deliverables. The Contractor, through VTrans, shall respond to all official comments regardless of their source. The Contractor shall supply VTrans with written copies of all correspondence relating to reviews. All comments must be satisfactorily resolved before the affected work is advanced.

## **HH. PAYMENT PROCEDURES**

Payment procedures will be set forth in Attachment B.

## **II. AUDIT REQUIREMENTS**

1. Design and Engineering Contracts of Five Hundred Thousand Dollars (\$500,000.00) and over:
  - a. Annually, the Contractor shall furnish the State with independently-prepared, properly supported indirect cost rates for all the time periods covered under the contract. These rates must be developed in accordance with the cost principles in 48 CFR Part 31. Unless otherwise specified in the contract, the Contractor's overhead rate shall be based on actual, audited overhead costs.
2. **Design and Engineering Contracts** Under Five Hundred Thousand Dollars (\$500,000.00):
  - a. The contractor may submit internally generated indirect cost computations and the related schedules.
  - b. Additional information may be requested from a new contractor executing a contract under \$500,000.00 or in some cases from contractors with existing or previous contracts with the State if any of the following conditions or areas of concern exist:
    - i. There is insufficient knowledge of the consultant's accounting system.
    - ii. There is previous unfavorable experience regarding the reliability of the consultant's accounting system
    - iii. The contract involves procurement of new equipment or supplies for which cost experience is lacking.
    - iv. There have been issues with adherence to Federal and State regulations and policies.
    - v. Capacity – ensuring ongoing delivery

## **JJ. RECORDS RETENTION:**

The Contractor shall maintain all records related to the contract for a period of seven (7) years unless required to keep them longer as indicated Federal provisions or in the scope of work section of the contract.

## **KK. REGISTRATION WITH SECRETARY OF STATE**

1. The Contractor shall be registered with the Vermont Secretary of State to do business in the State of Vermont if the Contractor:
  - a. Is a domestic or foreign corporation,



- b. Is a resident co-partner or resident member of a co-partnership or association,
  - c. Is a non-resident individual doing business in Vermont in his or her individual capacity,
  - d. Is doing business in Vermont under any name other than the Contractor's own personal name.
2. This registration must be complete prior to contract execution and maintained throughout the life of the contract.

## LL. SITE VISIT

Where relevant to the work to be performed under the contract, contractors must inspect physical locations of construction when required in the statement of work and will not be compensated for any differing site conditions that could have been discovered during the inspection.

## MM. MARKETING

The Contractor is prohibited from representing in marketing or promotional materials that VTrans is a co-sponsor in any project, or otherwise representing any sort of collaboration or partnership with VTrans; making claims of general endorsement by VTrans; and from using the VTrans logo, seal, or letterhead. In accordance with Attachment C, Standard State Provisions for Contracts and Grants, the Contractor has VTrans permission to refer to the fact that the Contractor has, or previously had, contracts with VTrans in marketing or promotional materials, as long as purely factual statements are made, and no general endorsement is asserted. Additionally, the Contractor may provide factual information regarding work under VTrans projects to other potential employers or identify designated VTrans employees or officials who could be consulted by as a reference about such prior work for VTrans. Designated VTrans employees may provide factual information regarding a Contractor's work under VTrans contracts to third parties requesting references. Contractor's providing false information regarding work under VTrans contract will be subject to administrative, civil, and criminal penalties.

Approved By: \_\_\_\_\_

E-SIGNED by Joe Flynn  
on 2020-05-29 18:21:30 GMT

**Secretary of Transportation**

Attachment F and G

Not Applicable

Reserved for Federal Contract Provisions

## ATTACHMENT H

### ***Assurance Appendix A***

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement

as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## Assurance Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), (“....*which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 *et seq.*

## Attachment I

### Bidder's Request for Work Types and Regions

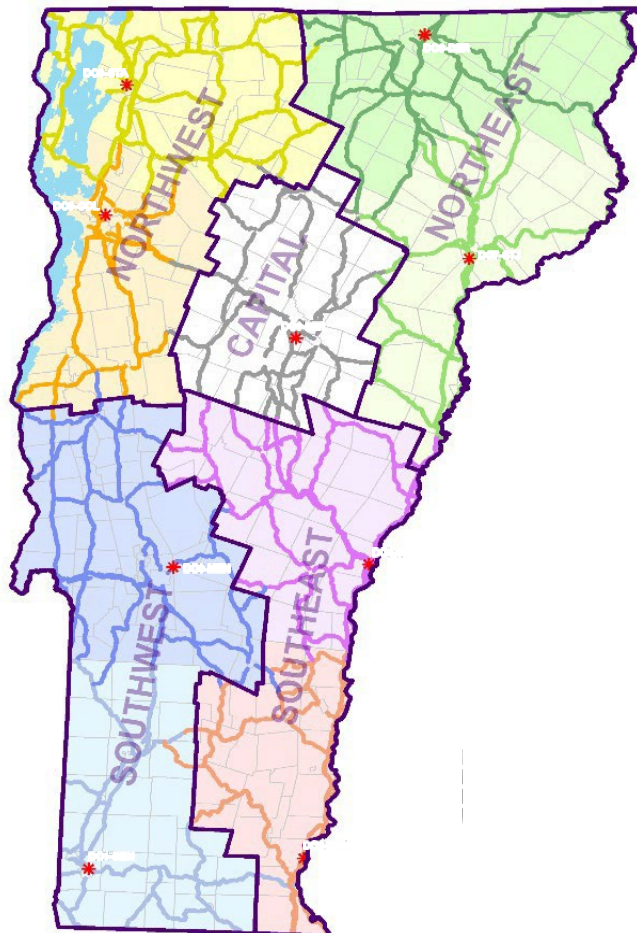
#### Primary Facilities Job Order Contract #FC002 On Ramp

Instructions:

Indicate an X in the box below of the work types and regions you are requesting, if awarded a Primary Contract AOT reserves sole discretion to award less than all requested regions and/or work types.

Work types listed below are detailed in Attachment A. See the Regional Map located below.

Work Type	Statewide	Northwest Region (NW)	Northeast Region (NE)	Capital Region	Southwest Region (SW)	Southeast Region (SE)
Carpentry Services						
Electrical Services						
Fencing Services						
HVAC-Plumbing Services						





**Attachment J****STATE OF VERMONT  
AGENCY OF TRANSPORTATION  
CERTIFICATE OF COMPLIANCE**CA-271  
Rev. 04/14/2021

**For a bid/proposal to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.**

**A. NON-COLLUSION:** The undersigned certifies under the penalties of perjury under the laws of the State of Vermont and the United States that it has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid/proposal.

**B. DEBARMENT:** The undersigned certifies under the penalties of perjury under the laws of the State of Vermont and the United States that it:

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency; and
2. Has not within a three-year period preceding this bid/proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
3. Is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 2 above; and
4. Has not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
5. **Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid/proposal, including whom it applies and dates of action. Exceptions will not necessarily result in denial of award but will be considered in determining bidder eligibility and/or responsibility. Providing false information may result in criminal prosecution or administration sanctions.**

**C. BYRD ANTI-LOBBYING:** The undersigned hereby certifies, by signing and submitting this bid/proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or

employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction as required by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
4. The undersigned also agrees by submitting its bid/proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**E. WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to the undersigned when the total project costs exceed \$250,000.00.

Bidder is required to self-report the following information relating to past violations, convictions, suspensions, and any other information related to past performance and likely compliance with proper coding and classification of employees. The Agency of Transportation is requiring information on any incidents that occurred in the previous 12 months. Attach additional pages as necessary. **If not applicable, please enter 'Not Applicable' or 'N/A' below.**

Summary of Detailed Information	Date of Notification	Outcome

Bidder hereby certifies that the company/individual is in compliance with the requirements as detailed in Section 32 of Act 54(2009), as amended by Section 17 of Act 142 (2010) and further amended by Section 6 of Act 50 (2011).

### **Subcontractor Reporting.**

- A. **Contracts for Services.** The undersigned hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this solicitation, the undersigned will 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), the undersigned will provide any update of such list to the State as additional subcontractors are hired. The undersigned further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.
- B. **Construction Contracts.** The Contractor is required to provide a list of subcontractors on the job along with lists of subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. This is not a requirement for subcontractor's providing supplies only and no labor to the overall contract or project.

Additionally, the Contractor shall collect and retain evidence of subcontractors' workers' compensation insurance, such as the ACORD insurance coverage summary sheet. Agency of Transportation will periodically verify the Contractor's compliance.

**This information must be updated as necessary and provided to the State as additional subcontractors are hired. If none, please enter 'Not Applicable' or 'N/A' below.**

<b>Sub-Contractor</b>	<b>Insured By</b>	<b>Sub-Contractor's Sub</b>	<b>Insured By</b>

The undersigned further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), and as amended will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

As a duly authorized representative of the bidder, I hereby certify that the information above is true and correct.

**Date:**

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**Duly Authorized Signature:**

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**Name and Title of Person Signing:**  
**(Duly Authorized Signer)**

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**Company Name:**

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**Company Address:**

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**E-Mail Address:**

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**ATTACHMENT K**  
**STATE OF VERMONT**  
**AGENCY OF TRANSPORTATION DEBARMENT AND NON-COLLUSION AFFIDAVIT**

I, \_\_\_\_\_, representing  
 (Official Authorized to Sign Contracts)

\_\_\_\_\_ of \_\_\_\_\_,  
 (Individual, Partnership or Corporation) (City or State)

being duly sworn, depose and certify under the penalties of perjury under the laws of the State of Vermont and the United States that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid for the Vermont project:

\_\_\_\_\_  
 (Project Name)

\_\_\_\_\_ project located on \_\_\_\_\_,  
 (Project Number) (Route or Highway)

bids opened at \_\_\_\_\_,  
 (Town or City)

Vermont on \_\_\_\_\_, 20\_\_\_\_.  
 (Date)

I further depose and certify under the penalties of perjury under the laws of the State of Vermont and the United States that except as noted below said individual, partnership or corporation or any person associated therewith in any capacity is not currently, and has not been within the past three (3) years, suspended, debarred, voluntarily excluded or determined ineligible by any Federal or State Agency; does not have a proposed suspension, debarment, voluntary exclusion or ineligibility determination pending; and has not been indicted, convicted, or had a civil judgement rendered against (it, him, her, them) by a court having jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions: \_\_\_\_\_ No \_\_\_\_\_ Yes. (If yes complete back of this form.)

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
 (Name of Individual, Partnership or Corporation) L.S.

\_\_\_\_\_  
 (Signature of Official Authorized to Sign Contracts) L.S.

\_\_\_\_\_  
 (Notary Public)

\_\_\_\_\_  
 (Name of Individual Signing Affidavit) L.S.

(My commission expires \_\_\_\_\_)

\_\_\_\_\_  
 (Title of Individual Signing Affidavit) L.S.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administration sanctions.

EXCEPTIONS:

STATE OF VERMONT  
AGENCY OF TRANSPORTATION

November, 1985  
CA-109

**Attachment L**  
**CONTRACTOR'S EEO CERTIFICATION FORM**

Certification with regard to the Performance of Previous Contracts of Subcontracts subject to the Equal Opportunity Clause and the filing of Required Reports.

The bidder \_\_\_\_\_, proposed subcontractor \_\_\_\_\_, hereby certifies that he/she has \_\_\_\_\_, has not \_\_\_\_\_, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246 as amended, and that he/she has \_\_\_\_\_, has not \_\_\_\_\_, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Company	By	Title
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NOTE: The above certification is required by the Equal Employment Opportunity regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5 (Generally only contracts or subcontracts of \$10,000 or under are exempt.) Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration, or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

**PAST PERFORMANCE QUESTIONNAIRE AND REFERENCE FORM**

Contractor:

**Provide a summary of three (3) recent projects for each work type you are requesting. Include safety, OSHA Violations, deadlines, cost savings etc. Each project should include a reference with contact information.**

**Project 1:**

**Project 2:**



**PAST PERFORMANCE QUESTIONNAIRE AND REFERENCE FORM**

Contractor:

**Provide a summary of three (3) recent projects for each work type you are requesting. Include safety, OSHA Violations, deadlines, cost savings etc. Each project should include a reference with contact information.**

**Project 3:**

--

**Contractor Information**  
*Use additional pages as  
necessary.*

Name of Your Company	
Mailing Address	
Physical Address	
Office Telephone	
Contact Person #1 Name & Title	
Telephone	
Email	
Contact Person #2 Name& Title	
Telephone	
Email	
Contact Person #3 Name& Title	
Telephone	
Email	
Contact Person #4 Name& Title	
Telephone	
Email	

**Part I – Job Order Information**

- To be completed by Requesting District/Division after thorough review of the Job Order Checklist
- Fill out this form for **ALL** projects going through the Job Order Contracting method
- Projects must be **State Funds ONLY**, unless otherwise specified

Date:

Project Name:

Requesting District/Division:

Point of Contact:

Email Address:

Phone Number:

Start Date:

Completion Date:

Scope of Work/Instructions:

☐ Additional Job Order documents attached (Example: plans, additional scope of work documents, materials list, etc.).

Selection Method:



Lump Sum

- Must be bid to at least three (3) contractors
- Fill out Part II for contractor selection information

**BID DEADLINE: Date:****Time:**

Hourly Rate Schedule

- Can **NOT** contain materials or subcontractors
- Fill out Part III for contractor selection information

**Part II – LUMP SUM BID****Section A: To be completed by Contractor**

This form must be submitted by the deadline listed, to the Point of Contact listed on Part I of this form. Any defects or omissions may result in rejection of the bid. Communication with other VTrans personnel regarding this Job Order is prohibited and may result in the rejection of your bid proposal.

Contractor Name: \_\_\_\_\_

**CERTIFICATION OF PROPOSAL:** I, or we, hereby certify that I am, or we are, the only person or persons interested in this bid proposal as principal or principals; that the bid is made without collusion with any person, firm or corporation; that I, or we have examined the bid proposal, plans, specifications, applicable legal requirements, scope of work, and the site of the work, and that I or we propose to furnish all necessary machinery, equipment, tools, labor and other means of completing the required work including all materials specified, in the manner and time period prescribed in the Job Order Form Part I, the JOC Contract, and attachments for the sum(s) set forth below.

**Fixed Lump Sum Price:** \$ \_\_\_\_\_

**Contractor Signature (must be authorized agent)** \_\_\_\_\_

**Date** \_\_\_\_\_

---

**Section B:** To be completed by Requesting District/Division for **WINNING BIDDER ONLY**. Please attach ALL bid sheets to this submittal package

**Selection:**

Describe the reason for selecting the contractor chosen for this task.

☐ Lowest Price

OR

If the contractor was selected for reasons other than lowest price, note other best value factors considered:

☐ Past Performance

☐ Equipment Quality

☐ Availability

☐ Other

Solicited Contractors: Please provide names of all contractors contacted with bid opportunity

Printed Name & Signature of Selector: \_\_\_\_\_

**Part III – HOURLY RATE SCHEDULE**

To be completed by Requesting District/Division

**Contractor Selected:****JOC Contract #:****Selection:**

Describe the reason for selecting the contractor chosen for this task.

☐ Lowest Price

OR

If the contractor was selected for reasons other than lowest price, note other best value factors considered:

☐ Past Performance☐ Equipment Quality☐ Availability

Comments:

All rates must correspond to the **current rates listed in Contractor's Job Order Contract**. No rate changes will be allowed without prior approval and submission of an Administrative Amendment. Rates are not subject to change in the first two years of the contract.

Printed Name &amp; Signature of Selector: \_\_\_\_\_

**Part IV – Award**

- To be filled out by Requesting District/Division.
- Contractor should sign and return award form

**JOB ORDER AWARD**

VTrans hereby notifies that \_\_\_\_\_ is being awarded this Job Order  
for the project of \_\_\_\_\_.

Start Date:

Completion Date:

Award Method:

☐ Lump Sum: \$

☒ Hourly Rate Schedule (see contract for rates)

Signature of Selector

Date

Signature of Division Director or Duly Authorized  
(If project exceeds cost limit)

Date

CONTRACTOR: I/we agree to complete the work described herein at the rates specified above (for lump sum) or by contracted hourly rate agreement as selected above. Start/completion dates will be adhered to if listed. Lump Sum items are paid as bid and not considered variable unless specified by an approved change order.

Signature of Contractor

Date

**Attachment P**  
**Executive Order 05 – 16:**  
**Climate Change Considerations in State Procurements Certification**

**Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims):**

1. Bidder owns, leases or utilizes, for business purposes, space that has received:

Energy Star® Certification

LEED®, Green Globes®, or Living Buildings Challenge<sup>SM</sup> Certification

Other Internationally Recognized Building Certification:

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2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder's place of business. Please explain:
- 

3. Please Check all that apply:

Bidder can claim on-site renewable power or anaerobic-digester power ("cow-power"). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.

Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.

Bidder's heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.



3. Please Check all that apply (continued):

Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this?

Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc..

Bidder offers employees an option for a fossil fuel divestment retirement account.

Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:

---

4. Please list any additional practices that promote clean energy and take action to address climate change:

**Equipment Type List:**

1. Air Compressor
2. Air Track Drill
3. Asphalt Plant
4. Backhoe/excavators
5. Blowers
6. Brush chipper
7. Chain Saw
8. Cold Planer
9. Compactor
10. Concrete Mixer
11. Concrete Pump
12. Concrete Saw
13. Crack-filler Pot
14. Crane
15. Ditchers
16. Dozer
17. Excavator
18. Flagger
19. Flagger- railroad
20. Forklift
21. Generators
22. Grader
23. Guardrail Post Driver
24. Heaters
25. Hole ram
26. Jack
27. Jack Hammer
28. Laborer
29. Landscape rake
30. Loader
31. Man Lift
32. Message Boards
33. Mini
34. Mixer, concrete
35. Mower
36. Mulcher
37. Other
38. Pavement Grinder
39. Pavement Heater
40. Pavement Marking
41. Pavement Saw
42. Pavers
43. Pile Driver Hammer
44. Pile Driver Leads
45. Post Digger
46. Power Generator
47. Power Washer
48. Pump
49. Rail dump Truck
50. Rail excavator
51. Rail truck (pick up)
52. Roller
53. Safety Equipment
54. Sandblaster
55. Scaffold/Lift
56. Screening/Crusher
57. Seeder
58. Shoulder machine
59. Skid Steer
60. Skidder
61. Snowplow (pick up)
62. Snow Melter
63. Stump Chipper/ Grinder
64. Sweeper
65. Tack Distributors
66. Tamper
67. Toilets
68. Torches
69. Track
70. Tractor
71. Traffic control Devices
72. Trailer
73. Trench Box
74. Trencher
75. Truck, Attenuator/ Crash
76. Truck, Auger, Pounder
77. Truck, Distribution
78. Truck, Dump
79. Truck, Miscellaneous
80. Truck, Pick-up
81. Truck, Snooper/ Bucket
82. Truck, Vacuum
83. Truck, Water
84. Welder
85. Wheeled
86. Woodchipper
87. Wood Splitter

## Attachment R Rate Sheet

- Drop Down the correct Equipment Type (see Attachment S)
  - Enter the Make, Model, Size and other descriptors needed in the text field
  - Add the hourly rate for the Equipment **ONLY** and the Operator **ONLY**-- the total will automatically calculate
  - Enter the District numbers (see Attachment R) in which you will work
- OR**
- Enter "ALL" to indicate you will work in all Districts
- | Hourly<br>Rate | Hourly<br>Operator | Total |
|----------------|--------------------|-------|
|                |                    |       |

[illegible]

Submitted By: \_\_\_\_\_  
(Company)

Date: \_\_\_\_\_

## Attachment S

# TRADESPERSON HOURLY RATE SHEET

If applying to multiple scopes, please designate the corresponding scope number before each job title. Please reference Attachment B – Payment Provisions for further information. For Equipment Rates, please see Attachment R - Rate Sheet.

[illegible]