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**REQUEST FOR PROPOSALS**  
**On-Call Services for Water Resources Utility Repairs and Excavation Projects**

Date of Issuance:	May 3, 2019 (Friday)
Issued by:	City of Burlington, Department of Public Works
Due Date for Proposals:	May 24, 2019 (Friday) at 2:00pm
Questions due:	May 17, 2019 (Friday) at 2:00pm
Issuing Point of Contact:	Steve Roy, Senior Water Resources Engineer 53 Lavalley Lane, Burlington, VT 05401 (802) 343-0125 (c) sroy@burlingtonvt.gov

**INTRODUCTION**

During the course of normal maintenance, repairs or upgrades of city utilities (water, sewer, stormwater, etc.), the City occasionally requires services deemed urgent and/or beyond the capabilities of “in-house” resources. The City intends to create a list of qualified Contractors willing to contract with the City of Burlington Public Works Department on an as-needed basis and to establish in advance, the unit pricing for compensations of such services.

**SCOPE OF WORK**

The City of Burlington Department of Public Works is seeking agreements with up to six (6) qualified and licensed contractors to provide services required to complete work associated with both emergency maintenance and repairs of city utilities plus planned projects. The work can include, but not be limited to: installation, replacement, and repairs of water distribution pipes, valves, hydrants, gravity sewers, sewage force mains, catch basins, manholes, storm pipes, stormwater infiltration systems or rain gardens, pavement failures (sinkholes), and erosional damage throughout the City, including excavation, backfill and paving. Executed agreements will be valid for a two (2) year period, paid on a time and materials basis, for individual projects up to **\$50,000**. On-call services **must be available 24/7, including weekends**, in order to be considered for this bid. Contractors who are qualified to do this work but do not have 24/7 on-call services may still be considered for planned projects.

**Contractors submitting proposals agree to:**

1. Provide a normal and overtime hourly rates for each bid item. Leave any personnel or equipment items not readily available blank. Equipment rentals are not considered readily available.
2. Provide a set rate of mark-up on materials and subcontractors.
3. No minimum amount of work is implied or guaranteed under this invitation.
4. No bid bond or performance bond will be required.

5. Perform work in accordance with applicable rules, regulations, codes, and ordinance of local, state and federal authorities, and in accordance with the requirements of public utility corporations having jurisdiction over the work.
6. Obtain necessary permits, licenses and certificates and give notices as required during the performance of the work. All local Right of Way (ROW) permit fees shall be waived.
7. In all cases, a City Point of Contact will describe the work, location and timing requirements involved. This will involve the City Point of Contact providing a listing of the work to be completed through the issuance of a Work Assignment Agreement. This listing will include location information such as addresses and/or site maps indicating the project locations. A mutually agreed upon approach will be determined for each job.

#### **DEADLINE FOR RECEIPT OF BIDS**

All replies and quotes in response to this RFP must be received in a sealed envelope clearly marked “**On-Call Services for Water Resource Utility Repairs and Excavation Projects**” to the address and point of contact no later than 2:00 pm, by the above due date and time, at which time all submitted materials will be publicly opened and recorded. Late proposals will not be accepted under any circumstances. Electronic proposals are preferred as long as they are received by the point of contact by the required deadline. It is the responsibility of the firm submitting replies and proposals to ensure that the point of contact has received a completed proposal by the required deadline.

#### **ANSWERS TO QUESTIONS AND REVISIONS TO REQUEST FOR PROPOSAL**

Questions concerning this RFP must be made via email to Steve Roy, [sroy@burlingtonvt.gov](mailto:sroy@burlingtonvt.gov), Senior Water Resources Engineer. It is the responsibility of the prospective bidders to contact **Steve Roy** via email to verify receipt of questions. Based upon such inquiry the City may choose to issue an Addendum. Any revisions, addendums and answers to questions received at least a week before the due date will be sent to Contractors who directly received this Invitation. In addition, revisions will be posted on the City’s RFP web page <http://burlingtonvt.gov/RFP/>. It is advised that consultants sign up for the GovDelivery notification so that they will be notified of any changes to the RFP page.

#### **SITE VISIT**

A site visit is not applicable. Work could involve water, sewer and/or stormwater infrastructure throughout the city.

#### **PARTNERSHIPS**

Contractors may partner with other firms, local or otherwise, in order to provide the best possible proposal for ensuring quality and efficient completion of the project tasks.

#### **BID FORMAT**

Contractors are encouraged to be concise. All proposals must include, at a minimum, the following:

1. Completed bid form including prices for each item and signature by an authorized representative for the firm.
2. Signed Livable Wage, Outsourcing, and Union Deterrence Certifications with the bid sheet and described in the Supplemental General Conditions.

Note that the selected Contractors shall be required to submit insurance certificates, and may be asked to provide a client list if they have not already done work in the City of Burlington.

#### **PROPOSAL EVALUATION**

Proposals will be reviewed and evaluated by City staff based on the information provided in the proposal. Additional information may be requested prior to final selection. It is anticipated that a decision will be made

within 30 days of the due date. The selected Contractors will generally be utilized in order of rate per unit for the services needed. The City reserves the right; however, to take into account responsiveness as well as past performance in determining which Contractor will be contacted first and given the opportunity to perform the work. Should the first contacted Contractor be unable or unwilling to perform the needed service, the City will proceed down the list as necessary to meet the needs of the City.

### **WORK SCHEDULE**

This RFP is for acquiring services for on-call water resource utility repairs and excavation projects. When this type of work is required to be performed within the City's right-of-way and on public property, the City will notify the Contractor to discuss the work that needs to be performed and the contractor will be required to execute a Work Assignment Agreement.

### **CONTRACT REQUIREMENTS**

The selected Contractor will be required to enter in a Master On-Call Contract similar to the draft contract provided with this RFP, which will establish the selected Contractor as eligible for the on-call work described in this RFP. When the City requires on-call work to be performed, the selected Contractor will be required to enter into a Work Assignment Agreement with the City that establishes the specific scope of work for the project. Contractors are advised to review all the attached sections of this document in advance of submitting a proposal. The City reserves the right to alter or amend any or all of the provisions in the project contract, its attachments, or this RFP.

### **COSTS ASSOCIATED WITH PROPOSAL**

Any costs incurred by any person in preparing or submitting a proposal are the sole responsibility of that person. The City will not reimburse any person for any costs incurred as a result of the preparation of proposals in response to this RFP.

### **COMPLIANCE WITH LAW**

All proposals and work completed under a proposal must be performed in accordance with applicable rules, regulations, codes, and ordinances of local, state, and federal authorities. All such proposals and work completed must also be performed in accordance with the requirements of public utility corporations having jurisdiction over the work performed.

### **INDEMNIFICATION**

The Contractor will act in an independent capacity and not as an officer or employee of the City. The Contractor will be required to agree to indemnify, defend, and hold harmless the City and its officers and employees from all liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the chosen Contractor's acts and/or omissions in the performance of the contract.

### **LIMITATIONS OF LIABILITY**

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

### **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 in the City's best interests, including selecting which projects it can afford to do at this point in time or in consideration of the proposed contractor's schedule. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals.

### **OWNERSHIP OF DOCUMENTS**

Proposals, plans, specifications, and other documents prepared and submitted under this RFP shall become the property of the City. Proposals, plans, specifications, basis of designs, electronic data, designs and reports prepared under any agreement between the selected contractor or consultant and the city shall become the property of the City. Records shall be furnished to the City by the Contractor upon request at any time,

however the Contractor or Consultant may retain copies of the original documents.

**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 considered to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, must be identified, as shall all other records considered to be exempt under the Act. 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.

**BID FORM – On-Call Services for Water Resources Utility Repairs and Excavation Projects**

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

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Day Time Telephone/Email: \_\_\_\_\_

**On-Call Emergency Telephone Number:** \_\_\_\_\_ or None if you don't provide this service

Subcontractor(s), if applicable: \_\_\_\_\_

Bid Schedule: Complete as best possible the following bid schedule and include it in your proposal or fill out above information and attach existing equipment and labor rate sheets.

<b>Bid Item</b>	<b>Description</b>	<b>Unit</b>	<b>Estimated Quantity</b>	<b>Normal Working Hours</b>	<b>After Hours Work</b>
<b>COMMON TO ALL</b>					
1	Mobilization/Demobilization	LS	1	\$	\$
2	Hourly rate Project Manager	HR	1	\$	\$
3	Hourly rate Site Supervisor	HR	1	\$	\$
4	Hourly rate Site Foreman	HR	1	\$	\$
5	Hourly rate per Laborer	HR	1	\$	\$
6	Hourly rate Equipment Operator	HR	1	\$	\$
7	Hourly rate per Truck Driver	HR	1	\$	\$
8	Traffic Flagger	HR	1	\$	\$
9	< 2 ton Mini-Excavator	HR	1	\$	\$
10	5 ton Excavator	HR	1	\$	\$
11	10 ton Excavator	HR	1	\$	\$
12	15 ton Excavator	HR	1	\$	\$
13	25 ton Excavator	HR	1	\$	\$
14	Skid Steer	HR	1	\$	\$
15	Track Truck	HR	1	\$	\$
16	1.5 Yard Loader	HR	1	\$	\$
17	3 Yard Loader	HR	1	\$	\$

18	Service Truck	HR	1	\$	\$
19	Pickup Truck	HR	1	\$	\$
20	1 Ton Dump Truck	HR	1	\$	\$
21	Single Axle Dump Truck	HR	1	\$	\$
22	Tandem Dump Truck	HR	1	\$	\$
23	Small Trench Box (i.e. 6' x 8')	HR	1	\$	\$
24	Large Trench Box (i.e. 8' x 16')	HR	1	\$	\$
25	<1/2 ton Plate Compactor	HR	1	\$	\$
26	<2 ton Vibratory Roller	HR	1	\$	\$
27	10 ton Vibratory Roller	HR	1	\$	\$
28	Subcontractor Mark Up	N/A	N/A	_____%	_____%
29	Materials Mark Up	N/A	N/A	_____%	_____%

NOTES:

1. By submission of this BID, each BIDDER certifies, and in the case of a joint BID, each party thereto certifies as to his own organization, that his BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

BIDDER acknowledges receipt of the following ADDENDUM:

\_\_\_\_\_  
\_\_\_\_\_

By signing this bid sheet, the Contractor agrees to abide by all specifications and conditions in these Contract Documents.

\_\_\_\_\_  
Signature Title Date

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

**(TO BE SUBMITTED WITH BID)**

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: \_\_\_\_\_  
Notary

**A copy of the Ordinance follows this Certification.**

**NOTE: This ordinance only applies for contracts over \$15,000.**

ARTICLE VI. LIVABLE WAGES<sup>1</sup>

**21-80 Findings and purpose.**

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its employees have an opportunity for a decent quality of life and are compensated such that they are not dependent on public assistance to meet their basic needs;
- (c) The City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

(Ord. of 11-19-01; Ord. of 10-21-13)

**21-81 Definitions.**

As used in this article, the following terms shall be defined as follows:

- (a) *Contractor or vendor* is a person or entity that has a service contract with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor.
- (b) *Grantee* is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants, including any contractors or subgrantees of the grantee, that exceed fifteen thousand dollars (\$15,000.00) for any twelve (12) month period.
- (c) *Covered employer* means the City of Burlington, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.
- (d) *Covered employee* means an "employee" as defined below, who is employed by a "covered employer," subject to the following:
  - (1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington, notwithstanding that the employee may be a temporary or seasonal employee;
  - (2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the City of Burlington is a "covered employee."
- (e) *Designated accountability monitor* shall mean a nonprofit corporation which has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and that is independent of the parties it is monitoring.
- (f) *Employee* means a person who is employed on a full-time or part-time regular basis. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four (4) years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to

volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six (6) months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

- (g) *Employer-assisted health care* means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)
- (h) *Livable wage* has the meaning set forth in Section 21-82.
- (i) *Retaliation* shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.
- (j) *Service contract* means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property). A contract involving the furnishing of financial products, insurance products, or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

(Ord. of 11-19-01; Ord. of 10-21-13)

**21-82 Livable wages required. (FY 19 update)**

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- (a) Every covered employer shall pay each and every covered employee at least a livable wage no less than:
  - (1) For a covered employer that provides employer assisted health care, the livable wage shall be at least thirteen dollars and ninety-five cents (**\$14.52**) per hour on the effective date of the amendments to this article.
  - (2) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least fifteen dollars and eighty-three cents (**\$16.20**) per hour on the effective date of the amendments to this article.
  - (3) Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage compensation will at least equal the livable wage as established under this article.
- (b) The amount of the livable wage established in this section shall be adjusted by the chief administrative officer of the city as of July 1 of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the Joint Fiscal Office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to May 1 preceding any such adjustment and prior to May 1 of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by posting a written notice in a prominent place in City Hall by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information to the chief administrative officer, by notice to each such covered employer. However, once a livable wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.
- (c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, personal, or combined time off leave.

(Ord. of 11-19-01; Ord. of 5-2-11; Ord. of 6-13-11; Ord. of 10-21-13)

### **21-83 Applicability.**

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- (a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.
- (b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the funds awarded by the City of Burlington are being expended by the covered employer.

(Ord. of 11-19-01; Ord. of 10-21-13)

### **21-84 Enforcement.**

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- (a) Each service contract or grant covered by this article shall contain provisions requiring that the covered employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this article. The covered employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The covered employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief administrative officer of the City of Burlington, within ten (10) business days from receipt of the City of Burlington's request.
- (b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to:
  - (1) Verification of an individual employee's compensation;
  - (2) Production of payroll, health insurance enrollment records, or other relevant documentation; or
  - (3) Evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

- (c) The City of Burlington shall appoint a designated accountability monitor that shall have the authority:
  - (1) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;
  - (2) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;
  - (3) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their initial credibility; and
  - (4) To refer credible complaints to the city attorney's office for potential enforcement action under this article.The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

- (d) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the city attorney's office within one (1) year after the alleged violation. The city attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the complaint. Prior to ordering any penalty provided in subsection (e), (f), or (g) of this section, the city attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing officer appointed by the city attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the city attorney's office and the covered employer.
- (e) The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with a covered employer from any court of competent jurisdiction, if the covered employer has not complied with this article.
- (f) Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.
- (g) A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.
- (h) If a complaint is received that implicates any City of Burlington employee in a possible violation of this article, that complaint will be handled through the City's personnel procedures, not through the process outlined in this article.
- (i) Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:
  - (1) The difference between the livable wage required under this article and the amount actually paid to the covered employee;
  - (2) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;
  - (3) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or fifty dollars (\$50.00) for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;
  - (4) Reinstatement in employment and/or injunctive relief; and
  - (5) Reasonable attorneys' fees and costs.
- (j) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

(Ord. of 11-19-01; Ord. of 2-17-04; Ord. of 5-2-11; Ord. of 10-21-13)

**21-85 Other provisions.**

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- (a) No covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this subsection shall be deemed a violation of this article subject to the remedies of Section 21-84.

- (b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the livable wage as a result of amendments to this article.
- (c) Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection (d) of this section, shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.
- (d) Notwithstanding subsection (c) of this section, where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.
- (e) Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.
- (f) The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.

(Ord. of 11-19-01; Ord. of 10-21-13)

**21-86 Exemptions.**

An exemption from any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage would cause substantial economic hardship; and
- (b) By the City of Burlington where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this section may reapply for an exemption upon the expiration of the exemption. Requests for exemption may be granted by majority vote of the city council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee of the City of Burlington shall first consider such request and make a recommendation to the city council. The decision of the city council shall be final.

(Ord. of 11-19-01; Ord. of 10-21-13)

**21-87 Severability.**

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

(Ord. of 11-19-01; Ord. of 10-21-13)

**21-88 Annual reporting.**

On or before April 15 of each year, the city attorney's office shall submit a report to the city council that provides the following information:

- (a) A list of all covered employers broken down by department;
- (b) A list of all covered employers whose service contract did not contain the language required by this article; and
- (c) All complaints filed and investigated by the city attorney's office and the results of such investigation.

(Ord. of 10-21-13)

**21-89 Effective date.**

The amendments to this article shall take effect on January 1, 2014, and shall not be retroactively applied.

(Ord. of 10-21-13)

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Certification of Compliance with the City of Burlington's Outsourcing Ordinance  
**(TO BE SUBMITTED WITH BID)**

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 this \_\_\_\_ day of \_\_\_\_\_, 2018.

By:

\_\_\_\_\_  
Duly Authorized Agent

Subscribed and sworn to before me:

\_\_\_\_\_  
Notary

**A copy of the Ordinance follows this Certification.**

**NOTE: This ordinance only applies for contracts over \$50,000.**

## **BURLINGTON'S OUTSOURCING ORDINANCE**

### **ARTICLE VII. OUTSOURCING**

#### **21-90 Policy.**

It is the policy of the City of Burlington to let service contracts to contractors, subcontractors and vendors who perform work in the United States.

(Ord. of 11-21-05/12-21-05)

#### **21-91 Definitions.**

- (a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.
- (b) *Government funded project.* Any contract for services which involves any city funds and the total amount of the contract is fifty thousand dollars (\$50,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.
- (c) *Outsourcing.* The assigning or reassigning, directly, or indirectly through subcontracting, of services under a government funded project to workers performing the work outside of the United States.

(Ord. of 11-21-05/12-21-05)

#### **21-92 Implementation.**

- (a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who is outsourcing, or causing the work to be performed outside of the United States or Canada.
- (b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that the services provided under the contract will be performed in the United States or Canada.

(Ord. of 11-21-05/12-21-05)

#### **21-93 Exemption.**

An exemption from requirements of this article may be authorized by the chief administrative officer based upon a determination that the services to be performed for the government funded project are not available in the United States or Canada at a reasonable cost. Any such exemption decision by the chief administrative officer shall be reported to the board of finance in writing within five (5) days. The board of finance may, if it should vote to do so, override the exemption decision if such vote occurs within fourteen (14) days of the date of the chief administrative officer's communication to such board.

(Ord. of 11-21-05/12-21-05)

#### **21-94 Enforcement.**

- (a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or outsources work on a government funded project shall be deemed to be in violation of this article.

- (b) A violation of this article shall be a civil offense subject to a civil penalty of from one hundred dollars (\$100.00) to five hundred (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any violation of any provision of this article shall continue shall constitute a separate violation.
- (c) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 11-21-05/12-21-05)

**21-95—21-99 Reserved.**

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

**(TO BE SUBMITTED WITH BID)**

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 this \_\_\_\_ day of \_\_\_\_\_, 2018.

By:

\_\_\_\_\_  
Duly Authorized Agent

Subscribed and sworn to before me:

\_\_\_\_\_  
Notary

**A copy of the Ordinance follows this Certification.**

**NOTE: This ordinance only applies for contracts over \$15,000.**

## **BURLINGTON'S UNION DETERRENCE ORDINANCE**

### **ARTICLE VIII. UNION DETERRENCE**

#### **21-100 Policy.**

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It is the policy of the City of Burlington to limit letting contracts to organizations that provide union deterrence services to other companies.

(Ord. of 3-27-06/4-26-06)

#### **21-101 Definitions.**

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- (a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.
- (b) *Government funded project.* Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.
- (c) *Union deterrence services.* Services provided by a contractor, subcontractor or vendor that are not restricted to advice concerning what activities by an employer are prohibited and permitted by applicable laws and regulations, but extend beyond such legal advice to encouraging an employer to do any of the following:
  - 1) Hold captive audience, (i.e., mandatory) meetings with employees encouraging employees to vote against the union;
  - 2) Have supervisors force workers to meet individually with them to discuss the union;
  - 3) Imply to employees, whether through written or oral communication, that their employer may have to shut down or lay people off if the union wins the election;
  - 4) Discipline or fire workers for union activity;
  - 5) Train managers on how to dissuade employees from supporting the union.
- (d) *Substantial portion of income.* For the purposes of this article, substantial portion of income shall mean greater than ten (10) percent of annual gross revenues or one hundred thousand dollars (\$100,000.00), whichever is less.

(Ord. of 3-27-06/4-26-06)

#### **21-102 Implementation.**

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- (a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who
  - 1) Advises or has advised an employer to conduct any illegal activity in its dealings with a union.
  - 2) Advertises union deterrence services as specialty services;
  - 3) Earns a substantial portion of its income by providing union deterrence services to other companies in order to defeat union organizing efforts.
- (b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that it has not advised the conduct of any illegal activity, it

does not currently, nor will it over the life of the contract provide union deterrence services in violation of this article.

(Ord. of 3-27-06/4-26-06)

**21-103 Enforcement.**

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- (a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or provided union deterrence services during the life of a contract for a government funded project shall be deemed to be in violation of this article.
- (b) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.(Ord. of 3-27-06/4-26-06)

**21-104—21-110 Reserved.**

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**CITY OF BURLINGTON  
MASTER ON-CALL CONTRACT**

This Master On-Call Contract (“Contract”) is entered into by and between the City of Burlington (“City”), acting through its Department of Public Works, and \_\_\_\_\_ (“Contractor”), a business authorized to do business in Vermont, with a principal place of business at \_\_\_\_\_. Contractor and the City agree to the terms and conditions of this Agreement.

**1. RECITALS**

- A. Authority.** Authority to enter into this Contract exists in the City Charter. Required approvals, clearance, and coordination have been accomplished from and within each Party.
- 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. Background.** The City is in need of qualified contractors to be on-call to perform [      ]. The City—through a Request for Proposals process—has identified qualified contractors that can provide such services. Contractor has been identified as one of those qualified contractors. The City will enter into Master On-Call Service Contracts with each such contractor and request proposals from those contractors for construction services as needed.
- D. Purpose.** The purpose of this Contract is to establish Contractor as an on-call contractor eligible for being selected and awarded a Work Assignment Agreement to perform necessary construction services. This Contract only establishes the on-call eligibility of the Contractor. Selection and assignment of specific work shall occur under a Work Assignment Agreement as described in this Contract.

**2. EFFECTIVE DATE AND TERM**

- 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 [                      ].

**3. DEFINITIONS**

- A. “Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page of this Contract.
- B. “On-Call Contractor”** means a contractor selected and deemed qualified by the City to perform specified on-call construction services and who have executed Master On-Call Contracts with the City.
- C. “Party”** means the City or Contractor and “Parties” means both the City and Contractor.

**4. SCOPE OF WORK**

- A. Designation.** Contractor is hereby designated as an On-Call Contractor eligible for assignment of construction services work. When a need for construction services arises, the City may issue a request to the Contractor for a scope of work, schedule, list of deliverables, and proposed budget. Upon receipt of such request, Contractor shall submit a proposal containing all information requested by the City. If selected by the City, Contractor shall execute a Work Assignment Agreement with the City to perform the selected services.

**B. Limitation.** This Contract shall not obligate the City to assign work to Contractor, nor shall it obligate the City to limit the procurement of future contractual services for the areas specified in Attachment A.

## **5. PAYMENT FOR SERVICES**

**A. Contract Fee.** This Contract only designates Contractor as eligible for assignment of construction services work. The City shall only be liable for payment to Contractor if Contractor is selected to perform services and executes a Work Assignment Agreement with the City. The terms of payment shall be limited to the Work Assignment Agreement and the City shall not be liable for any costs or expenses not included in a properly executed Work Assignment Agreement. If the Contractor is selected to perform the designated work, the City shall pay the Contractor at the rates specified in the operative Work Assignment Agreement(s). Contractor agrees to accept these payments as full compensation for performance of all services and expenses under this Contract. The City shall only execute Work Assignment Agreement for amounts that have been previously appropriated.

**B. Maximum Limiting Amount.** The total cumulative amount that may be paid to the Contractor for all services and expenses under any Work Assignment Agreement executed pursuant to this Contract shall not exceed the maximum limiting amount of \$50,000. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval. If this Contract is renewed or extended, the Parties shall execute an amendment to this Contract which identifies the maximum limiting amount for the renewal term.

**C. Non-Appropriation.** The Parties understand and agree that the obligations of the City to make payments under this Contract during several fiscal years shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional, statutory limitation, requirement, or the City's Charter. Nothing in this Contract shall constitute a pledge of the credit or tax revenues, funds or monies of the City. The decision whether or not to budget and appropriate funds during each fiscal year of the City is within the discretion of the governing body of the City. The obligations of the City under this Contract are subject to annual appropriations by the governing body of the City. In the event no funds or insufficient funds are appropriated and budgeted for payments due under this Contract, the City may terminate this Contract. The City shall deliver written notice to Contractor 30 days in advance of termination of this Contract. Contractor shall not be entitled to any payment or compensation of any kind under this Contract.

## **6. SUB-CONTRACTORS**

If Contractor is selected to perform services, the following sub- Contractor may perform services under a Work Assignment Agreement:

With prior written approval by the City, the Contractor may add additional sub-contractors to perform services under a Work Assignment Agreement. The Contractor shall provide the City with any information requested by the City as may be needed to determine the qualifications of any additional sub-contractors.

## **7. INSURANCE**

Prior to the Effective Date of this Contract, Contractor and sub-contractor's if any, shall submit certificates of insurance evidencing minimum levels of insurance coverage required in the attachments. Contractor and sub-contractor shall at all times maintain such insurance during the term of this Contract.

## **8. ENTIRE AGREEMENT**

This Contract constitutes the entire agreement and understanding of the Parties with respect to the subject matter of this Contract. All prior representations and understandings related to this Contract, oral or

written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

## **9. MODIFICATION**

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved by the Parties.

## **10. CONTRACT DOCUMENTS**

The following attachments, along with this Contract, constitute the Contract Documents:

- A. Certificates of Compliance with City of Burlington Ordinances
- ~~B. Notice of Award~~
- C. This Contract
- ~~D. Notice to Proceed~~
- E. Partial Release and Waiver of Lien
- ~~F. Change Order Format~~
- ~~G. Certificate of Substantial Completion~~
- ~~H. Certificate of Final Completion and Acceptance of Work~~
- I. General Conditions
- ~~J. Supplemental General Conditions~~
- K. Hazardous Materials and Historic Preservation
- L. [TECHNICAL SPECIFICATIONS IF ANY]
- M. [CONTRACT DRAWINGS IF ANY]

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

## **11. ORDER OF PRECEDENT**

If a conflict or inconsistency exists between this Contract and the Contract Documents, this Contract shall control. The Notice of Award, General and Supplemental Conditions, and Technical Specifications issued by the City shall prevail over any inconsistency or contradictory provision between the Contract Documents.

## **12. INSURANCE**

Contractor and subcontractors, if any, shall secure and at all times maintain insurance as required in the Contract Documents.

## **13. 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.

## **14. BINDING EFFECT**

All provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

## **15. SEVERABILITY**

The provisions of this Contract and the Contract Documents are severable. The invalidity or unenforceability of any provision of this Contract or the Contract Documents 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.

**16. ENTIRE AGREEMENT**

This Contract and the Contract Documents constitute the entire agreement and understanding of the Parties with respect to the subject matter of this Contract. All prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

**17. MODIFICATION**

Except as otherwise provided in this Contract or the Contract Documents, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved by the Parties.

**18. 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.

**19. 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.

**20. STANDARD OF PERFORMANCE**

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession. Contractor shall employ only qualified personnel and properly supervise all such personnel. The City shall have the right to require removal of any person employed by Contractor from Work under this Contract for misconduct, incompetence, negligence, or refusal to comply with the requirements of this Contract.

**21. 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 the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

**22. JURISDICTION**

All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.

**23. ASSIGNMENT**

Contractor's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the City. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by the City shall be subject to the provisions of this Contract

The remainder of this page is intentionally left blank.

**INSTRUCTIONS FOR CONTRACTORS OR SUBCONTRACTORS**  
**RELEASE AND WAIVER OF LIEN FORM**

1. At the preconstruction meeting, the OWNER will receive from the CONTRACTOR a list of all major items (s)he intends to SUBCONTRACT.
2. Prior to the first requisition for payment, the OWNER will inform the CONTRACTOR as to which of these SUBCONTRACTORS or vendors may be required to complete a Release of Lien Form. Note that 40 CFR §33.302 requires CONTRACTOR to pay their SUBCONTRACTORS for satisfactory performance within 30 days of payment to CONTRACTOR by OWNER. CONTRACTOR shall comply with this requirement.
3. The CONTRACTOR shall include in the payment package a Release of Lien Form for the overall CONTRACT and those of any SUBCONTRACTORS or vendors so identified by the OWNER.
4. For all interim payments prior to 90% completion of the CONTRACT, the CONTRACTOR may delete, "...the undersigned does hereby waive, release and relinquish any and all claims, demands and rights of lien for all work, labor, materials, machinery or other goods, equipment or services done, performed or furnished..." from the first statement.
5. Final payment requires complete wording in the first statement and a fully executed form.

**GENERAL CONTRACTOR'S OR SUBCONTRACTOR'S**  
**RELEASE AND WAIVER OF LIEN**

For and in consideration of the receipt of \$ \_\_\_\_\_, in payment for labor and/or materials furnished, the undersigned does hereby waive, release and relinquish any and all claims, demands and rights of lien for all work, labor, materials, machinery or other goods, equipment or services done, performed or furnished for the construction located at the site hereinafter described, to wit:

\_\_\_\_\_  
(Project Name and OWNER)

\_\_\_\_\_, Vermont as of \_\_\_\_\_  
(Date)

The undersigned further warrants and represents that any and all valid labor and/or materials and equipment bills, now due and payable on the property herein above described in behalf of the undersigned, have been paid in full to date of this waiver, or will be paid from these funds.

\$ \_\_\_\_\_  
Total Paid to Date This Contract

\$ \_\_\_\_\_  
Current Payment Due

\$ \_\_\_\_\_  
Total Billed to Date This Contract

\_\_\_\_\_  
CONTRACTOR/SUBCONTRACTOR

\_\_\_\_\_  
Witness Signature

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

\_\_\_\_\_  
Witness Printed Name

Title: \_\_\_\_\_

## **BURLINGTON GENERAL CONDITIONS**

- 1. INDEMNIFICATION:** The Contractor shall act in an independent capacity and not as officers or employees of the City. The Contractor shall indemnify, defend and hold harmless the City and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the Contractor's acts and/or omissions in the performance of this contract.

If the City, its officers, agents or employees are notified of any claims asserted against it or them to which this indemnification clause may apply, the City shall immediately thereafter notify the Contractor in writing that a claim to which the indemnification agreement may apply has been filed.

- 2. RELATIONSHIP:** The Parties agree that the Contractor is an independent contractor. 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 City shall provide the Contractor with no specific instructions or training in how to provide the required services, except to the extent required by law or regulation. The Contractor shall provide its own tools, materials or equipment. The Parties agree that neither the Contractor nor its Principal is an employee of the City or any of its departments, agencies, or related entities. The Parties also agree that neither the Contractor nor its Principal is entitled to any employee benefits from the City. Contractor understands and agrees that it and its Principal 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.

- 3. 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](http://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. In the event that this Contract extends to greater than one year, evidence of continuing coverage must be submitted to the City on an annual basis. Certified 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. It is agreed that 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 subcontractors 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 agreement 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, subcontractors, agents or workers, it is the Contractor's responsibility to insure that

general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to and with limits not less than:

1. Premises Operations
2. Independent CONTRACTORS' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Contractual Liability
6. Broad Form Property Damage
7. Medical Expenses
8. Collapse, Underground and Explosion Hazards

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. Fire Damage (Any one fire)    | \$ 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 subcontractors 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. 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 agreement. Each policy shall provide coverage with a limit not less than: \$1,000,000 - Combined Single Limit for each occurrence.

**D. UMBRELLA LIABILITY:**

1. \$1,000,000 Each Event Limit
2. \$1,000,000 General Aggregate Limit

**4. GENERAL COMPLIANCE WITH LAWS:** The Contractor 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.

- 5. 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 race, age, color, religion, sex, sexual orientation, gender identify, national origin, physical disability or veteran status.

The Contractor shall comply with the applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR Part 60). The Contractor shall also comply with the rules, regulations and relevant orders of the Secretary of Labor, Nondiscrimination regulations 49 CFR § 21 through Appendix C, and Regulations under 23 CFR§710.405 (b). Accordingly, all subcontracts shall include reference to the above. The Contractor shall comply with all the requirements of Title 21, VSA, Chapter 5, Subchapter 6 and 7, relating to fair employment practices to the extent applicable. A similar provision shall be included in any and all subcontracts.

- 6. CHILD SUPPORT PAYMENTS:** By signing the Contract, the Contractor certifies, as of the date of signing the Contract, that 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 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.
- 7. TAX REQUIREMENTS:** By signing the Agreement, the Contractor certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, he/she 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
- 8. 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.
- 9. PERSONNEL REQUIREMENTS AND CONDITIONS:** A Contractor shall employ only qualified personnel, for responsible authority to supervise the work. The City shall have the right to approve or disapprove key personnel assigned to administer activities related to the Agreement.

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

1. Personnel on the payroll of the City 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 an agreement 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, in the opinion of the City in the due and

proper performance of its duties, or who neglects or refuses to comply with the requirements of the Contract.

- 10. TRANSFERS, SUBLETTING, ETC:** 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 subcontractor 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 subcontractor's agreement 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 subcontractor as specified in the insurance requirements section of this Contract.

The services of the Contractor, to be performed under the Contract, are personal and shall not be transferred without written authorization of the City. Any authorized sub agreements shall contain all of the same provisions for and attached to the original Contract with the City.

- 11. CONTINUING OBLIGATIONS:** The Contractor agrees that if because of death 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. However, the City may terminate the Contract if it considers a death or incapacity of any members to be a loss of such magnitude that it would affect the firm's ability to satisfactorily execute the Contract.
- 12. 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 Contractors, 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 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 Contract 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.
- 13. PROPRIETARY RIGHTS:** The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed 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 practice each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the Contract.
- 14. 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.
- 15. RECORDS RETENTION:** The Contractor agrees to retain, in its files, and to produce to the City—

within the time periods requested—all books, documents, EDM, accounting records, and other evidence related to the City, at any time during this Contract and for a period of at least three (3) years after its termination. The Contractor further agrees that the City shall have access to all the above information for the purpose of reviewing 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. Contractor, subcontractors, or any representatives performing work related to the Contract, are responsible to insure that all data and information created or stored on EDM is secure and can be duplicated if the EDM mechanism is subjected to power outage or damage.

- 16. APPENDICES:** The City may attach, to these specifications, 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.
- 17. 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.
- 18. FAILURE TO COMPLY WITH TIME SCHEDULE:** In the event the City is dissatisfied with the 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.

The City may withhold liquidated damages at the rate specified in the Bid from the amount payable to the Contractor for each calendar day that the Contractor is in default after the time of completion stipulated in these Contract Documents. It is understood that the amount is approximately equal to the interest and other charges incurred by the City.

It is mutually understood and agreed to, that neither Party hereto shall be held responsible for delay in performing the work encompassed herein, when such delay is due to unforeseeable causes such as acts of God, or a public enemy, fire, strikes, floods, or legal acts of public authorities. In the event that 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.

- 19. SETTLEMENTS OF MISUNDERSTANDINGS:** In order to prevent 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 this governing body in such cases shall be binding upon both Parties.

In agreements subjecting costs to final audit, an administrative review regarding the audit will be sent to the Contractor. Any dispute arising from an administrative decision shall be appealed in writing within thirty (30) days of receipt.

Contractor may appeal any determination regarding the Contract by filing a notice of appeal by hand

delivery or courier to the Local Project Manager. The notice of appeal shall specifically state the grounds of the protest. Within seven (7) calendar days of the notice of appeal the Contractor must file with the City a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the appeal. Evidentiary statements, if any, shall be submitted under penalty of perjury. The Contractor shall have the burden of proving its appeal by the preponderance of the evidence. Failure to file a notice of appeal or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to appeal the evaluation or qualified process and decisions thereunder.

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

1. Breach of Contract. Administrative remedies - the City may terminate this Contract due to a breach by Contractor. Termination for breach of Contract will be without further compensation to the Contractor.
2. Termination for Cause. The City may, upon written notice to the Contractor, terminate the Contract, as of a date to be specified by the City, if the Contractor fails to complete the designated work to the satisfaction of the City, within the time schedule agreed upon. The Contractor shall be compensated on the basis of the work performed and accepted by the City at the date of final acceptance of the Contract.
3. Termination for Convenience. In addition to its rights and options to terminate this Contract as provided herein, the City may, at any time prior to completion of services specified under the Contract, terminate the Contract by submitting written notice to a Contractor, within not less than fifteen (15) days prior to the termination date, via certified or registered mail, 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, 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.

**21. 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.

**22. RESPONSIBILITY FOR SUPERVISION:** The Contractor shall assume primary responsibility for general supervision of Contractor employees and his/her or their subcontractors for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Contract.

**23. INDEPENDENCE:** The Contractor shall act in an independent capacity and not as officers or employees of the City.

**24. 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.

**25. 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 VSA Title 19 § 35 and §503, in order 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.

**26. 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.

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.

**27. RESPONSIBILITY OF COST:** The Contractor shall furnish and pay the cost, including taxes (except tax exempt entities) and all applicable fees, of all the necessary materials and shall furnish and pay for full time on-site superintendence during any construction activity, labor, tools, equipment, and transportation, and perform all the Work required for the construction of all items listed and itemized under the Bid Schedule of the Bidder's Proposal attached hereto in strict accordance with the Plans, Specifications and requirements, general conditions and appendix which are attached hereto and made a part hereof, and any amendments thereto and such supplemental plans and specifications which may hereafter be approved. The Contractor agrees to pay all claims for labor, materials, services and supplies and agrees to allow no such charge to be fixed on the property of the City.

**28. 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. 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 an agreement, shall be conclusive evidence of the performance of said agreement, 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 encompassed in conformance therewith, the type of 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 expire.

**29. PAYMENT FOR ADDITIONS OR DELETIONS:** The City may, upon written notice, and without invalidating the Contract, require any changes to, additions to, or deletions from, the originally contemplated extent of the work, prior to completion of the Contract by means of an amendment to the original Contract. Any adjustments of this nature shall be executed under the appropriate fee established in the Contract, based on the adjusted quantity of work, except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such addition or deletion.

**30. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES:** The City may, upon written notice, 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, by one or more of the following:

1. Fixed Price. By a price that is not subject to any adjustment on the basis of the Contractor's expenses experienced in performing the work. The Contractor is fully responsible for all costs and resulting profit or loss.
2. Rate Schedule. By unit prices designated in the Contract, or by unit prices covered under any subsequent contracts.
3. Actual Cost. By amounts determined on the basis of actual costs incurred, as distinguished from forecasted expenditures.

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

**31. ACCESS:** The City shall provide the land and/or construction easements upon which the Work under this Contract is to be done, and will, so far as is convenient, permit the Contractor to use as much of the land as is required for the erection of temporary construction facilities and storage of materials, together with the right of access to same, but beyond this, the Contractor shall provide at the Contractor's cost and expense any additional land required.

**32. WARRANTY:** The Contractor guarantees all material and equipment furnished and all Work performed for a period of one (1) year from the date of substantial completion of the Contract (or one (1) year from Final Completion of the Contract for all work completed after Substantial Completion). The Contractor guarantees that the facility is free from defects due to faulty materials or workmanship and the Contractor shall make the necessary corrections or repairs to correct these defects as outlined further in Specification Section 01740. Longer equipment or material guarantees shall be documented in the Certificate of Substantial Completion.

- 33. LAWS:** The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as specified in the Contract Documents. If the Contractor observes that the Contract Documents are at variation with any laws, ordinances, rules or regulations, the Contractor shall promptly notify the City in writing and any necessary changes shall be adjusted through the use of Contract Change Orders. The Contractor agrees to comply with all laws, rules and regulations that apply to related Work.
- 34. PERFORMANCE:** The actual performance of Work and superintendence shall be performed by the Contractor, but the City shall, at all times, have access to the premises for the purpose of observing or inspecting the Work performed by the Contractor.
- 35. ASSIGNMENT:** The Contractor agrees not to sublet or assign this Work without the written consent of the City.
- 36. RESPONSIBILITY OF SUBCONTRACTOR:** The Contractor shall have full responsibility under these General Conditions, General Provisions, or Plans and Specifications for any subcontracts which the Contractor may let.
- 37. RELEASE:** The acceptance by the Contractor of final payment shall be and shall operate as a release to the City of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the City and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Performance Bond or Payment Bond.
- 38. SUSPENSION OF WORK:** The City may suspend the work or any portion thereof for a period of not more than ninety days or such further time as agreed by the Contractor. The Contractor will be allowed an extension of contract time directly attributable to any suspension.
- 39. CONTRACT CHANGE ORDERS:** All changes affecting the Project's construction cost, length of time, or modifications of the terms or conditions of the Contract, must be authorized by means of a written Contract Change Order which is mutually agreed to by the City and Contractor. The Contract Change Order will include extra Work, Work for which quantities have been altered from those shown in the Bid Schedule, as well as decreases or increases in the quantities of installed units which are different from those shown in the Bid Schedule because of final measurements. All changes must be recorded on a Contract Change Order (which form is part of these Contract Documents) and fully executed before they can be included in a partial payment estimate. Changes for Work, quantities, and/or conditions will include any respective time adjustment, if justified. Time adjustments will require an updated Project Schedule with the Change Order.
- 40. SAFETY REQUIREMENTS:** In order to protect the lives and health of its employees under the Contractor, the Contractor shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any VOSHA (Vermont OSHA) Safety and Health requirements.
- The Contractor alone shall be responsible for the safety, efficiency, and adequacy of its plant, appliances, and methods, and for any damages, which may result from their failure or their improper construction, maintenance or operation.
- 41. AUDIT AND ACCESS TO RECORDS:** For all negotiated Contracts, the City, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor, which are pertinent to the Contract, for the purpose of making audits, examinations, excerpts and transcriptions. The Contractor shall maintain all required records for three years after final payment is made and all other pending matters are closed.

- 42. NOTICE OF SUBCONTRACTOR:** If the Contractor was not required to obtain City approval of the subcontractor(s) prior to Award of the Contract, the Contractor shall provide written notification to the City within 10 working days of the Contractor's intent to employ subcontractor(s) on site. The notification shall list the name, address and telephone number of the subcontractor(s); estimated dollar amounts of subcontract(s); estimated start and completion dates of the subcontractor(s) work.
- 43. WAIVER:** No waiver by City of any breach of this Agreement by the Contractor shall constitute a waiver of any subsequent breach by the Contractor, and no delay in enforcement of any breach shall be deemed a waiver of that breach.

## **HAZARDOUS MATERIALS AND HISTORIC PRESERVATION**

1. If at any time during construction the presence of unanticipated hazardous materials at or proximate to a construction site is detected, the construction CONTRACTOR shall cease work in the affected area and perform the following immediately:
  - a. Notify the CITY verbally and in writing. The CITY is responsible for notification of the Waste Management Division of the Agency of Natural Resources.  
  
**THE HAZARDOUS MATERIALS SPILLS AND EMERGENCY REPORTING PHONE NUMBER IS Toll Free 1-800-641-5005.**
  - b. Take all action necessary and appropriate for the protection and safety of the public and persons at or about the site, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying CITYs and users of adjacent sites and utilities.
2. Actions at the construction site following completion of these steps shall be at the direction of the Waste Management Division. Nothing in this Article shall be construed to require the CONSULTANT and/or the CONTRACTOR to perform work for which adequate compensation has not been contracted for other than to insure that basic measures necessary to protect the health and welfare of workers, residents and abutters are immediately adopted.
3. At construction sites where the presence of contaminated or hazardous materials are suspected to exist and provisions have been made in the Contract Documents for their management, the requirements in the Contract Documents will determine the appropriate actions of the CONTRACTOR. In any event, discovery of contaminated soils require the immediate notification of the CITY. If sites other than the suspected areas previously delineated in the Contract Documents are discovered, Item 1 above shall apply.

## **HISTORIC PRESERVATION**

1. If at any time during construction, the presence of possible human remains are discovered at or proximate to a construction site, the CONTRACTOR shall cease work in the affected area and immediately contact the local medical examiner or law enforcement official in addition to notifying the CITY or CITY's representative. The CONTRACTOR shall take all action necessary and appropriate for the protection and safety of the public and the site.
  - a. Notify the CITY verbally and in writing. The CITY is responsible for notification of the Agency of Natural Resources and FED Construction Project City
2. If at any time during construction, the presence of unanticipated historic and archeological resources are detected at or proximate to a construction site, the construction CONTRACTOR shall cease work in the affected area, take all action necessary and appropriate for the protection and safety of the public and the site, and inform the following immediately:
  - a. Notify the CITY verbally and in writing. The CITY is responsible for notification of the Agency of Natural Resources.
  - b. Notify the Vermont Division of Historic Preservation at: **(802) 828-3050 landline or (802) 477-2517 cell Or (802) 828-3048 landline or (802) 310-0289 cell**
3. Actions at the construction site following completion of these steps shall be at the direction of the local medical examiner, law enforcement agent or Historic Preservation Division as appropriate. Nothing in this Article shall be construed to require the CONSULTANT and/or the CONTRACTOR to perform work for which adequate compensation has not been contracted for other than to insure that basic measures necessary to protect the safety and welfare of the workers and the site.