

State of Vermont

Buildings and General Services
Office of Purchasing & Contracting
109 State St
Montpelier VT 05609-3001
USA

CONTRACT



Vendor ID 0000006272
TAM Inc
639 North Rd
Shaftsbury VT 05262
USA

Contract ID 0000000000000000000029886		Page 1 of 4
Contract Dates 10/01/2015 to 09/30/2019		Origin CPS
Description: TRASH, FOOD SCRAPS & RECYCLING		Contract Maximum \$132,000.00
Buyer Name Linda T Wortman	Buyer Phone 828-5684	Contract Status Approved

Phone #: 802/447-1300

Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt
1		TRASH, FOOD SCRAPS & RECYCLABLE COLLECTION SERVICE	EA	0.01000	0.00	132,000.00

CONTRACT TERMS AND ADDITIONAL INFORMATION

STANDARD CONTRACT FOR SERVICES

- Parties.** This is a contract for services between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting, (hereafter called "State"), and TAM Inc., with its principal place of business in Shaftsbury, VT, (hereafter called "Contractor"). Contractor's form of business organization is 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.
- Subject Matter.** The subject matter of this contract is services generally on the subject of Waste Hauling and Recycling Services. Detailed services to be provided by the contractor are described in Attachment A.
- 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.
- Contract Term.** The period of contractor's performance shall begin on October 1, 2015 and end on September 30, 2017 which the option to renew for two (2) additional one year renewal periods under mutual agreement of both parties.
- Prior Approvals.** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.
 - Approval by the Attorney General's Office is required.
 - Approval by the Secretary of Administration is not required.
 - Approval by the CIO/Commissioner DII is not required.
- Amendment.** This agreement represents the entire agreement between the parties; No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
- Cancellation.** This contract may be canceled by either party by giving written notice at least 30 days in advance.
- Attachments.** This contract consists of 13 pages including the following attachments which are incorporated herein:
 - Attachment A - Specifications of Work to be Performed
 - Attachment B - Payment Provisions
 - Attachment C - "Standard State Provisions for Contracts and Grants" a preprinted form (revision date 09/01/2015).
- Order of Precedence.** Any ambiguity, conflict or inconsistency in the Contract Documents 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

CONTRACTOR: TAM INC.

CONTRACT #: 29886

CONTRACT AMENDMENT #: 1

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SUBJECT: TRASH & RECYCLING

Contract #29886, entered into by the Department of Buildings and General Services, Office of Purchasing and Contracting, on behalf of the State of Vermont, and TAM Inc. is amended as follows:

1. Maximum Amount. The maximum amount payable under this contract, wherever such references to the maximum amount appear in said contract shall be changed from \$ 50,000.00 to \$100,000.00. An increase amount of \$50,000.00.

2. Attachment C: Standard State Contract Provisions for Contracts and Grants dated 07/01/2016 see attached, which supersedes all prior versions of Attachment C.

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

4. Certification Regarding Suspension or Disbarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment 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>.

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

All other terms and conditions of this Contract not hereby amended shall remain in full force and effect.

The signatures of the undersigned Parties indicate that each has read this 1st amendment to Contract # 29886 in its entirety and agrees to be bound by the provisions enumerated therein.

STATE OF VERMONT
CONTRACT AMENDMENT

Contract #29886
Amendment #2

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, (the "State") and TAM Inc. with a principal place of business in Shaftsbury, VT(the "Contractor") that the contract between them originally dated as of October 1, 2015, Contract # 29886, as amended to date, (the "Contract") is hereby amended as follows:

I. Contract Term. The Contract end date, wherever such reference appears in the Contract, shall be changed from September 30, 2017 to September 30, 2018. The Contract Term may be renewed for one additional one-year period at the discretion of the State.

II. Attachment C, Standard State Provisions for Contracts and Grants. Attachment C is hereby deleted in its entirety and replaced by the Attachment C July 1, 2016 attached to this Amendment.

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

CONTRACT



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

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor'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.

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

This document consists of 16 pages. Except as modified by this Amendment No. 2, all provisions of the Contract remain in full force and effect.

STATE OF VERMONT #29886
 CONTRACT AMENDMENT #3

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services (the "State") and TAM, with a principal place of business in Shaftsbury, VT (the "Contractor") that the contract between them originally dated as of October 1, 2015, Contract # 29886, as amended to date, (the "Contract") is hereby amended as follows:

I. Maximum Amount. The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$100,000.00 to \$132,000.00, representing an increase of \$32,000.00.

II. Contract Term. The Contract end date, wherever such reference appears in the Contract, shall be changed from September 30, 2018 to September 30, 2019.

III. Attachment B, Payment Provisions. The payment provisions are amended as follows:

Page 2 of 2 of Attachment B: Pricing and Service Locations

* 2.0% increase in all Service Locations

Attachment C, Standard State Provisions for Contracts and Grants. Attachment C is hereby deleted in its entirety and replaced by the Attachment C December 15, 2017 attached to this Amendment.

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

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

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor'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.

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

State of Vermont

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Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt
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This document consists of 10 pages. Except as modified by this Amendment No. 3, all provisions of the Contract remain in full force and effect.

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the STATE of VERMONT

By the CONTRACTOR

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Email: _____

Email: _____

CANS

City	Location	QTY	Can Size	Frequency	SERVICE LEVEL		SERVICE CATEGORY	
					MSW / TRASH	OCC / RECYCLE		
Bennington	Armory, 100 Franklin Lane	1	4 YARD	1XW	\$ 29.42	-		
Bennington	Armory, 100 Franklin Lane (currently 2 - 90 gal carts)	1	2 YARD	1XM	-	\$ 20.40		
Bennington	324 Main Street	1	4 YARD	3XW	\$ 22.17	-		
Bennington	324 Main Street	1	2 YARD	1XW	-	\$ 7.06		
Bennington	Bennington Battle Monument	4	64 GAL	1XW	\$ 16.47	-		
Bennington	Bennington Battle Monument	1	64 GAL	1XW	-	\$ 4.69		
Bennington	Vermont Veterans Home, Veterans Dr.	1	6 YARD	3XW	-	\$ 14.75		
Bennington	Vermont Veterans Home, Veterans Dr.	1	4 YARD	1XW	-	\$ 10.59		
Bennington	VT Fish & Wildlife, 110 Hatchery Road, South Stream Road	1	3 YARD	1xW	\$ 25.89	\$ 14.28		
East Dorset	18 Village St.	1	4 YARD	1xW	\$ 29.42	\$ 14.28		
Londonderry	Londonderry Garage, 158 Derry Woods Rd.	1	4 YARD	1xM	\$ 61.20	\$ 35.70		
Wilmington	23 Haystack RD.	1	4 Yard	1XW	\$ 29.42	\$ 14.28		

FOOD SCRAPS

TOWN/CITY	Per Gallon	Per Cubic Yard
BENNINGTON	\$0.23	\$ 45.90
DORSET	\$0.23	\$ 45.90
LANDGROVE	\$0.23	\$ 45.90
LONDONDERRY	\$0.23	\$ 45.90
MANCHESTER	\$0.23	\$ 45.90
RUTLAND CITY	\$0.23	\$ 45.90
RUTLAND TOWN	\$0.23	\$ 45.90
SHAFTSBURY	\$0.23	\$ 45.90
TINMOUTH	\$0.23	\$ 45.90
WEST RUTLAND	\$0.23	\$ 45.90
WINHALL	\$0.23	\$ 45.90

ROLL-OFFS

City	Location	Haul Charge		Disposal Rate	
		MSW	C&D	MSW	C&D
Bennington	324 Main Street	\$ 147.90	\$ 147.90	\$ 80.58	\$ 80.58
Bennington	Bennington Battle Monument	\$ 147.90	\$ 147.90	\$ 80.58	\$ 80.58
Bennington	State Office and Courthouse	\$ 147.90	\$ 147.90	\$ 80.58	\$ 80.58
Bennington	Vermont Veterans Home, Veterans Dr.	\$ 147.90	\$ 147.90	\$ 80.58	\$ 80.58

COMPACTORS

LOCATION	HAUL	PRICE / TON	MONTHLY RENTAL
Bennington County	\$155.30	\$ 85.68	\$ 198.90

**State of Vermont
Office of Purchasing and Contracting
Waste Hauling and Recycling
Scope of Work
Attachment A**

October 1, 2015

1. Contractor shall provide all labor and equipment necessary to complete waste hauling and recycling services as described in the Contract.
2. Contractor POC Information
Trevor Mance
802-447-1300
3. The contractor shall have the ability to provide to the State containers of the types and sizes indicated on Attachment B. All containers are to be freshly painted and clearly with the Agency of Natural Resources universal recycling symbols. The symbols shall be appropriately applied to reflect the intended contents of the containers that are provided by the hauler. All containers shall be cleaned inside and outside and disinfected once every two weeks for food scrap collection containers, and periodically for rubbish and recycling to the satisfaction of the using agency. Multiple container sizing options must be available and delivered to the satisfaction of the using agency to accommodate variation in disposal amount for each of the three material streams. The size of each container shall be clearly marked on all containers. All containers must be leak-proof, secure – locking lids and lock shall be provided for all containers if needs arise at certain locations, totes must have wheels in working order so that staff can move them in and out of cafeteria spaces, tote washing or liners, provide sawdust and timely pick up schedule. The size of each container shall be clearly marked on all containers. All containers must have a drain plug. All 2, 4, 6 and 8 cubic yard containers must be equipped with a weatherproof cover. The 12, 20, 25, and 30 cubic yard containers have the option for weatherproof covers.
 - 3.1. All prices per pickup shall include all tip fees. Based on need, the frequency of pickup may be changed at any time during the contract period by the agency. All containers are priced on a per pickup basis including all tip fees, disposal fees and hauling charges.
 - 3.2. The agency may specify dumpsters and containers to be top loaded or front loaded that are lockable with a padlock at no additional charge. The using agency may specify dumpsters or containers to be clearly marked "CARDBOARD", "PLASTICS", etc.
 - 3.3. To coordinate the delivery of new containers under this Contract and/or the removal of old containers under a previous contract, the Contractor shall provide delivery of new containers at the date and time specified by the using agency in order to ensure an orderly changeover of dumpsters and containers at all locations. The agency shall

provide ten days notice for the delivery of new container. In the event of an emergency situation, vendors are required to respond within 24 hours.

- 3.3.1. In the event that an incumbent contractor is successful in retaining the contract awarded for the previous contract period, all containers utilized under the current contract must be labeled as directed in Section 3, reconditioned and freshly painted inside and out or may require replacement at the discretion of the agency.
- 3.4. **Right-Size:** Contractor will work with the agency or department to ensure that the containers used for rubbish removal, food scraps, and recycling are the right-size containers for that location.
- 3.5. **Damaged Containers:** Whenever a container is damaged, the contractor replaces the damaged container as soon as possible but no later than one week following notification by the agency. All costs associated with replacement or repair of the equipment furnished by the contractor shall be the responsibility of the contractor.
- 3.6. **Pickups:** The frequency of pickups will be indicated on the agency purchase orders. Purchase orders may be issued for service to be provided "on call" or "as needed" based on agency requirements.
 - 3.6.1. The agency reserves the right to increase or decrease the number, size, and location of dumpsters and containers, in addition to the frequency of pickups, as the need arises. The agency shall provide ten days notice for any change in container size or service frequency.
 - 3.6.2. All pickups shall be made on the date and times as directed by the agency and servicing of the location shall be made known to the agency representative at each location. A written notice shall be left with agency representative after each service. The agency may substitute with written notice confirming service by the drive to allow the Contractor to fax or e-mail a confirming service notice to the specified agency representative for each dumpster serviced, provided each servicing notice is faxed to the specified agency representative within eight (8) hours after being picked up. The agency may discontinue the faxing alternative method at any time.
 - 3.6.3. The contractor will replace the container if it becomes unsafe upon the request of the agency.
- 3.7. **Failure to Pickup Penalty:** If the contractor is unable to pick up refuse on the regularly scheduled day, they shall notify the agency. Failure to do so will result in a deduction from the monthly charge equal to one fourth the monthly charge. No deductions will be made without first notifying the contractor and giving them reasonable time to reply. If the contractor fails to pick up a location on schedule, the trash must be collected by 11:00 a.m. of the day following.
 - 3.7.1. **Holidays:** When a pickup is scheduled on a national or state holiday, refuse shall be picked up either the day before or the day following the holiday. At no time

will the contractor allow trash to accumulate until the next regularly scheduled pick up day.

- 3.8. **Refuse Composition:** The 12, 20, 25, and 30 cubic yard containers generally will be used to dispose of mixed debris which may contain items picked up off highways. This debris may be comprised of the following: concrete, sand, dirt, gravel, bituminous, metal, appliances, mattresses, wood, paper, cloth goods, and any other highway debris not specified herein. The 2, 4, 6 and 8 cubic yard containers will be generally used for trash. Totes and other containers provided for recycling shall match the size and number of the trash containers. The recycling containers may be larger in size than the trash containers. Containers for collection of leaf, yard debris, clean wood, and architectural waste shall be made available from the Contractor upon request.
- 3.9. **Refuse Disposal:** All refuse collected and disposed of under this contract shall be accomplished in strict accordance with current applicable county; state and federal air and water pollution control and refuse disposal regulations. If landfill banned material is observed in the trash, or refuse the Vendor shall notify BGS within one week of the observance. The Vendor shall indicate the materials found, the container it was found in, the location of the container, and the date the material was observed in the refuse.
- 3.10. **Food Scrap Disposal:** It is the State of Vermont's intention to discard all food scraps separately from trash, refuse, and recyclables. All food scrap containers must be emptied by a designated food scrap collection truck and delivered to a certified composting or anaerobic digestion facility. All recycling containers must be clearly marked for food scraps and indicated as such in words as well as with the appropriate Agency of Natural Resources universal recycling symbol. Vendors shall notify the using Agency and BGS of contamination in dumpsters within one week of observed contamination, the Vendor must work to resolve the issue with using agency or agencies served at that location. The Vendor shall indicate the materials found, the container it was found in, the location of the container, and the date the material was observed in the refuse. If Vendor observes contamination on three separate occasions the Vendor may charge a fee not to exceed \$20.00 for removal of contaminated material, or no more than the cost to tip the landfill banned materials at their appropriate facility plus a \$20.00 fee.
- 3.11. **Recycling:** Effective July 1, 2015, it is the law in the State of Vermont to recycle cardboard, mixed paper, glass, plastic (bottles) and aluminum (foil, and cans), etc. For ease of collecting these materials, it is a preference to collect these baseline recyclable materials in one container (single stream recycling). All recycling containers shall be emptied by a designated recycling truck and delivered to a certified recycling facility. All recycling containers shall be clearly marked for recycling and indicated as such in words as well as with the Agency of Natural Resources universal recycling symbol. Vendors shall notify the using Agency and BGS of contamination in dumpsters within one week of observed contamination, the Vendor shall work to resolve the issue with using agency or agencies served at that location. The Vendor shall indicate the materials found, the container it was found in, the location of the container, and the

date the material was observed in the refuse. If Vendor observes contamination on three separate occasions, the Vendor may charge a fee not to exceed \$20.00 for removal of contaminated material, or no more than the cost to tip the landfill banned materials at their appropriate facility plus a \$20.00 fee.

3.12. **Listed Recyclables (July 1, 2015) include:**

- Aluminum and steel cans
- Aluminum foil and aluminum pie pans
- Glass bottles and jars from foods and beverages
- Plastics #1 and #2 (PET and HDPE resin types)
- Corrugated cardboard
- White and mixed paper
- Newspaper, magazines, catalogues, paper mail, and envelopes
- Box board

3.12.1. The State of Vermont as part of the outcome expectation is to model effective environmental stewardship.

3.13. **Prices:** Prices on Attachment are per pickup. Prices quoted are net price for the service required including tip fees. No additional charges will be allowed. Prices submitted shall include all tip fees in effect on the beginning date of this contract, disposal fees and hauling charges.

3.14. **Compactors:** All wiring, hoses, modifications required to operate compactors shall be at no cost to the State. If required by the using agency, the compactor is to be designed with the appropriate equipment to allow trash to be loaded into the compactor from an access walkway at the building level.

3.15. **Price Adjustment:** Prices will remain firm for the first twelve months of the contract. Once the first twelve months of the contract has passed, the contractor may request a consideration of price change (increase), which will be subject to an annual review by the Office of Purchasing and Contracting. Request for additional increases will be limited to once in any twelve month period thereafter. All increases are subject to annual review. The Office of Purchasing and Contracting reserves the right to reject any price increase deemed to be excessive. Decreases to be offered immediately as they become available. Vendor must notify the Office of Purchasing and Contracting of any decreases in pricing.

3.16. **Delivery:** The Contractor shall furnish and deliver the required containers to agency locations as specified in the agency purchase order. If required by the agency, Contractor shall notify agency of delivery as specified on the purchase order.

3.17. **Examination of Site:** The Contractor shall conduct site inspections prior to delivering a container to agency location. The ultimate placement of the containers shall be

designated by the agency and no extra charge will be assessed. Contractor will work with the agency to right size the container for the need.

- 3.18. **Monthly Reporting:** Reporting on a per ton basis must be provided per month to BGS for each of the material streams collected at each location where service is provided. The report must include relevant information such as container size and material stream intended for each container (may be aggregated if more than one container is provided per material stream), indicate each location clearly serviced, start and end dates of the reporting period, and the tonnage of each container (or aggregated material stream) that is provided under this contract.
4. **OUTCOMES:** The expected outcome is to enter into a contractual relationship with a strategic long-term business partner who will provide all services incidental to rubbish removal and recycling services that will ensure the highest degree of sanitation and recycling as well as maintaining the safety of personnel, staff and property. Minimum outcomes include the following:
- 4.1. Achieve ecological benefits from single stream recycling.
 - 4.2. Improve upon quantities of material currently being recycled.
 - 4.3. Develop other waste diversion and cost reduction initiatives.
 - 4.4. Maintain or reduce existing trash service levels during program transition.
5. **LANDFILL BANNED MATERIALS:** The State of Vermont is committed to a safe and healthy environment. The appropriate management of landfill banned materials protects human health and the environment. Vendor will immediately notify service location and BGS of landfill banned items and request removal before hauling. If something hazardous, BGS will work with a solid waste district or a hazardous waste contractor to ensure proper disposal of material. If something that hauler can assist with recycling (recyclables, scrap metal) then hauler will work with BGS to address issue. Three observances of landfilled banned material in incorrect collection containers per service location then Vendor can reject the entire load and bill accordingly. Link to landfill banned items <http://www.anr.state.vt.us/dec/wastediv/documents/LandfillBanPoster.pdf>. Mandated recyclables to be added July 1, 2015 and food scraps July 1, 2020.

**State of Vermont
Office of Purchasing and Contracting
Waste Hauling and Recycling
Payment Terms
Attachment B
Page 1 of 2**

October 1, 2015

The State shall pay the Contractor an amount not to exceed \$50,000.00, as follows:

1. Pricing and Service Locations are identified on page 2 of 2 of Attachment B
2. **PRICE ADJUSTMENT:** Prices will remain firm for the first twelve months of the contract. Once the first twelve months of the contract has passed, the contractor may request a consideration of price change (increase), which will be subject to an annual review by the Office of Purchasing and Contracting. Request for additional increases will be limited to once in any twelve month period thereafter. All increases are subject to annual review. The Office of Purchasing and Contracting reserves the right to reject any price increase deemed to be excessive. Decreases to be offered immediately as they become available. Vendor must notify the Office of Purchasing and Contracting of any decreases in pricing.
3. **EQUIPMENT:** If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, oiled, and ready for immediate use, unless otherwise requested by the purchasing agency.
4. **INVOICING:** All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. All invoices are to be Net 30.
5. The VISA Purchasing Card may be used as a form of payment under this contract.

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

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

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

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

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

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

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

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

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

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

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

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed

herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

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

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

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

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

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

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

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

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or

acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

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

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

16. Taxes Due to the State:

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

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

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

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

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and

Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).

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

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

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

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

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

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

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

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

27. Termination:

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

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

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

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

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

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

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

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required. For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.
- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

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

(End of Standard Provisions)