



Request for Proposals (RFP)

**Window Washing Services
@ Burlington International Airport (BTV)
1200 Airport Drive, Suite 1
South Burlington, VT 05403**

Date of Issuance:
September 30, 2020

Due Date:
October 30, 2020 @ 2:00 PM

Contacts:
Shelby Losier
Director of Ground Transportation
Burlington International Airport
1200 Airport Drive
South Burlington, VT 05403
(802) 734-3239
slosier@btv.aero

Or

Andrew Laderoute
Marketing Assistant
Burlington International Airport
1200 Airport Drive
South Burlington, VT 05403
(802) 338-8106
aladeroute@btv.aero

I. PROJECT BACKGROUND

Burlington International Airport is seeking proposals from contractors to provide annual and monthly window-washing services at 1200 Airport Drive, South Burlington, Vermont.

II. SCOPE OF WORK

Provide all labor and materials to accomplish BTV's window washing, which includes high-height washing that requires the assistance of a lift.

The selected contractor will also be required to provide an operations plan that includes a safety plan. Furthermore, laborers of such contractor must be able to obtain a SIDA Badge, information found here: https://www.btv.aero/images/uploads/Badge_Process_032514.pdf.

Annual Services:

- Complete exterior of the terminal building
- Complete interior of the terminal building
- Parking garage windows exterior and interior
- Sky lights

Monthly Services:

- Parking garage elevator vestibule windows and glass doors
- Ambassador/Taxi booth exterior in front of terminal
- Parking garage exit booth exterior at garage exit
- Complete exterior of the terminal building first floor
- Exterior of administration and operations offices

III. RESPONSE FORMAT

- A.** A cover page with the name, address, and telephone number of the participating contractor.
- B.** Proposed operations and safety plan.
- C.** Level of experience with examples of work and two business references.
- D.** Detailed cost proposal for monthly and annual labor and material costs broken out for each service listed in SECTION II. SCOPE OF WORK for 5 years' time, beginning January 1, 2020.

IV. SUBMISSIONS

It is the responsibility of the participating contractor to ensure that the point of contact has received a completed Proposal by the required deadline.

- A. **Facility Visits.** A facility visit can be arranged by contacting one of the airport contacts listed above prior to
- B. **Deadline for Receipt of Proposals.** Proposals must be received by Shelby Losier at slosier@btv.aero no later than 2:00 p.m. on the above due date. Upon receipt and review of proposals, they will be tabulated and a response will be provided to all proposers as soon as possible. Proposals will be submitted by e-mail only.

Submittal by e-mail: Send your Proposal in a single PDF file to Shelby Losier at the contact e-mail address contained on the cover page of this Request for Proposals. The subject line of the e-mail should state: "BTV Window Washing RFP Response."

- C. **Questions.** Questions and requests for clarification relating to this Request for Proposal may be made to the contact person at the e-mail address contained on the cover page of this Request for Quotes. Only e-mail communications will be accepted. All questions and requests for clarification must be received by October 16, 2020 at 2:00 PM.

V. CONTRACTOR SELECTION

- A. **Evaluation Process.** Proposals received by the deadline will be reviewed and evaluated by BTV. Additional information may be requested prior to final selection. BTV will base the award of contract on price, quality of proposal, and experience. BTV reserves the right to accept or reject any or all submitted Proposals with or without cause. Upon reviewing Proposals, BTV expects to select the contractor within a week of receipt of proposals.
- B. **Notification of Status.** Participating contractors who are not selected will be notified after the project has been awarded.

VI. EXHIBITS

- A. Exhibit A: BTV Airport Terminal Floor Plans
- B. Exhibit B: Draft Contract
- C. Exhibit C: Burlington Standard Contract Conditions
- D. Exhibit D: Burlington Livable Wage Ordinance Certification
- E. Exhibit E: Burlington Outsourcing Ordinance Certification
- F. Exhibit F: Burlington Union Deterrence Ordinance Certification

VII. CONTRACTING

The Contractor prior to being awarded a contract, shall apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1101, PH: 802-828-2363, Toll-free: 800-439-8683; Vermont Relay Service – 711; web site: <https://www.sec.state.vt.us/>. The contract will not be executed until the Consultant is registered with the Secretary of State's Office. The successful Consultant will be expected to execute sub-agreements for each sub-consultant named in the proposal upon award of this contract.

Prior to beginning any work, the Consultant shall obtain Insurance Coverage in accordance with the Burlington Contractor Conditions (Attachment A in this RFP). The certificate of insurance coverage shall be documented on forms acceptable to the City.

If the award of the contract aggrieves any firms, they must appeal in writing to the City. The appeal must be post-marked within seven (7) calendar days following the date of written notice to award the contract.

VIII. AGREEMENT REQUIREMENTS

The selected consultant will be required to execute a contract with the City on the terms and conditions required by the City, including but not limited those in the Burlington Contractor Conditions (Attachment C) and the attached Draft Agreement.

IX. LIMITATIONS OF LIABILITY

The City assumes no responsibility or liability for costs incurred by parties responding to this Request for Proposals, or responding to any further requests for interviews, additional data, etc., prior to the issuance of the contract.

X. COSTS ASSOCIATED WITH PROPOSAL

Any costs incurred by any person or entity in preparing, submitting, or presenting a proposal are the sole responsibility of that person or entity. The City will not reimburse any person or entity for any costs incurred.

XI. INDEMNIFICATION

Any party responding to this Request for Proposals is acting in an independent capacity and not as an officer or employee of the City. Any party responding to this Request for Proposals will be required to indemnify, defend, and hold harmless the City, its officers, and employees from all liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the responding party's acts and/or omissions in or related to the submission of the response.

XII. REJECTION OF PROPOSALS

The City reserves the right to reject any or all proposals, to negotiate with one or more parties, or to award the contract to the proposal the City deems will meet its best interests, even if that proposal is not the lowest bid. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals. This Request for Proposals in no way obligates the City to award a contract.

XIII. OWNERSHIP OF DOCUMENTS

Any materials submitted to the City in response to this Request for Proposals shall become the property of the City unless another arrangement is made by written agreement between the City and the responding party. The responding party may retain copies of the original documents.

XIV. DUTY TO INFORM CITY OF BID DOCUMENT ERRORS

If bidder knows, or has reasonable cause to believe, that a clearly identifiable error or omission exists in bid documents, including but not limited to unit prices and rate calculations, bidder shall immediately give the City written notice thereof. Contractor shall not cause or permit any work to be conducted which may related to the error or omission without first receiving written notice by the City that City representatives understand the possible error or omission and have approved of modifications to the bid or contract documents or that Contractor may proceed without any modification being made to the bid or contract documents.

XV. PUBLIC RECORDS

Any and all records submitted to the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act. The determination of how those records must be handled is solely within the purview of City. All records the responding party considers to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, or that the responding party otherwise seeks to have the City consider as exempt must be identified clearly and specifically at the time of submission. It is not sufficient to merely state generally that a proposal is proprietary, contains a trade secret, or is otherwise exempt. Particular records, pages, and sections which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

XVI. PUBLIC HEALTH EMERGENCIES

Bidders are advised that public health emergencies, as declared by the City, the State of Vermont, or the Federal Government, including the current pandemic of Novel Coronavirus (COVID-19), may introduce significant uncertainty into the project, including disruption of timelines or revised practices. Contractor shall consider public health emergencies as they develop project schedules and advance the work.

The City may require a public health emergency plan be submitted as part of the bid. This plan will contain:

- 1) Measures to manage risk and ensure that potential impacts to safety and mobility are mitigated in accordance with health and safety standards and guidelines proposed by local,

state, and federal agencies (see attached Standard Contract Conditions For Contractors, Sections 21);

- 2) A schedule for possible updates to the plan in advance of the start of work (see attached Standard Contract Conditions For Contractors, Sections 21); and
- 3) Means to adjust the schedule and sequence of work should the emergency change in nature or duration.

The City will have sole discretion to approve, deny, or require changes to this plan as a condition of consideration of the bid. While the Contractor is responsible for ensuring that the project or site is stable and in a safe and maintainable condition, the City will have the right to inspect all preparatory, in-progress, and final work to ensure compliance with health and safety standards and may at any time require the Contractor to stop work until it becomes compliant.

If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays related to public emergencies, including the current pandemic of Novel Coronavirus (COVID-19), will be excusable, but will not be compensable.

XVII. Statutory and Other Requirements

The services requested may be funded with public funds. If so, participating firms and individuals will be required to comply with all federal, state, and local rules and regulations, including:

1. **Civil Rights & Equal Opportunity.** Participating firms and individuals shall not discriminate on the basis of race, color, national origin, sex, physical disability or veteran status in the award and performance of contracts.
2. **DBE Obligations.** Participating firms and individuals must assure that Disadvantaged Business Enterprises (DBEs)—as defined in 49 CFR Part 23—have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds.
3. **Title VI Solicitation Notice.** BTV, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offers that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
4. Any contracts and subcontracts issued as a result of this RFP are subject but not limited to the following federal provisions:

- Title VI of the Civil Rights Act of 1964
- Section 520 of the Airport and Airway Improvement Act of 1982
- 49 USC § 50101 – Buy America Preference (as applicable)
- 29 CFR Part 5 – Davis Bacon (as applicable)
- DOT Regulation 49 CFR Part 18.36(i) - Access to Records
- DOT Regulation 49 CFR Part 20 - Lobbying and Influencing Federal Employees
- DOT Regulation 49 CFR Part 26 -Disadvantage Business Enterprises Participation.
- DOT Regulation 49 CFR Part 29 - Government-wide Debarment and Suspension
- DOT Regulation 49 CFR Part 30 - Federal Trade Restriction Clause
- Executive Order 11246 (Affirmative Action to Ensure Equal Employment Opportunity).

5. **City of Burlington Livable Wage Ordinance.** As a condition of entering into an agreement with BTV after the conclusion of the Request for Proposals process, the selected firm or individual will be required to comply with the City’s Livable Wage Ordinance, which can be found at B.C.O. § 21-80 *et seq.*
6. **City of Burlington Union Deterrence Ordinance.** As a condition of entering into an agreement with BTV after the conclusion of the Request for Proposals process, the selected firm or individual will be required to comply with the City’s Union Deterrence Ordinance, which can be found at B.C.O. § 21-100 *et seq.*
7. **City of Burlington Outsourcing Ordinance.** As a condition of entering into an agreement with BTV after the conclusion of the Request for Proposals process, the selected firm or individual will be required to comply with the City’s Outsourcing Ordinance, which can be found at B.C.O. § 21-90.
8. **Child Support Payments.** As a condition of entering into an agreement with BTV after the conclusion of the Request for Proposals process, the selected firm or individual will be required to certify that—as of the date of signing the agreement—they are: (a) not under an 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. If the selected firm or individual is a sole proprietorship, the statement applies only to the proprietor. If the selected firm or individual is a partnership, the statement applies to all general partners with a permanent residence in Vermont. If the respondent is a corporation, this provision does not apply.
9. **Tax Requirements.** As a condition of entering into an agreement with BTV after the conclusion of the Request for Proposals process, the selected firm or individual will be required to certify—as required by law under 32 V.S.A. § 3113—that under the pains and penalties of perjury, the selected firm or individual is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the agreement.

10. **Lobbying.** If the awarded contract exceeds \$100,000, as a condition of entering into an agreement with BTV after the conclusion of the Request for Proposals process, the selected firm or individual will be required to certify that no Federal appropriated funds have been paid or will be paid by or to any person influencing or attempting to influence an officer or employee of a government agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, renewal, amendment or modification of any Federal Contract grant, loan or cooperative Agreement. The selected firm or individual will be required to complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", if any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of a government agency or a Member of Congress in connection with the Federal Agreement, grant loan, or cooperative Agreement.

11. **Texting While Driving.** In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant. In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

***** End of Request for Proposals *****

Exhibit A:

BTV Airport Terminal Floor Plans



- | | | | |
|--|--------------------------------------------------------------------|--|-----------------------------------------------------------|
| | Escalator/Elevator
<i>Escalier mécanique/ascenseur</i> | | Restrooms
<i>Toilettes</i> |
| | Stairs
<i>Escaliers</i> | | ATM
<i>Guichet automatique</i> |
| | Flight Information
<i>Information sur les vols</i> | | Gifts/Magazines
<i>Cadeaux/journaux</i> |
| | Ticketing/Check-in
<i>Enregistrement</i> | | Food & Beverage
<i>Comptoir d'aliments et boissons</i> |
| | Security Checkpoint
<i>Contrôle de sécurité</i> | | Yoga Room
<i>Salle de yoga</i> |
| | Baggage Claim
<i>Récupération des bagages</i> | | Auto Rentals
<i>Location de voitures</i> |
| | Information Desk
<i>Bureau d'information</i> | | Bus Tickets
<i>Billetterie d'autobus</i> |
| | Police | | Art Exhibit
<i>Exposition d'art</i> |
| | National Weather Service
<i>Service Météorologique National</i> | | Library
<i>Bibliothèque</i> |
| | Entrance/Exit
<i>Entrée/sortie</i> | | 1 - 15 Gates
<i>Portes</i> |

Exhibit B:

Draft Contract

CITY OF BURLINGTON
DRAFT CONTRACTOR CONTRACT

This Contractor Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and [_____] (“Contractor”), a Vermont corporation located at [_____].

Contractor and the City agree to the terms and conditions of this Contract.

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Contract Documents”** means all the documents identified in Section 4 (Scope of Work) of this Contract.
- B. **“Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- C. **“Party”** means the City or Contractor, and “Parties” means the City and Contractor.
- D. **“Project”** means the [_____].
- E. **“Work”** means the services described in Section 5 (Payment for Services) of this Contract, along with the specifications contained in the Contract Documents as defined in Section 4 (Scope of Work) below.

2. RECITALS

- A. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. **Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. **Purpose.** The City seeks to employ the Contractor to [_____].

3. EFFECTIVE DATE, TERM, AND TERMINATION

- A. **Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Contractor for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.

B. Term. This Contract and the Parties' respective performance shall commence on the Effective Date and expire on [_____] or upon the satisfaction of the City, unless sooner terminated as provided herein.

4. SCOPE OF WORK

The Contractor shall perform the services listed in Attachments A (Request for Proposals) and B (Contractor's Response to Request for Proposals).

5. PAYMENT FOR SERVICES

A. Amount. The City shall pay the Contractor for completion of the Work in accordance with Attachment B (Contractor's Response to Request for Proposals) [or as follows: _____].

Contractor agrees to accept this payment as full compensation for performance of all services and expenses incurred under this Agreement.

B. Payment Schedule. The City shall pay the Contractor in the manner and at such times as set forth in the Contract Documents [or as follows: _____]. The City seeks to make payment within thirty days of receipt of an invoice and any backup documentation requested under subsection D (Invoice) below.

C. Maximum Limiting Amount. The total amount that may be paid to the Contractor for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$[_____]. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval.

D. Invoice. Contractor shall submit one copy of each invoice, including rates and a detailed breakdown by task for each individual providing services, and backup documentation for any equipment or other expenses to the following:

[Name, address, phone, email]

The City reserves the right to request supplemental information prior to payment. Contractor shall not be entitled to payment under this Contract without providing sufficient backup documentation satisfactory to the City.

6. SECTION & ATTACHMENT HEADINGS

The article and attachment headings throughout this Contract are for the convenience of City and Contractor and are not intended nor shall they be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

- A. Contract Documents.** The Contract Documents are hereby adopted, incorporated by reference, and made part of this Contract. The intention of the Contract Documents is to establish the necessary terms, conditions, labor, materials, equipment, and other items necessary for the proper execution and completion of the Work to ensure the intended results.

The following documents constitute the Contract Documents:

Attachment A: Request for Proposals dated August 21, 2020

Attachment B: Contractor's Response to Request for Proposals dated []

Attachment C: Burlington Standard Contract Conditions for Contractors

Attachment D: Burlington Livable Wage Ordinance Certification

Attachment E: Burlington Outsourcing Ordinance Certification

Attachment F: Burlington Union Deterrence Ordinance Certification

Attachment G: Contractor's Certificate of Insurance

- B. Order of Precedent.** To the extent a conflict or inconsistency exists between the Contract Documents, or provisions therein, then the Contract take precedent. Any Invitation for Bids, Additional Contract Provisions, and the City Ordinance Certifications shall prevail over any inconsistency with the Contractor's Scope of Work and Cost Proposal.

— Signatures follow on the next page —

SIGNATURE

Persons signing for the Parties hereby swear and affirm that they are authorized to act on behalf of their respective Party and acknowledge that the other Party is relying on their representations to that effect.

Contractor
[Name of Contractor]

By: _____

Date: _____

City of Burlington
Airport

By: _____
Gene Richards
Director of Aviation

Date: _____

**Attachment A:
Request for Proposals dated September 30, 2020**

Attachment B:
Contractor's Response to Request for Proposals dated [_____]

**Attachment C:
Burlington Standard Contract Conditions For Contractors**

**Attachment D:
Burlington Livable Wage Ordinance Certification**

**Attachment E:
Burlington Outsourcing Ordinance Certification**

**Attachment F:
Burlington Union Deterrence Ordinance Certification**

**Attachment G:
Contractor's Certificate of Insurance**

Exhibit C:

Burlington Standard Contract Conditions

**ATTACHMENT C:
BURLINGTON STANDARD CONTRACT CONDITIONS
FOR CONTRACTORS**

1. **REGISTRATION:** The Contractor agrees to be registered with the Vermont Secretary of State's office as a business entity doing business in the State of Vermont at all times this Contract is effective. This registration must be complete prior to Contract execution.

2. **INSURANCE:** Prior to beginning any work, the Contractor shall obtain the following insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). The certificate of insurance coverage shall be documented on forms acceptable to the City. Compliance with minimum limits and coverage, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the City, must be received prior to the Effective Date of the Contract. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the City. If this Contract extends to more than one year, evidence of continuing coverage must be submitted to the City on an annual basis. Copies of any insurance policies may be required. Each policy (with the exception of professional liability and worker's compensation) shall name the City as an additional insured for the possible liabilities resulting from the Contractor's actions or omissions. The liability insurance furnished by the Contractor is primary and non-contributory for all the additional insured.

The Contractor is responsible to verify and confirm in writing to the City that: (i) all sub-contractors must comply with the same insurance requirements as the Contractor; (ii) all coverage shall include adequate protection for activities involving hazardous materials; and (iii) all work activities related to the Contract shall meet minimum coverage and limits.

No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been developed and must be met to protect the interests of the City.

A. General Liability And Property Damage: With respect to all operations performed by the Contractor, sub-contractors, agents or workers, it is the Contractor's responsibility to ensure that general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors'/Consultants' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses

Coverage limits shall not be less than:

1.	General Aggregate	\$2,000,000
2.	Products-Completed/Operations	\$2,000,000
3.	Personal & Advertising Injury	\$1,000,000
4.	Each Occurrence	\$1,000,000
5.	Damage to Rented Premises	\$ 250,000
6.	Med. Expense (Any one person)	\$ 5,000

B. Workers' Compensation: With respect to all operations performed, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all sub-contractors carry the same workers' compensation insurance for all work performed by them under this Contract. Minimum limits for Employer's Liability:

1. Bodily Injury by Accident: \$500,000 each accident
2. Bodily Injury by Disease: \$500,000 policy limit,
\$500,000 each employee

C. Professional Liability Insurance:

1. General: The Consultant/Contractor shall carry appropriate professional liability insurance covering errors and omissions made during their performance of contractual duties with the following minimum limits:

(a) \$3,000,000 - Annual Aggregate

(b) \$2,000,000 - Per Occurrence

2. Deductibles: The Contractor is responsible for any and all deductibles.

3. Coverage: Prior to performing any work, the Contractor shall provide evidence of professional liability insurance coverage defined under this section. In addition, the Contractor shall maintain continuous professional liability coverage for the period of the Contract and for a period of five years following substantial completion of construction.

D. Automobile Liability: The Contractor shall carry commercial automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the Contract. Each policy shall provide coverage with a limit not less than: \$1,000,000 Combined Single Limit for each occurrence.

E. Valuable Papers And Records Insurance: The Contractor shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the City or developed by the Contractor, sub-contractor, worker, or agent, in

the event of loss, impairment, or destruction. Such coverage shall remain in force until the final plans as well as all related materials have been delivered by the Contractor to, and accepted by, the City. Unless otherwise provided, Valuable Papers and Records Insurance shall provide coverage on an “individual occurrence” basis with limits in the amount of one hundred and fifty thousand dollars (\$150,000) when the insured items are in the Contractor’s possession, and in the amount of forty thousand dollars (\$40,000) regardless of the physical location of the insured items.

F. Umbrella Liability:

1. \$1,000,000 Each Event Limit
2. \$1,000,000 General Aggregate Limit
3. **CONFLICT OF INTEREST:** The Contractor shall disclose in writing to the City any actual or potential conflicts of interest or any appearance of a conflict of interest by the Contractor, its employees or agents, or its sub-contractors, if any.
4. **PLANS, RECORDS, AND AVAILABLE DATA:** The City agrees to make available, at no charge, for the Contractor’s use all available data related to the Contract including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plats, or any other pertinent public records.
5. **PERSONNEL REQUIREMENTS AND CONDITIONS:** The Contractor shall employ only qualified personnel with appropriate and valid licensure, to the extent a license is required for the work performed. The City shall have the right to approve or disapprove key personnel assigned to administer activities related to the Contract.

Except with the approval of the City, during the life of the Contract, the Contractor shall not employ:

1. Any City employees who are directly involved with the awarding, administration, monitoring, or performance of the Contract or any project(s) that are the subjects of the Contract.
2. Any person so involved within one (1) year of termination of employment with the City.

The Contractor warrants that no company or person has been employed or retained, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that no company or person has been paid or has a contract with the Contractor to be paid, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this warranty, the City shall have the right

to annul the Contract, without liability to the City, and to regain all costs incurred by the City in the performance of the Contract.

The City reserves the right to require removal of any person employed by a Contractor, from work related to the Contract, for misconduct, incompetence, or negligence as determined by the City, in the due and proper performance of Contractor's duties, or for neglecting or refusing to comply with the requirements of the Contract.

6. **PERFORMANCE:** Contractor warrants that performance of Work will conform to the requirements of this Contract. Contractor shall use that degree of ordinary care and reasonable diligence that an experienced and qualified provider of similar services would use acting in like circumstances and experience in such matters and in accordance with the standards, practices and procedures established by Contractor for its own business.
7. **DESIGN STANDARDS:** Unless otherwise specifically provided for in the Contract, or directed in writing, Contractor services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data shall be in conformance with applicable City, state, and federal specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted prior to or during the duration of this Contract. In case of any conflict with the guidelines referenced, the Contractor is responsible to identify and follow any course of direction provided by the City.
8. **RESPONSIBILITY FOR SUPERVISION:** The Contractor shall assume primary responsibility for general supervision of Contractor employees and their sub-Contractors for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Contract. The Contractor shall be responsible to the City for all acts or omissions of its sub-contractors and any other person performing work under this Contract.
9. **UTILITIES:** Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Contractor will counsel with the City, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Contractor shall inform the City, in writing, of any such contacts and the results thereof.
10. **INSPECTION OF WORK:** The City shall, at all times, have access to the Contractor's work for the purposes of inspection, accounting, and auditing, and the Contractor shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Contractor shall permit the City or representative for the City the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Contractor pursuant to the Contract, as well as any preparatory work, work-in-progress, or completed work at a field site, where applicable.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the City.

- 11. REVIEWS AND ACCEPTANCES:** All preliminary and detailed designs, plans, specifications, estimates or other documents prepared by the Contractor, shall be subject to review and endorsement by the City.

Approval for any inspections or sequences of progress of work shall be documented by letters, memoranda or other appropriate written means.

A frequency for formal reviews shall be set forth in the Contract. Informal reviews, conducted by the City will be performed as deemed necessary. The Contractor shall respond to all official comments regardless of their source. The Contractor shall supply the City with written copies of all correspondence relating to formal and informal reviews.

No acceptance shall relieve a Contractor of their professional obligation to correct any defects or errors in their work at their own expense.

- 12. PUBLIC RELATIONS:** Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Contractor will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Contractor shall conduct themselves with propriety. The Contractor agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the City, in accordance with 19 V.S.A. § 35 and §.503, to accomplish the work under the Contract. The Contractor agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Contractor, the City shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Contractor is acting as an agent of the City.

- 13. ACKNOWLEDGEMENTS:** Acknowledgment of the City's support must be included in any and all publications, renderings and project publicity, including audio/visual materials developed under this Contract.

14. APPEARANCES:

- A. Hearings and Conferences:** The Contractor shall provide services required by the City and necessary for furtherance of any work covered under the Contract. These services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Contract.

The Contractor shall perform any liaison that the City deems necessary for the furtherance of the work and participate in conferences with the City, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Contract.

The Contractor further agrees to participate in meetings with the City and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Contract.

The Contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract.

- B. Appearance as Witness:** If and when required by the City, the Contractor, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related contract, on behalf of the City. The Contractor shall be equitably paid, to the extent permitted by law, for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract.

- 15. PAYMENT PROCEDURES:** The City shall pay, or cause to be paid, to the Contractor or the Contractor's legal representative payments in accordance with the Contract. All payments will be made in reliance upon the accuracy of all representations made by the Contractor, whether in invoices, progress reports, emails, or other proof of work. When applicable, for the type of payment specified in the Contract, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Contract number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Contract, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont's labor contract, and need not be receipted. All other expenses are subject to approval by the City and must be accompanied with documentation to substantiate their charges.

No approval given or payment made under the Contract, shall be conclusive evidence of the performance of the Contract, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The City agrees to pay the Contractor and the Contractor agrees to accept, as full compensation, for performance of all services rendered and expenses incurred, the fee specified in the Contract.

Upon completion of all services covered under the Contract and payment of the agreed upon fee, the Contract with its mutual obligations shall end.

- 16. DUTY TO INFORM CITY OF CONTRACT DOCUMENT ERRORS:** If Contractor knows, or has reasonable cause to believe, that a clearly identifiable error or omission exists in the Contract Documents, including but not limited to unit prices and rate calculations, Contractor shall immediately give the City written notice thereof. Contractor shall not cause or permit any Work to be conducted which may relate to the error or omission without first receiving written notice by the City that City representatives understand the possible error or

omission and have approved of modifications to the Contract Documents or that Contractor may proceed without any modification being made to Contract Documents.

17. NON-APPROPRIATION: The obligations of the City under this Contract are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Contract shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. Contract. The decision whether or not to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Contractor as soon as practicable of any non-appropriation, and Contractor shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

18. CHANGES AND AMENDMENTS: No changes or amendments to the Work of the Contract shall be effective unless documented in writing and signed by authorized representatives of the City and the Contractor.

19. EXTENSION OF TIME: The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Contractor for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Contract. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the City may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Contractor and without the fault or negligence of the Contractor.

20. PUBLIC HEALTH EMERGENCY:

A. Compliance with Mandates and Guidance: The Contractor is advised that public health emergencies—meaning public health emergencies, as declared by the City, the State of Vermont, or the Federal Government—may introduce significant uncertainty into the project. The Contractor must comply with all local, state, federal orders, directives, regulations, guidance, advisories during a public health emergency. Contractor shall adhere to the below provisions and consider public health emergencies as it develops project schedules and advances the Work.

B. Creation of Public Health Emergency Plan: For any work performed on-site at a City location, the Contractor shall create a public health emergency plan acceptable to the City. The Contractor shall be responsible for following this plan and ensuring that the project or site is stable and in a safe and maintainable condition.

- a. **Public Health Emergency Plan:** The Public Health Emergency Plan will contain:
 - i. Measures to manage risk and mitigate potential impacts to the health and safety of the public, the City and Contractor’s workers;

- ii. Explicit reference to any health and safety performance standards and mandates provided by the City, the State of Vermont, the Federal government, or other relevant governmental entities;
- iii. A schedule for possible updates to the plan as standards and mandates change; and
- iv. Means to adjust the schedule and sequence of work should the emergency change in nature or duration.

b. Review and Acceptance of Plan:

- i. Contractor must provide the plan to the City by the Effective Date of this Contract or by one (1) week prior to the commencement of on-site activities, whichever is later.
- ii. The City shall have sole discretion to require changes to the plan.
- iii. The City may revisit the plan at any time to verify compliance with obligations that arise under a state of emergency.

C. Enforcement & Stoppage of Work: Contractor fails to comply with either 1) the approved public health emergency plan, or 2) any local, state, federal orders, directives, regulations, guidance, or advisories during a public health emergency, the City may stop Work under the Contract until such failure is corrected. Such failure to comply shall constitute a breach of the Contract.

Upon stoppage of work, the City may allow Work to resume, at a time determined by the City, under this Contract if such failure to comply is adequately corrected. The City shall have sole discretion in determining if Contractor has adequately corrected its failure to comply with the above.

If Contractor's breach of Contract has not been cured within seven (7) days after notice to stop Work from the City, then City may terminate this Contract, at its discretion.

D. City Liability Relating to Potential Delays: If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays related to a public health emergency will be excusable, but will not be compensable.

21. FORCE MAJEURE: Neither Party to this Contract shall be liable to the other for any failure or delay of performance of any obligation under this Contract to the extent the failure or delay is caused by acts of God, public health emergencies, epidemics, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not under its control ("Force Majeure"). To assert Force Majeure, the nonperforming party must prove that a) it made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, b) diligently pursued performance of its obligations, c) substantially fulfilled all obligations that could be fulfilled, and d) timely notified the other part of the likelihood or actual occurrence of a Force Majeure event. If any such causes for delay are of such magnitude as to prevent the complete

performance of the Contract within two (2) years of the originally scheduled completion date, either Party may by written notice request to amend or terminate the Contract. The suspension of any obligations under this section shall not cause the term of this Lease to be extended and shall not affect any rights accrued under this Lease prior to the occurrence of the force majeure. The Party giving notice of the force majeure shall also give notice of its cessation.

22. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The City may, in writing, and without invalidating the Contract, require changes resulting from revision or abandonment of work already performed by the Contractor or changes in the scope of work.

The value of such changes, to the extent not reflected in other payments to the Contractor, shall be incorporated in an amendment and be determined by mutual agreement. Any adjustments of this nature shall be executed under the appropriate fee established in the Contract, based on the adjusted quantity of work.

No changes for which additional fee payment is claimed shall be made unless pursuant to a written order from the City, and no claim for payment shall be valid unless so ordered.

The Contractor agrees to maintain complete and accurate records, in a form satisfactory to the City for all time devoted directly to same by Contractor employees. The City reserves the right to audit the records of the Contractor related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Contract. When changes are so ordered, no additional work shall be performed by the Contractor until a Contract amendment has been fully executed, unless written notice to proceed is issued by the City. Any claim for extension of time that may be necessitated as a result of extra work or additional services and changes shall be given consideration and evaluated insofar as it directly relates to the change.

23. FAILURE TO COMPLY WITH TIME SCHEDULE: If the City is dissatisfied because of slow progress or incompetence in the performance of the Work in accordance with the schedule for completion of the various aspects of construction, the City shall give the Contractor written notice in which the City shall specify in detail the cause of dissatisfaction. Should the Contractor fail or refuse to remedy the matters complained of within five days after the written notice is received by the Contractor, the City shall have the right to take control of the Work and either make good the deficiencies of the Contractor itself or direct the activities of the Contractor in doing so, employing such additional help as the City deems advisable. In such events, the City shall be entitled to collect from the Contractor any expenses in completing the Work. In addition, the City may withhold from the amount payable to the Contractor an amount approximately equal to any interest lost or charges incurred by the City for each calendar day that the Contractor is in default after the time of completion stipulated in the Contract Documents.

24. RETURN OF MATERIALS: Contractor agrees that at the expiration or termination of this Contract, it shall return to City all materials provided to it during its engagement on behalf of City.

- 25. ACCEPTANCE OF FINAL PAYMENT; RELEASE:** Contractor's acceptance of the final payment shall be a release in full of all claims against the City or its agents arising out of or by reason of the Work. Any payment, however, final or otherwise, shall not release the Contractor or their sureties from any obligations under the Contract Documents or any performance or payment bond.
- 26. OWNERSHIP OF THE WORK:** The Contractor agrees that the ownership of all studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM and other material prepared or collected by the Contractor, hereafter referred to as "instruments of professional service", shall become the property of the City as they are prepared and/or developed during execution of the Contract. The Contractor agrees to allow the City access to all "instruments of professional service" at any time. The Contractor shall not copyright any material originating under the Contract without prior written approval of the City. No publications or publicity of the work, in part or in total, shall be made without the express written agreement of the City, except that Contractor may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
- 27. PROPRIETARY RIGHTS:** The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed by the Contractors under the Contract, all rights accruing from such discoveries or inventions shall be the sole property of the Contractor. The Contractor, however, agrees to and does hereby grant to the City an irrevocable, nonexclusive, non-transferable, and royalty-free license to the manufacture, use, and disposition of any discovery or invention that may be developed as a part of the Work under the Contract.
- 28. PUBLIC RECORDS:** The Contractor understands that any and all records related to and acquired by the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act and that the determination of how those records must be handled is solely within the purview of City. The Contractor shall identify all records that it considers to be trade secrets as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act and shall also identify all other records it considers to be exempt under the Act. It is not sufficient to merely state generally that the record is proprietary or a trade secret or is otherwise exempt. Particular records, pages or section which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.
- 29. RECORDS RETENTION AND ACCESS:** The Contractor agrees to retain, in its files, and to produce to the City—within the time periods requested—all books, documents, Electronic Data Media (EDM), accounting records, and other records produced or acquired by the Contractor in the performance of this Contract which are related to the City, at any time during this Contract and for a period of at least three (3) years after its completion or termination. In addition, if any audit, claim, or litigation is commenced before the expiration of that three (3) year period, the records shall be retained until all related audits, claims, or litigation are resolved. The Contractor further agrees that the City shall have access to all the above

information for the purpose of review and audit during the Contract period and anytime within the aforementioned retention period. Copies of all of the above referenced information shall be provided to the City, if requested, in the format in which the records were obtained, created, or maintained, such that their original use and purpose can be achieved. Contractor, sub-Contractors, or their representatives performing work related to the Contract, are responsible to ensure that all data and information created or stored on EDM is secure and can be duplicated and used if the EDM mechanism is subjected to power outage, obsolescence, or damage.

30. CONTRACT DISPUTES: In the event of a dispute between the parties to this Contract each party will continue to perform its obligations unless the Contract is terminated in accordance with these terms.

31. SETTLEMENTS OF MISUNDERSTANDINGS: To avoid misunderstandings and litigation, it is mutually agreed by all Parties that the City Engineer shall act as referee on all questions arising under the terms of the Contract and that the decision of the City Engineer in such cases shall be binding upon both Parties.

32. CITY'S OPTION TO TERMINATE: The Contract may be terminated in accordance with the following provisions, which are not exclusive:

A. Termination for Convenience: At any time prior to completion of services specified under the Contract, the City may terminate the Contract for any reason by submitting written notice via certified or registered mail to the Contractor, not less than fifteen (15) days prior to the termination date, of its intention to do so. If the termination is for the City's convenience, payment to the Contractor will be made promptly for the amount of any fees earned to the date of the notice of termination and costs of materials obtained in preparation for Work but not yet installed or delivered, less any payments previously made. However, if a notice of termination is given to a Contractor prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Contractor will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the City's approval. The Contractor shall make no claim for additional compensation against the City by reason of such termination.

B. Termination for Cause:

- i. **Breach:** Contractor shall be in default if Contractor fails in any manner to fully perform and carry out each and all conditions of this Contract, including, but not limited to, Contractor's failure to begin or to prosecute the Work in a timely manner or to make progress as to endanger performance of this Contract; failure to supply a sufficient number of properly skilled employees or a sufficient quantity of materials of proper quality; failure to perform the Work unsatisfactorily as determined by the City; failure to neglect or refuse to remove materials; or in the event of a breach of warranty with respect to any materials, workmanship, or performance guaranty.

Contractor will not be in default for any excusable delays as provided in Sections 19-21.

The City may give Contractor written notice of such default. If Contractor does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by the City, then the City may terminate this contract for cause.

- ii. Proceedings for Relief of Debtors: If a federal or state proceeding for relief of debtors is undertaken by or against Contractor, or if Contractor makes an assignment for the benefit of creditors, then the City may immediately terminate this contract.
- iii. Dishonest Conduct: If Contractor engages in any dishonest conduct related to the performance or administration of this Contract then the City may immediately terminate this contract.
- iv. Cover: In the event the City terminates this contract as provided in this section, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Contractor shall be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services, interest, or other charges the City incurs to cover.
- v. Rights and Remedies Not Exclusive: The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

33. GENERAL COMPLIANCE WITH LAWS: The Contractor and any sub-contractor approved under this Contract shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance, the Non-Outsourcing Ordinance, and the Union-Deterrence Ordinance and shall provide the required certifications attesting to compliance with these ordinances (see attached ordinances and certifications).

Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties. If, for any reason, a provision in the Contract is unenforceable or invalid, that provision shall be deemed severed from the Contract, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Contract.

34. CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Contract, the Contractor will not discriminate against any employee or applicant for employment because of religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status, or genetic information. Contractor, and any sub-contractors, shall comply with any Federal, State, or local law, statute, regulation, Executive Order, or rule that applies to it or the services to be provided under this contract concerning

equal employment, fair employment practices, affirmative action, or prohibitions on discrimination or harassment in employment.

35. CHILD SUPPORT PAYMENTS: By signing the Contract, the Contractor certifies, as of the date of signing the Contract, that the Contractor (a) is not under an 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. If the Contractor is a sole proprietorship, the Contractor's statement applies only to the proprietor. If the Contractor is a partnership, the Contractor's statement applies to all general partners with a permanent residence in Vermont. If the Contractor is a corporation, this provision does not apply.

36. TAX REQUIREMENTS: By signing the Contract, the Contractor certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, that the Contractor is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Contract.

37. INDEMNIFICATION:

A. Indemnification by Contractor: Except for the active negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns and successors in interest, Contractor undertakes and agrees to defend, indemnify and hold harmless the City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and Contractors), damages or liability of any nature whatsoever, for death or injury to any person, including Contractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by Contractor or its sub-contractors of any tier.

B. Notice of Claims & City's Right to Participate: If the City, its officers, agents, or employees are notified of any claims asserted against it to which this indemnification provision may apply, the City shall immediately thereafter notify the Contractor in writing that a claim to which the indemnification provision may apply has been filed. Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The City retains the right to participate, at its own expense, in the defense of any claim, and to approve all proposed settlements of claims to which this provision applies.

C. City's Rights and Remedies: Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States and the State of Vermont.

D. No Indemnification by City: Under no conditions shall the City be obligated to indemnify the Contractor or any third party, nor shall the City be otherwise liable for expenses or reimbursement including attorney's fees, collection costs, or other costs of the Contractor or any third party.

38. NO GIFTS OR GRATUITIES: The Contractor shall not make any payment or gift or donation of substantial value to any elected official, officer, employee, or agent of the City during the term of this Contract.

39. ASSIGNMENT: Contractor shall not sublet or assign this Work, or any part of it, without the written consent of the City. If any sub-contractor is approved, Contractor shall be responsible and liable for all acts or omissions of that sub-contractor for any Work performed. If any sub-contractor is approved, Contractor shall be responsible to ensure that the sub-contractor is paid as agreed and that no lien is placed on any City property.

40. TRANSFERS, SUBLETTING, ETC: The Contractor shall not assign, sublet, or transfer any interest in the work, covered by this Contract, without prior written consent of the City, and further, if any sub-contractor participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the City. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Contractor of responsibility for the performance of that portion of the work so transferred. The form of the sub-contractor's contract shall be as developed by the Contractor and approved by the City. The Contractor shall ensure that insurance coverage exists for any operations to be performed by any sub-contractor as specified in the insurance requirements section of this Contract.

The services of the Contractor, to be performed under the Contract, shall not be transferred without written authorization of the City. Any authorized sub-contracts shall contain all of the same provisions contained in and attached to the original Contract with the City.

41. CONTINUING OBLIGATIONS: The Contractor agrees that if because of death, disability, or other occurrences, it becomes impossible to effectively perform its services in compliance with the Contract, neither the Contractor nor its surviving members shall be relieved of their obligations to complete the Contract unless the City agrees to terminate the Contract because it determines that the Contractor is unable to satisfactorily execute the Contract.

42. INTERPRETATION & IMPLEMENTATION: Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties.

43. ARM'S LENGTH: This Contract has been negotiated at arm's length, and any ambiguity in any of its terms or provisions shall be interpreted in accordance with the intent of the Parties and not against or in favor of either the City or Contractor.

44. RELATIONSHIP: The Contractor is an independent contractor and shall act in an independent capacity and not as officers or employees of the City. To that end, the Contractor

shall determine the method, details, and means of performing the work, but will comply with all legal requirements in doing so. The Contractor shall provide its own tools, materials, or equipment. The Parties agree that neither the Contractor nor its principal(s) or employees are entitled to any employee benefits from the City. Contractor understands and agrees that it and its principal(s) or employees have no right to claim any benefits under the Burlington Employee Retirement System, the City's worker's compensation benefits, health insurance, dental insurance, life insurance, or any other employee benefit plan offered by the City. The Contractor agrees to execute any certifications or other documents and provide any certificates of insurance required by the City and understands that this Contract is conditioned on its doing so, if requested.

The Contractor understands and agrees that it is responsible for the payment of all taxes on the above sums and that the City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

- 45. CHOICE OF LAW:** Vermont law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by operation of this provision shall not invalidate the remainder of this Contract to the extent capable of execution.
- 46. JURISDICTION:** All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.
- 47. BINDING EFFECT AND CONTINUITY:** This Contract shall be binding upon and shall inure to the benefit of the Parties, their' respective heirs, successors, representatives, and assigns. If a dispute arises between the Parties, each Party will continue to perform its obligations under this Contract during the resolution of the dispute, until the Contract is terminated in accordance with its terms.
- 48. SEVERABILITY:** The invalidity or unenforceability of any provision of this Contract, shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.
- 49. ENTIRE CONTRACT & AGREEMENT:** This Contract constitutes the entire Contract, agreement, and understanding of the Parties with respect to the subject matter of this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.
- 50. APPENDICES:** The City may attach to these conditions appendices containing various forms and typical sample sheets for guidance and assistance to the Contractor in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the City as occasions may require. It is the responsibility of the Contractor to ensure that they have the latest versions applicable to the Contract.

51. NO THIRD PARTY BENEFICIARIES: This Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

52. WAIVER: A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit D:

Burlington Livable Wage Ordinance Certification

Certification of Compliance with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor") in connection with a contract for _____ services that we provide to the City, hereby certify under oath that the Contractor (and any subcontractors under this contract) is and will remain in compliance with the City of Burlington's Livable Wage Ordinance, B.C.O. 21-80 et seq., and that

(1) as a condition of entering into this contract or grant, we confirm that all covered employees as defined by Burlington's Livable Wage Ordinance (including the covered employees of subcontractors) shall be paid a livable wage (as determined, or adjusted, annually by the City of Burlington's chief administrative officer) and provided appropriate time off for the term of the contract;

(2) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace(s) or other location(s) where covered employees work;

(3) we will provide verification of an employee's compensation, produce payroll or health insurance enrollment records or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of a request by the City;

(4) we will cooperate in any investigation conducted by the City of Burlington's City Attorney's office pursuant to this ordinance; and

(5) we will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this ordinance.

Date _____ By: _____
Contractor

Subscribed and sworn to before me:

Date _____
Notary

Exhibit E:

Burlington Outsourcing Ordinance Certification

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, _____, on behalf of _____

(Contractor) and in connection with the

_____ [project].

hereby certify under oath that (1) Contractor shall comply with the City of Burlington's Outsourcing Ordinance (Ordinance §§ 21-90 – 21-93); (2) as a condition of entering into this contract or grant, Contractor confirms that the services provided under the above-referenced contract will be performed in the United States or Canada.

Dated at _____, Vermont this ___ day of _____, 2018.

By: _____

Duly Authorized Agent

Subscribed and sworn to before me:

Notary

Exhibit F:

Burlington Union Deterrence Ordinance Certification

Certification of Compliance with the City of Burlington's
Union Deterrence Ordinance

I, _____, on behalf of _____

(Contractor) and in connection with _____ (City

contract/project/grant), hereby certify under oath that _____

(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will it over the life of the contract advertise or provide union deterrence services in violation of the City's union deterrence ordinance.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____ Duly Authorized
Agent