SFA - STANDARD CONTRACT FOR SERVICES

1. **Parties:** This is a contract for services between the State of Vermont, Department of Environmental Conservation and the Public Utility Commission (hereinafter called the “State”), and the Regional Greenhouse Gas Initiative, Inc. with principal place of business at 90 Church Street, New York, NY (hereinafter called “Contractor”). Contractor’s form of business organization is a corporation. It is the Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter:** The subject matter of this Contract is services generally on the subject of the Regional Greenhouse Gas Initiative. Detailed services to be provided by the Contractor are described in Attachment A and Appendix A thereto.

3. **Maximum Amount:** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed $50,000.00. This Contract cannot be used as match for the purpose of obtaining additional federal funds by the Contractor without the written approval from the State.

4. **Subcontracting:** Contractor shall not assign labor duties to a subcontractor without the prior written approval of the State. Written approval may be obtained by completing the Request for Approval to Subcontract form.

5. **Ownership and Disposition of Equipment:** Any equipment purchased or furnished to the Contractor by the State under this Agreement is provided on a loan basis only and remains the property of the State. Contractor must submit a written request to retain the equipment at the end of agreement term for the same use and intended purpose as outlined in this Agreement. The written request should include: description of equipment, date of purchase, original cost and estimated current market value.

6. **Contract Term:** The period of Contractor’s performance shall begin on January 31, 2019 and end on December 31, 2020. This contract may be renewed for up to two additional one-year periods upon written agreement by the State and the Contractor.

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

8. **Source of Funds:** State funds.

9. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Contract shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Contractor. No amendment will be considered without a detailed justification to support the amendment request. Failure to provide an adequate justification may result in the denial of the request. Any request for an amendment to this Agreement must be made in writing at least 30 days prior to the end date of this Agreement or the request may be denied.

10. **Termination for Convenience:** This Contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this Contract for all services provided to and accepted by the State prior to the effective date of termination.

11. **Fiscal Year:** The Contractor’s fiscal year starts January 1 and ends December 31.
12. **Work product ownership:** Upon full payment by the State, all products of the Contractor's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, become the sole property of the State of Vermont and may not be copyrighted or resold by Contractor.

13. **Attachments:** This Contract consists of the following attachments which are incorporated herein:
   - Attachment A - Specifications of Work to be Performed
   - Attachment B - Payment Provisions
   - Attachment C - Customary State Contract Provisions
   - Request for Approval to Subcontract

14. **Order of Precedence:** Any ambiguity, conflict, or inconsistency between the documents comprising this Contract shall be resolved according to the following order of precedence:
   1. Standard Contract
   2. Attachment C (Standard Contract Provisions for Contracts and Grants)
   3. Attachment A
   4. Attachment B

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WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS CONTRACT.

**STATE OF VERMONT**

By: [Signature]

Deputy Commissioner

Department of Environmental

Date: 2/21/2019

**CONTRACTOR**

By: [Signature]

Name: (Print) Andrew J. McKeen

Title: Executive Director

Date: 2/14/2019

**STATE OF VERMONT**

By: [Signature]

Chair

Public Utility Commission

Date: 2/8/6/9
ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED

Contractor shall provide the following services:

1. RESPONSIBILITIES
1.1 The Contractor shall administer and otherwise manage the Auction Program, the CO₂ Allowance
Tracking System ("COATS"), the Offset Program, the Market Monitoring Program and any and all
services required under the aforementioned programs pursuant to the terms of this Agreement and as
further described in the attached Scope of Services (Appendix A).
1.2 In accordance with the Certificate of Incorporation and Bylaws of Contractor, and in order to fulfill its
obligations under this Agreement, Contractor may enter into contracts with any person, firm, association,
corporation or body politic. Any subcontract entered into by Contractor for the purposes of fulfilling its
obligations under this Agreement must be in writing and shall be consistent with and subject to the
provisions of this Agreement. Subcontracts shall not relieve or discharge Contractor from any duty,
obligation, responsibility or liability arising under this Agreement. Contractor shall not subcontract any
of the work or services covered by this Contract without the prior written approval of the State. The State
shall not be bound by any provisions contained in a subcontract to which it is not a party.

2. SCOPE OF SERVICES
2.1 The Scope of Services under this Memorandum of Agreement is as provided in Appendix A.
2.2 Changes to the Scope of Services attached hereto are permissible upon mutual written agreement of both
Parties and do not require modification of this Contract.

3. PAYMENT
3.1 For calendar year 2019, the State agrees to pay Contractor an amount not to exceed $25,000.00 for the
Vermont portion of the total 2019 program and operating cost of Contractor, as these responsibilities are
set forth in this Agreement.
3.2 For calendar year 2020, the State agrees to pay Contractor an amount not to exceed $25,000.00 for the
Vermont portion of the total 2020 program and operating cost of Contractor, as these responsibilities are
set forth in this Agreement.
3.3 The payment described in Article 3.1 will be made within 60 days of receiving the appropriate annual
invoice from Contractor. These invoices should be sent to the State program staff identified in Article 7,
Agency of Natural Resources, Department of Environmental Conservation, Air Quality & Climate
Division, One National Life Drive, Davis 2, Montpelier, Vermont, 05620-3802.
3.4 Payments under this Agreement may be made by electronic fund transfer or check. Payments by check
shall be payable to "RGGI, Inc." at 90 Church Street, New York, NY 10007

4. REPORTS TO STATE
4.1 Contractor shall, no less than quarterly, provide the State with a detailed report of the activities
undertaken by Contractor or its subcontractors to meet its responsibilities under Article 1 during the
preceding calendar quarter.
4.2 Contractor shall provide to the State a copy of the year end audit conducted by an independent auditing
firm and financial statements for the calendar year.

5 PROJECT MANAGEMENT AND NOTICES
5.1 The State shall, at the beginning of each calendar year, notify Contractor of the appropriate State
program staff for communications regarding the program elements critical to implementation of the
program including but not limited to the COATS System, the CO₂ Allowance Auction Program, the CO₂ Offsets Program and invoicing.

5.2 Contractor shall, within 30 days of execution of this Agreement, designate a contact person for all communications, questions and submittals by the State.

5.3 All notices, submissions, correspondence, and other communications specifically provided for or required under this Agreement shall be made by hand-delivery, electronic mail, or by First Class Mail to the names and addresses identified pursuant to Articles 5.1 and 5.2, above, or their successors. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by another appropriate method evidencing actual receipt by the State or Contractor.

6 MAINTENANCE OF RECORDS

6.1 Contractor shall keep, maintain, and preserve at its principal offices, through the term of this Agreement and for a period of seven additional years thereafter, full and detailed books, accounts, and records pertaining to the performance of its obligations hereunder which shall be made available to the State upon written request to Contractor at the contact identified pursuant to Article 5.2, above.

6.2 All documents generated or accepted in performance of this Contract shall be confidential and shall not be released to anyone without prior authorization by the State unless it is done pursuant to state law. Contractor shall not release documents according to state law without prior notice to the State.

7 DATA OWNERSHIP

7.1 With respect to any software computer programs, intellectual property and/or source codes developed under this Contract, by Contractor or any subcontractors thereunder, the State shall be entitled to worldwide, irrevocable, nonexclusive, license to use any such software computer programs, intellectual property and/or source codes without limitation and including all inventions, patents or patent applications derived from such inventions developed under this Agreement.

7.2 As used herein, "Intellectual Property" shall mean inventions (whether or not patentable), works of authorship, trade secrets, techniques, know-how, ideas, concepts, and algorithms.

8 TERMINATION OR SUSPENSION

8.1 Termination of Contract for Cause. If, for any reasons, or through any cause, Contractor, shall fail to fulfill in timely or proper manner its obligations under this Contract, or if Contractor, shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall then have the right to terminate this Contract by giving written notice to Contractor, of such termination and specifying the effective date, at least 30 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports, or other material prepared by Contractor, under this Contract shall, at the option of State, become its property, and Contractor, shall be entitled to receive reasonable compensation as determined by the State in its sole discretion for any satisfactory work completed on such documents and other materials which is usable to the State. Whether such work is satisfactory and usable is determined by the State in its sole discretion.

8.2 Termination for Convenience of State. The State may terminate this Contract in its sole discretion at any time for any reason by giving written notice of such termination and specifying the effective date, at least 30 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and Contractor, shall be entitled to receive reasonable compensation as determined by the State in its sole discretion for any satisfactory work completed on such documents and other materials which is usable to the State. Whether such work is satisfactory and usable is determined by the State in its sole discretion. Such reasonable compensation shall be Contractor's sole compensation. Exercise of this right by the State shall not be deemed a breach of this Contract, and no damages shall be awarded to Contractor, for exercise of this paragraph. If this Contract
is terminated due to the fault of Contractor, Article 8.3 hereof relative to termination shall apply. All remaining funds paid to Contractor pursuant to Article 3 shall be returned to the State within 30 days of the date of termination.

8.3 Termination Because No Longer Signatory State. If at any time Vermont is no longer a Signatory State, then the Agreement may be terminated by the State and/or Contractor

9 SEVERABILITY
9.1 If any part of this Agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality, or enforceability of any other part of this Agreement, and the remaining parts of this Agreement shall be enforced as if the invalid, illegal or unenforceable part were not contained therein.

10 COMPLIANCE WITH LAWS
10.1 Contractor agrees to comply with the provisions of all Vermont and Federal laws, local statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

11 ENTIRE AGREEMENT/CHANGES
11.1 This Agreement together with any Appendices annexed hereto contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements or understanding between the Parties regarding such subject matter, or any portion thereof.
11.2 This Agreement may be amended or supplemented only by a written instrument signed by duly authorized representatives for all Parties.
11.3 This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont.
11.4 The Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
APPENDIX A TO ATTACHMENT A
Scope of Services in Support of the Implementation of the CO₂ Budget Trading Program

Contractor will provide program implementation and program development services, as outlined in this scope of services, to the State to support the State of Vermont's participation in the Regional Greenhouse Gas Initiative ("RGGI") and the implementation of regulations for the Vermont CO₂ Budget Trading Program between January 1 and December 31 of each program year.

Overview
Contractor will provide services to support implementation of the Vermont CO₂ Budget Trading Program in the following five areas:

I. Operation of a regional CO₂ emissions and allowance tracking system known as the CO₂ Allowance Tracking System ("COATS"), for use by the State in administering the Vermont CO₂ Budget Trading Program in coordination with the counterpart programs in other participating states.
II. Operation of the regional CO₂ allowance auction platform, for use by the State in administering the Vermont CO₂ Budget Trading Program in coordination with the counterpart programs in other participating states.
III. Market monitoring services for monitoring of both CO₂ allowance auction conduct and outcomes and monitoring of the secondary CO₂ allowance market for the CO₂ Budget Trading Program
IV. Technical assistance in the review of offset project consistency applications and offset project monitoring and verification reports; and technical assistance in the review of applications for accreditation of independent offset project verifiers; and
V. Provision of program development support services on an as-requested basis, including evaluation of additional offset categories, and the development of technical and policy recommendations related to specific CO₂ Budget Trading Program elements, for evaluation and consideration by the State.

Scope of Services
Contractor shall provide the following services:

I. Emissions and Allowance Tracking System
Contractor shall provide services to support emissions and allowance tracking for the Vermont CO₂ Budget Trading Program. In any area where services are requested, all deliverables, where deemed appropriate in consultation with the State, shall be presented to the State in draft form for review and approval by the State.

a. COATS System Requirements. Contractor shall provide an emissions and allowance COATS system software platform that meets the following requirements necessary to support implementation of the CO₂ Budget Trading Program.

i. COATS System Requirements. Contractor shall develop the COATS System to support the emissions and allowance tracking and compliance aspects of the program, as well as the offsets component, of the Vermont CO₂ Budget Trading Program. The COATS System shall also be able to track CO₂ allowance prices, as reported during the transfer of CO₂ allowances, applicable price triggers, and appropriate offsets limits.

Contractor shall use the U.S. EPA's Emissions and Allowance Tracking System operated by its Clean Air Markets Division ("CAMD") as a starting point for defining and implementing system requirements. These requirements shall include, but not be limited to, functionality, security, reports, public access, and user interface.
ii. **CO₂ Emissions Data.** Tracking System CO₂ emissions data reporting shall utilize the U.S. EPA Emissions Collection and Monitoring Plan System ("ECMPS") and the U.S. EPA Clean Air Market Division Business System ("CAMD CBS") emissions reporting and tracking platforms, respectively, to the extent practicable. To the extent necessary, any subcontractors engaged by Contractor shall have strong working knowledge of 40 CFR Part 75 and the U.S. EPA's emissions data systems to ensure that the program implementation strategy takes into account the timeliness, data processing requirements, and data availability limitations associated with U.S. EPA's emissions reporting, tracking, analysis, and data storage procedures.

iii. **COATS System Deployment.** The COATS System shall include a data model, user interface, and functionality to support emissions inventory management, CO₂ allowance trading, compliance and program analysis, and user security. Contractor shall also coordinate the operation of the COATS System with the administration of a regional CO₂ allowance auction. Contractor shall (1) work with any independent third party hired by the State to verify the COATS System software is functioning properly, including potential redress; (2) if directed by the State, to publicly post appropriate information about the COATS System; and (3) to work with the State to use ongoing experience to continuously improve the COATS System.

As part of COATS System deployment, Contractor shall provide system documentation, user manuals, and other training tools, and update such materials on a regular basis as appropriate.

iv. **COATS System Hosting.** To support the web application and database in a secure environment, Contractor shall contract with a third-party vendor to maintain dedicated hosting for the database. Hosting requirements shall include all appropriate security requirements for Application Service Providers (ASPs).

v. **Emissions Data Tracking and Processing.** In order to use the emissions data reported to U.S. EPA, under 40 C.F.R. Part 75 for purposes of determining source compliance, Contractor shall maintain a process and supporting data management tools and software that allow for transfer of emissions data from CAMD CBS to the COATS System and include any necessary coordination or agreement with U.S. EPA regarding use and access to the emissions data. To the extent possible, Contractor shall use existing emissions management routines to accomplish this objective.

vi. **Offsets Module.** Contractor shall provide and maintain a COATS System software platform that includes an offsets module to track and maintain CO₂ allowances awarded to approved offset projects. Contractor shall coordinate with the appropriate representatives of the State to support administration of the offsets component of the Vermont CO₂ Budget Trading Program and to ensure that the offsets applications and submittal materials used by the State align with the capabilities and needs of the COATS System. The offsets module shall have the functionality to track and monitor offsets project status details, such as the status of consistency applications and monitoring and verification submittals, as well as provide for public access to project documentation supporting such applications and submittals.

vii. **COATS System Reports.** The COATS System software provided by Contractor shall include a reports module to provide system users with reports of system data. These reports shall include but may not be limited to: account allowance transfer reports, account holdings reports, CO₂ emissions reports, offsets status reports, and source compliance summary reports.

b. **Program Operation.** Contractor shall provide ongoing implementation and operational support for the Vermont CO₂ Budget Trading Program, including the following tasks:

i. **CO₂ Allowance Program Management.** Contractor shall provide support to the State for all program activities relating to source management, allowance allocations to compliance and general accounts, and trades for both general and compliance accounts. This shall include the
activity necessary to support the assignment of allowances to appropriate accounts following the successful completion and State approval of all allowance auctions, as well as the population of user accounts after State award of each offset allowance.

ii. Emissions Data Management and Analysis. Contractor shall perform all data management and quality assurance tasks necessary to ensure the availability of annual CO₂ emissions data from all affected units. Contractor shall prepare and send communications to the authorized account representatives for affected sources relating to the interim, draft, and final emissions values. Contractor shall work with the State to identify and resolve any issues relating to the submission of emissions data, and the accuracy and completeness of the data. To the extent requested by the State, Contractor shall contact industry representatives directly to resolve any outstanding issues. Contractor shall document all issues, their resolution, and all contacts with industry representatives.

iii. Reconciliation (True-up). Contractor shall assist the State in assessing compliance of affected sources with the Vermont CO₂ Budget Trading Program. The COATS System shall support data entry of compliance certifications required by the program and the identification of CO₂ allowances to be deducted during the compliance process. The COATS System shall provide for the preparation of draft and final compliance reports and will provide information to the States' staff contacts regarding possible non-compliance.

iv. User Technical Support. Contractor shall provide technical support to industry, the State, and public users of the COATS System. Contractor shall record all technical support requests, inquiries, or other occurrences in a log that identifies the nature of the request or events, requestor, respondent, response provided, date(s) and time(s) of response, and amount of chargeable time expended on the request and response. Records shall be provided to the State’s Project Manager on a periodic basis, or on demand, as requested. As necessary, Contractor shall provide assessments and recommendations relating to performance of the system based on technical support levels and user feedback. Contractor shall not be responsible for interpretation of the State's regulations, and/or interpretation of actions taken by the State in enforcement of those regulations.

v. System and Database Support. Contractor shall be responsible for all aspects of the COATS System maintenance and database support and management. This shall include database initialization and setup, ongoing database quality assurance activities, management of all user accounts and security, coordination and monitoring of the Application Service Provider support activities, database security, application performance, and all other tasks required to ensure high system availability and performance.

II. Allowance Auction Platform
Conductor shall implement and administer a process and platform for the auctioning of CO₂ allowances. Contractor shall provide services in three general areas: pre-auction, auction implementation, and post-auction. In any area where services are requested, all deliverables will be presented in draft form for review and approval by the State. Services shall provide for CO₂ allowance auctions to be held quarterly (four auction cycles per calendar year).

a. Pre-auction Services
i. Consultation. Contractor shall work with the State to modify existing auction administrative procedures as necessary to improve administration of quarterly auctions and to develop new auction procedures as appropriate.

ii. Auction Notices. Contractor in consultation with the State, shall create documents and associated information necessary to inform auction participants about all relevant details of the auction process and requirements for each auction event. Each notice of auction shall provide a specific description of the auction format that will be used, the quantities of CO₂ allowances to be auctioned, all applicable participation requirements, and the process for administering the auction.
Such information shall be made available on a website maintained and hosted by Contractor specifically dedicated to RGGI auctions. Contractor shall prepare for, host, and facilitate at least one conference call for prospective auction participants prior to each auction, as well as receive and respond to written questions submitted by conference call participants.

iii. **Participant Qualification.** Contractor, in consultation with the State, shall assist in the development of all qualification application materials and documents and shall manage, under the direction of the State, the application process, including receiving and reviewing each qualification application to determine completeness and accuracy of the information submitted. Contractor shall be responsible for collecting and managing all auction financial security submissions and/or escrow accounts on behalf of the State. Contractor in consultation with the State, shall be responsible for notifying bidders of their qualification status and auction specific participation status and maintaining a database of all qualified parties and bidders approved to participate in each auction.

iv. **Auction Documentation and Training.** To prepare for each auction, Contractor shall create and distribute auction materials, such as participation instructions, final auction procedures and manuals, as well as the distribution of user codes and passwords to qualified auction participants. In addition, Contractor shall be responsible for training auction participants in the use of the auction software platform.

b. **Auction Implementation Services**

i. **Auction Platform.** Contractor shall provide and administer, on behalf of the State, a secure online auction platform capable of accommodating an auction in all of the following formats:

1. A sealed bid, uniform price auction
2. An ascending price, multiple-round auction

Furthermore, the online auction platform shall be capable of managing CO2 allowance purchase limits based on specifications provided by the State, and simultaneous auctions of current year allowances and future vintage year CO2 allowances. Such platform shall be capable of tracking bidding activity and must provide for audit level documentation of such activity, in accordance with auction monitoring protocols established by Contractor in consultation with the State.

c. **Post-Auction Services.** Contractor shall, on behalf of the State, arrange for and facilitate the transfer of funds from successful bidders to an account designated by the State and arrange for the return of financial security to bidders. Contractor shall also be responsible for coordinating the operation of the COATS System for the transfer of CO2 allowances awarded at each auction at the direction of the State to the COATS System compliance or general accounts of the winning bidders. Contractor shall also be required to: (1) work with any independent third party hired by the State to verify the results of the auction; (2) if directed by the State, to post appropriate information about auction results; and (3) to work with the State to use ongoing auction experience to continuously improve subsequent auctions.

III. **Market Monitoring**

Contractor shall provide market monitoring services in three general areas: monitoring and auditing of CO2 allowance auctions, monitoring of relevant secondary CO2 allowance market activity, and provision of consultative services addressing market monitoring.

a. **Monitoring and Auditing of Allowance Auctions.** Contractor shall provide professional monitoring of all CO2 allowance auctions, some of which may involve a subset of participating states and may or may not include CO2 allowances submitted for auction by the State. Contractor shall develop data collection methods, metrics, and analytic techniques for monitoring CO2 allowance auction performance and thresholds for identifying any collusion, market power, and/or market manipulation that may impact the efficiency and performance of the CO2 allowance auctions.
b. **Monitoring of Secondary Market Behavior.** Contractor shall monitor all relevant publicly available data and indicators of market behavior in the secondary CO₂ allowance market that may be expected to significantly impact the performance of CO₂ allowance auctions and the secondary CO₂ allowance market.

c. **Consultative Services.** Contractor shall provide expert advice to the State regarding how any aspects of the CO₂ allowance auction process should be altered in order to improve the performance and efficiency of the auctions and ensure the functioning of a fair and competitive CO₂ allowance market.

IV. **Program Development Support**
Contractor shall provide program development support to the State on an as-requested basis to facilitate State consideration of modifications to and/or expansion of the Vermont CO₂ Budget Trading Program. Such services may include but are not limited to the following:

a. Evaluation of program implementation and identification of areas for potential improvement.

b. Electricity simulation modeling and macroeconomic analysis.

c. Evaluation of additional offset categories.

d. Development of technical recommendations related to specific CO₂ Budget Trading Program elements.

V. **Project Reporting**
Contractor shall designate a Project Manager, who shall be the primary contact with the State. The Project Manager shall be responsible for monitoring and ensuring progress for all tasks and subtasks, and for ensuring timely delivery of all deliverables outlined in this scope of services. The Contractor Project Manager shall be responsible for all project reporting to the State.

At the end of the project term, Contractor shall prepare and submit a draft final report that provides a description and summary of all major work tasks and submitted deliverables. The draft final report shall be revised within 60 days to address all State comments, and Contractor shall submit a final report to the State addressing all such comments. The final report shall be due by June 1 following the end of each program year (January 1 – December 31).

In any area where deliverables will be provided, such deliverables shall be presented to the State in draft form for review and ultimate approval by the State.
ATTACHMENT B
PAYMENT PROVISIONS & BUDGET

1. The State shall pay Contractor as follows: As provided in Article 3 of Attachment A.

2. If the work described in any invoice as provided by the Contractor has not been completed to the satisfaction of the State, the State reserves the right to withhold payment until the invoiced work has been satisfactorily completed. Overdue balances resulting from non-payment for unsatisfactory work will not be subject to interest or finance charges.

The State shall not be responsible for expenses incurred by the Contractor.

3. Payment terms are Net 30 days from the date the State is in receipt of an error-free invoice.

4. The Contractor agrees to a 10% retainage of each invoiced amount, which will be retained subject to review, approval and acceptance of Contractor's final report by the State. Retainage held will be released once a retainage statement is submitted and signed by both the Contractor and the State. Retainage statement must be submitted within 90 days of contract end date.

5. Contractor will submit all invoices to the State’s Project Manager:
   Name: Kim McKee (kimberley.mckee@vermont.gov)
   Department: Environmental Conservation
   Address: 1 National Life Drive, Main 2, Montpelier, VT 05620-3520
1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

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

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

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

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

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

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

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

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

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability
- The policy shall be on an occurrence form and limits shall not be less than:
  - $1,000,000 Each Occurrence
  - $2,000,000 General Aggregate
  - $1,000,000 Products/Completed Operations Aggregate
  - $1,000,000 Personal & Advertising Injury

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

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

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

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

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

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

12. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.
13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. “Records” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

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

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

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

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

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:
   A. is not under any obligation to pay child support; or
   B. is under such an obligation and is in good standing with respect to that obligation; or
   C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

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

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

In the case this Agreement is a contract with a total cost in excess of $250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).
Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

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

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

22. **Certification Regarding Debarment**: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party’s principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

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

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

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

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

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

27. **Termination**:

   A. **Non-Appropriation**: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

   B. **Termination for Cause**: Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.

   C. **Termination Assistance**: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.
28. **Continuity of Performance:** In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

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

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

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

   A. **Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required. For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends $500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends $750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

   B. **Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

   C. **Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. **Requirements Pertaining Only to State-Funded Grants:**

   A. **Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of $1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.

   B. **Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

   (End of Standard Provisions)
Department of Environmental Conservation
Request for Approval to Subgrant/Subcontract

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| Maximum Amount: | $ |

Original Grantee/Contractor Signature:

By signing above, the Grantee/Contractor certifies that the subcontractor has been selected using their procurement policy, as required by the original agreement, and certifies that any conflict of interest has been disclosed in writing as required by the original agreement (Attachment C, Section 23).

DEC Business Office Review

Approval: _______________________________ Date: __________________

On the reverse side of this form there is guidance about language that must be included by the contractor in subcontracting agreements.
Per Attachment C, subcontractors must include standard language from Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont

1. **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.

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