

**BURLINGTON WAYFINDING IMPROVEMENTS**  
**Burlington STP 5000 (17) - TCSE (017)**

**Request for Qualifications**  
**Construction Inspection Services**  
**City of Burlington, Vermont**

**Issued: September 26, 2014 Due: October 14, 2014**

**I. INTRODUCTION**

The City of Burlington, Vermont, herein after referred to as the Municipality, is soliciting Construction Inspection Services for the above referenced project. Construction includes, but is not limited to the following: fabrication and installation of various wayfinding signs and structures (approx. 100 signs). The required services being solicited are outlined in Section II of this Request for Qualifications (RFQ).

The municipality has appointed Guillermo Gomez as the Municipal Project Manager (MPM) to act as its representative for project development. The municipality has contracted with Resource Systems Group (RSG) Inc. (Design Engineer) to provide engineering support during the construction phase.

The project is being developed through the Local Transportation Facilities (LTF) section of the Vermont Agency of Transportation (VTrans). Although the project is managed locally, the use of Federal and State funds requires that permitting, environmental, and right-of-way (ROW) processes follow pertinent Federal and State regulations. One requirement of the LTF program is that the municipality provides the necessary oversight of the construction phase. This oversight includes inspection and sampling/testing of construction materials. This RFQ seeks to hire a VTrans qualified consultant that can provide these services to the City of Burlington.

Final plans for this project are available electronically per request from the Municipal Project Manager, Guillermo Gomez (ggomez@burlingtonvt.gov). The selected Construction and Inspection individual or firm will be provided a copy of the Contract Documents and the Construction Plans at no charge.

Additional reference materials and guidelines that consultants should follow include:

- Current VTrans Local Transportation Facilities (LTF) Guidebook for Municipally Managed Projects
- VTrans Construction Manual
- VTrans Route Survey Manual
- VTrans Materials Sampling Manual
- VTrans Approved Products List
- VTrans List of Materials with Advance Certification
- Manual of Uniform Traffic Control Devices

- VTrans Standard Specifications for Construction
- VTrans Supplemental Specifications
- VTrans General Special Provisions for All Projects

## **II. SCOPE OF WORK**

The consultant hired to perform these services should be qualified to perform a variety of inspection, record keeping and construction engineering activities including, but not limited to:

### **Task 1: Administration**

1. Maintain communication with the MPM on a regular basis.
2. Coordinate with the City, Design Engineer, VTrans and the Construction Contractor(s).
3. Review and have a thorough understanding of contract plans, specifications, estimates and contract special provisions.
4. Facilitate the process of responding to Requests for Information (RFIs)
5. Attendance at the pre-construction conference, all job related meetings and the final inspection.
6. Make sure contractor contacts Dig-Safe.
7. Preparation of Daily Reports, including quantities.
8. Maintain a photographic record of the progress of construction, annotating such photos to indicate their content and context including date. This photographic record must be available for reference by the MPM, Design Engineer, State or Federal representatives, and City representatives.
9. Accompany the MPM, Design Engineer, State or Federal representatives and City representatives on visits to the project.
10. Participate in regularly scheduled Construction Status meetings with the MPM, Design Engineer, State or Federal representatives and City representatives.
11. Report immediately any unusual occurrences and all accidents occurring within the project limits to the MPM and/or the Design Engineer.
12. Calculation and verification of the final contract quantities.
13. Review and submit to the Design Engineer any suggestions or requests made by the contractor to change or modify any requirements of the Plans or Contract Documents.

14. Provide certification to the Municipality and VTrans that this project was constructed as designed, subject to appropriate and necessary revisions during construction, in conformance with all project specifications and that all necessary contract provisions were fully complied with.

### **Task 2: Pre-Construction Stake-Out**

Provide construction related survey services, including, but not limited to: Survey of pre-construction existing conditions as necessary for verification of quantity measurements, initial staking of proposed centerline (see Section 105.09 VTRANS Standard Specifications - and post-construction survey as necessary for use in preparing as-built drawings.

### **Task 3: Construction Inspection**

1. Maintain a presence on the project during times when contractor activities are underway.
2. Check that the contractor is in compliance with all construction contract requirements, City of Burlington permits and ordinances; property rights agreements; erosion and sediment control; and stormwater management plan; state permits, regulations and statutes; and federal regulations and statutes; and exercise the engineer's authority as provided in the contract documents and report immediately any deviations to the MPM.
3. Inspect and approve material sources and waste, borrow and staging areas, with due regard to approval/disapproval from the Vermont Agency of Transportation's Environmental Section.
4. Tracking of utility relocation and plotting of final facility locations on the final as-built plans (if any).
5. Erosion control monitoring in accordance with applicable permits.
6. Review and verify traffic control activities.
7. Development of final as-built plans by marking up a set of contract plans.
8. Check that completed work complies with the plans and specifications and is true to line and grade.
9. Make an inspection of work completed at such time as the contractor may claim substantial completion, with a contractor's representative, and issue a list of items to be corrected or completed.

#### **Task 4: Materials and Equipment Inspection and Testing**

1. Check that materials and equipment are fabricated and tested in accordance with contract documents, in advance of installation; ensuring that contractor's independent laboratory is performing preliminary process control tests on material samples in accordance with Inspection Level 3 of the VTrans Quality Assurance Program (QAP) and Materials Sampling Manual (MSM) to ensure continued quality in the work. Review the test reports and certificates and forward to the MPM for decision on acceptability.
2. Check that materials submitted as pre-approved are on the current VTrans Pre-approved Material List or on the List of Materials with Advanced Certification.
3. Record materials certifications in accordance with VTrans procedures.
4. The selected Construction and Inspection Consultant is responsible for the required acceptance testing by an independent qualified laboratory. This includes hiring an independent qualified laboratory.

The Construction Inspection field personnel will be expected to wear personal protective equipment, including appropriate headgear, footwear and reflectorized vest when on the project site.

The Construction Inspection contractor will be expected to provide and have on the project all necessary equipment, tools, and supplies needed to carry out the required duties.

Please note that a field office will not be provided.

The project has been advertised and we are in the process of awarding the contract. The award of construction contract is anticipated within the next four to six weeks. The contractor will initiate submittal process upon contract award, during which the inspector duties will be to attend pre-construction meeting, and facilitate the response of RFIs from the contractor. Manufacturing of the signs will occur out-of state through the winter, during which inspector duties will be minimum. Foundation work and sign installation is to happen in spring 2015 for an estimated period of 4 weeks. The construction is scheduled to be completed by July 2015 or earlier. The consultant should plan on being on-site during construction of the project to the extent necessary to certify, on completion of the project, that the project was built as designed, subject to appropriate and necessary revisions during construction, in conformance with all project specifications and that all necessary contract provisions were fully complied with.

The construction inspector will be the primary contact person representing the City of Burlington on the project. The inspector will be responsible for contacting the Design Engineer and the MPM to resolve any design related issues that may arise during construction.

### III. RESPONSE FORMAT

Responses to this RFQ shall consist of the following:

- A. The City must follow a Qualifications Based Selection (QBS) Process. The Statement of Qualifications (SOQ) shall consist of following:
1. A cover letter expressing the consultant's interest in working with the City of Burlington including an identification of the principal individuals that will provide the requested services.
  2. A description of the general approach to be taken toward completion of the project and an explanation of any variances to the proposed scope of work as outlined in the RFQ.
  3. A scope of work that includes detailed steps to be taken, any products or deliverables resulting from each task and a summary of estimated labor hours by task.
  4. A list of individuals that will be committed to this project and their professional qualifications. The names and qualifications of any sub-consultants shall be included in this list.
  5. Describe experience with federally funded transportation construction projects and familiarity with VTrans Standard Specifications for Construction.
  6. A proposed means of providing the equipment and supplies required to carry out the prescribed duties.
  7. Demonstration of success on similar projects, including a brief project description and a contact name and address for reference.
  8. The SOQ shall be clear and concise, not exceeding twenty-five (25) 8 ½" x 11" pages. Information better suited to a larger paper size should be folded to an 8 ½" x 11" size. SOQs should be double-sided and use recycled paper, if possible.
- B. The City must select the most qualified consultant prior to requesting a fee proposal. When requested by the City, a fee proposal should consist of a composite schedule by task of direct labor hours, direct labor cost per class of labor, overhead rate, and fee for the project. If the use of sub-consultants is proposed, a separate schedule must be provided for each.
- C. The consultant should include the following in the SOQ: A list of the specific individuals, including any sub-consultants, who will be part of the inspection team over the duration of the project. The individual's names, titles, and expected duties should be included. The consultant shall provide resumes of the planned staff. Any personnel not specified in the proposal will require the approval of the MPM prior to utilization or invoicing.

#### **IV. CONTRACT PERIOD, AMOUNT AND PAYMENTS**

The consultant will be selected on or about **October 21, 2014**. At that time, a notice of intent to issue the contract will be mailed to all parties who submitted SOQs.

#### **V. CONSULTANT SELECTION**

A committee that includes officials from the City of Burlington, Vermont Agency of Transportation and the MPM will make the consultant selection. The selection committee will review and evaluate all SOQs based on the following criteria:

<b><u>CRITERIA</u></b>	<b><u>WEIGHT</u></b>
1. Addressing the Scope of Work	25%
2. Understanding of the Project	20%
3. Qualification/Experience of Assigned Staff	20%
4. Availability of Technical Resources	20%
5. Reasonableness of Labor Hour Schedule	15%

Once the SOQ is discussed and ranked, the City will notify the most qualified consultant and request a fee proposal. The fee proposal will be reviewed for consistency with, and in light of, the evaluation of the SOQ. The selection committee may elect to interview consultants prior to final selection. The City of Burlington reserves the right to seek clarification of any SOQ submitted and to select the proposal considered to best promote the public interest.

If any consultant is aggrieved by the proposed award of the contract, the consultant may appeal in writing to the MPM. The appeal must be postmarked within seven (7) calendar days following the date of the written notice of intent to award the contract.

The consultant awarded this contract shall apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont within fourteen (14) days of notification of award, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 26 Terrace Street, Montpelier, VT 05609-1104. The telephone number is (802) 828-2386. The City of Burlington will NOT execute the contract until the consultant is registered with the Secretary of State's Office.

The Construction & Inspection Consultant must have a current Vermont Agency of Transportation Form AF38 on file with VTrans prior to signing a contract. The AF38 form should be completed at a level commensurate with the anticipated magnitude of proposed work. The AF38 form and any financial information should be submitted directly to VTrans Audit Section. This information will be kept confidential on file in the Audit Section. Please note in the Proposal if this information is currently on file with VTrans. Form AF38 can be found on the VTrans website (<http://vtranscontracts.vermont.gov/personal-services/related-documents>).

The consultant's attention is directed to the VTrans' Disadvantaged Business Enterprise (DBE) Policy Requirements. These requirements outline the State's and the consultant's responsibility with regard to the utilization of DBEs for the work covered in the RFQ. It is expected that all consultants will make good faith efforts to solicit DBE sub-consultants.

## **VI. ADDITIONAL INFORMATION**

Prior to beginning of work, the consultant shall obtain Insurance Coverage in accordance with the Revised Consultant Contract Provisions (Appendix B). The certificate of insurance coverage shall be documented on forms acceptable to the City.

Consultants are advised to review the Draft Contract Agreement (Appendix A), the Revised Consultant Contract Provisions (Appendix B) and the Livable Wage Ordinance (Appendix C) in advance of submitting an SOQ.

**CITY OF BURLINGTON LIVABLE WAGE:** The City of Burlington hereby notifies all bidders that in the event the contract price exceeds \$15,000, or when combined with other service contracts within the last 12 months exceeds \$15,000, the successful bidder will be required to comply with the Burlington Livable Wage Ordinance (Appendix C) and shall provide the required certification attesting to compliance with this ordinance as a condition of executing the contract.

## **VII. SUBMISSIONS**

Consultants interested in this project should submit four (4) copies of their Statements of Qualifications (SOQ) to:

Guillermo Gomez, MPM  
City of Burlington \_ Department of Public Works  
645 Pine Street, Suite A  
Burlington, VT 05401  
(802) 540-0557  
Email: [ggomez@burlingtonvt.gov](mailto:ggomez@burlingtonvt.gov)

SOQs must be submitted in sealed envelopes with the following information clearly printed on the outside:

Name and address of prime consultant  
Due date and time  
Envelope contents (Statement of Qualifications)  
Project name & number

All questions related to this Request for Qualifications should be addressed to the MPM. Questions may be submitted in writing or by Email. Questions will be accepted until end of business on **October 6<sup>th</sup>**, after which a compiled list of all questions and answers will be furnished to all interested consultants.

All proposals must be received by the MPM **no later than 4:00 PM on October 14, 2014.** Proposals and/or modifications received after this time will not be accepted. No facsimile-machine produced proposals will be accepted. The expense of preparing and submitting an SOQ is the sole responsibility of the consultant. The City of Burlington reserves the right to reject any or all SOQs received, to negotiate with any qualified source, or to cancel in part or in its entirety this RFQ if it is in the best interest of the City of Burlington. This solicitation in no way obligates the City of Burlington to award a contract.

**APPENDIX A – DRAFT AGREEMENT**

**CITY OF BURLINGTON, VERMONT  
CONTRACT AGREEMENT  
FOR ENGINEERING SERVICES  
With**

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THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the City of Burlington, VT, hereinafter referred to as the CITY and \_\_\_\_\_, a corporation, with its principal place of business at \_\_\_\_\_, hereinafter referred to as the CONSULTANT.

The CITY wishes to employ the CONSULTANT for Resident Engineering Services for the Burlington Wayfinding Improvements (BURLINGTON STP 5000 (17) – TCSE (017))

WHEREAS the CONSULTANT is ready, willing, and able to perform the required services;

NOW THEREFORE, in consideration of these premises and the mutual covenants herein set forth, it is agreed by the parties hereto as follows:

**1. SCOPE OF WORK**

The CONSULTANT shall provide inspection services necessary to ensure the successful completion of the Burlington Wayfinding Improvements (BURLINGTON STP 5000(17) – TCSE (017)) for the City of Burlington, as set forth in a Request for Proposals from the Department of Public Works dated \_\_\_\_\_, and the CONSULTANT's Scope of Services and Cost Proposal (dated \_\_\_\_\_), which are incorporated herein and made a part of this Agreement.

Should it become necessary for the CONSULTANT to procure sub-consultant services, this selection will be subject to approval by the CITY. It is expected that any solicitations by the CONSULTANT will include reference to the Vermont Agency of Transportation's Disadvantaged Business Enterprises Policy and the CITY'S Livable Wage Ordinance.

**2. BEGINNING OF WORK AND TERMINATION**

This Agreement shall be effective upon execution and shall be completed on or before

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**3. THE AGREEMENT FEE**

A. General. The CITY agrees to pay the CONSULTANT and the CONSULTANT agrees to accept as full compensation for performance of all services and expenses

(including those of sub-consultants) encompassed under this Agreement, payment at the rates specified under the CONSULTANT's scope of services.

B. Maximum Limiting Amount. The total amount to be paid to the CONSULTANT for all services shall not exceed a maximum limiting amount of \$ \_\_\_\_\_ without duly authorized written approval.

4. PAYMENT PROCEDURES

Invoices shall be submitted to \_\_\_\_\_, Municipal Project Manager  
Public Works Department - 645 Pine Street, Burlington, VT 05401. One original and three copies are required.

5. ATTACHMENTS

The following attachments are adopted by reference and made part of this Agreement:

ATTACHMENT - Scope of Services

ATTACHMENT – Consultant Contract Provisions

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

\_\_\_\_\_

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

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

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

City of Burlington, Vermont

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

Chapin Spencer, Public Works Director

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

## **APPENDIX B –CONSULTANT CONTRACT PROVISIONS**

Wherever used, abbreviations may be used in place of a word or phrase and definitions may be used to interpret statements for the meaning of words phrases or expressions. The intent and meaning for abbreviations and definitions shall be interpreted as herein set forth:

AASHTO	American Association of State Highway and Transportation Officials
AGC	Associated General Contractors of America
AIA	American Institute of Architects
ANR	Agency of Natural Resources
ANSI	American National Standards Institute
ASCE	American Society of Civil Engineers
AWS	American Welding Society
CADD	Computer Aided Drafting and Design
CES	Consultant Engineering Services
CFR	Code of Federal Regulations
DOT	United States Department of Transportation
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EDM	Electronic Data Media
FAA	Federal Aviation Administration
FAR	Federal Acquisition Regulation
FHWA	Federal Highway Administration, U.S. Department of Transportation
FRA	Federal Railroad Administration
FSS	Federal Specifications and Standards (General Services Administration)
FTA	Federal Transit Administration
SIR	Self Insured Retention
U.S.C.	United States Code
USEPA	United States Environmental Protection Agency
VAOT	Vermont Agency of Transportation
VOSHA	Vermont Occupational Safety and Health Act
VSA	Vermont Statutes Annotated

### ***1. INDEMNIFICATION***

The Consultant will act in an independent capacity and not as officers or employees of the Municipality. The Consultant shall indemnify, defend and hold harmless the Municipality and its officers and employees from liability and any claims, suits judgments, and damages arising as a result of the Consultant's acts and/or omissions in the performance of this contract.

The Municipality is responsible for its own actions. The Consultant is not obligated to indemnify the Municipality or its officers, agents and employees for any liability of the Municipality, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

In the event the Municipality, its officers, agents or employees are notified of any claims asserted against it or them to which this Indemnification clause may apply, the Municipality or its officers, agents and employees shall immediately thereafter notify the Consultant in writing that a claim to which the Indemnification Agreement may apply has been filed.

**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. 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 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 City. CONTRACTOR understands and agrees that it and its Principal have no right to claim any benefits under the Burlington Employee Retirement System, City's worker's compensation benefits, health insurance, dental insurance, life insurance or any other employee benefit plan offered by City. The CONTRACTOR agrees to execute any certifications or other documents and provide any certificates of insurance required by 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 City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

## ***2. INSURANCE***

**GENERAL:** Prior to beginning any work the Consultant shall obtain the following insurance coverage. The certificate of insurance coverage shall be documented on forms acceptable to the Municipality. Evidence of compliance with minimum limits and coverages, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the Municipality, must be received prior to the effective date of the Agreement. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the Municipality. In the event that this Contract extends to greater than one year, evidence of continuing coverage must be submitted to the Municipality on an annual basis. Certified copies of any insurance policies may be required. Each policy (with the exception of professional liability and workers compensation) shall name the City and the State of Vermont as an additional insured for the possible liabilities resulting from the Consultant's actions or omissions. It is agreed that the liability insurance furnished by the Consultant is primary and non-contributory for all the additional insured.

The Consultant is responsible to verify that:

- (a) All subconsultants, agents or workers meet the minimum coverages and limits plus maintain current certificates of coverage for all subconsultants, agents or workers.

- (b) All coverages shall include adequate protection for activities involving hazardous materials.
- (c) All work activities related to the agreement shall meet minimum coverages and limits.

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

**GENERAL LIABILITY AND PROPERTY DAMAGE:**

- (a) With respect to all operations performed by the Consultant, subconsultants, agents or workers, it is the Consultant's responsibility to insure that general liability insurance coverage provides all major divisions of coverage including, but not limited to:
  - 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

- (b) The policy shall be on an occurrence form with limits not less than:

1. General Aggregate	\$2,000,000
2. Products-Completed/Operations Aggregate	\$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

**WORKERS' COMPENSATION:** With respect to all operations performed, the Consultant shall carry workers compensation insurance in accordance with the laws of the State of Vermont. Minimum limits for Employer's Liability:

- (a) Bodily Injury by Accident: \$500,000 each accident
- (b) Bodily Injury by Disease: \$500,000 policy limit, \$100,000 each employee

**PROFESSIONAL LIABILITY INSURANCE:**

- (a) General. The Consultant shall carry architects/engineers professional liability insurance covering errors and omissions made during their performance of contractile duties with the following minimum limits:

\$2,000,000 - Annual Aggregate  
\$1,000,000 - Per Occurrence

- (b) Deductibles. The consultant is responsible for any and all deductibles.
- (c) Coverage. Prior to performing any work, the Consultant agrees to provide evidence of **E&O** insurance coverage defined under this Section. In addition, the Contractor agrees to attempt to maintain continuous professional liability coverage for the period of the agreement and whenever applicable any construction work related to this agreement, and for a period of five years following substantial completion, if such coverage is reasonably available at commercially affordable premiums.

**VALUABLE PAPERS INSURANCE:** The Consultant shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other data relating to the work, whether supplied by the Municipality or developed by the Consultant, subconsultant, worker or agent, in the event of loss, impairment or destruction of these documents. Such coverage shall remain in force until the final plans, and all related materials, have been delivered by the Consultant to, and accepted by, the Municipality.

The policy shall provide coverage on an each occurrence basis with limits not less than:

Valuable Papers	\$10,000
Electronic Data Media	\$10,000

**AUTOMOBILE LIABILITY:** The Consultant shall carry 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

**UMBRELLA LIABILITY**

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

**3. COMPLIANCE WITH LAWS**

**GENERAL COMPLIANCE WITH LAWS:** The Consultant shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance.

Provisions of the Agreement 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 Agreement is unenforceable or invalid, that provision shall be deemed severed from the Agreement, 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 Agreement.

**ENVIRONMENTAL REGULATIONS:** Any Contract in excess of one hundred thousand dollars shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. § 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Municipality regulation (40 CFR Part 15), that prohibit the use, under non-exempt Federal Contracts, grants or loans, of facilities included on the EPA list of Violating Facilities. The provisions require reporting of violations to the grantor, Municipality and to the USEPA Assistant Administrator for Enforcement (EN-329).

**CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY:** During performance of the Agreement, the Consultant will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, physical disability or veteran status.

The Consultant 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 Consultant 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 Consultant 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.

**DEBARMENT CERTIFICATION:** When signing a Contract in excess of twenty five thousand dollars, the Consultant certifies under the penalty of perjury as directed by Federal laws (48 CFR 52.209-5), that, except as noted in the Agreement, the Consultant or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds:

- (a) is not currently under suspension, debarment, voluntarily exclusion or determination of ineligibility by any Federal agency;
- (b) has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (3) years;
- (c) does not have a proposed debarment pending; and
- (d) has not been indicted, convicted, or had a civil judgement rendered against him/her by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of the Contract but will be considered in determining the Consultant's responsibility. The Agreement shall indicate any exception and identify to whom or to what Municipality it applies and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Exceptions shall be noted in the Contract:

**LOBBYING:** For any Agreement exceeding one hundred thousand dollars, the Consultant certifies by signing the Agreement, that to the best of their knowledge and belief on behalf of their signature:

- (a) No Federal appropriated funds have been paid or will be paid by or to any person influencing or attempting to influence an officer or employee of a government agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, renewal, amendment or modification of any Federal Contract grant, loan or cooperative Agreement.
- (b) They will complete and submit, in accordance with its instructions, Standard Form-LLL "Disclosure Form to Report Lobbying", if any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of a government agency or a Member of Congress in connection with the Federal Agreement, grant loan, or cooperative Agreement.
- (c) They shall require that the language of this Certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact, upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into the Agreement, imposed by Section 1352, Title 31, U.S.C..

Section 1352 of Title 31, U.S.C., provides, in part, that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any government agency, Member of Congress, officer or employee of Congress, or employee of a Member of Congress, in the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.

**CHILD SUPPORT PAYMENTS:** By signing the Contract the Consultant certifies, as of the date of signing the Agreement, 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 Consultant is a sole proprietorship, the Consultant's statement applies only to the proprietor. If the Consultant is a partnership, the Consultant's statement

applies to all general partners with a permanent residence in Vermont. If the Consultant is a corporation, this provision does not apply.

**TAX REQUIREMENTS:** By signing the Agreement, the Consultant 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.

**ENERGY CONSERVATION:** The Consultant shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-165.

#### ***4. CONTRACTUAL AGREEMENTS***

**REGISTRATION:** The Consultant agrees to become registered with the Vermont Secretary of State's office as a corporation doing business in the State of Vermont. This registration must be complete prior to contract execution.

**ADMINISTRATION REQUIREMENTS:** By signing the Agreement the Consultant agrees to comply with the following provisions and certifies that he/she or they are in compliance with the provisions of 49 CFR § 18.36 Procurement (i) Contract Provisions with principal reference to the following:

- (a) Copeland "Anti-Kickback" Act. For any Federal-Aid Contracts or subcontracts for construction or repair, the Consultant agrees to comply with the Copeland "Anti-Kickback" Act, 18 U.S.C. § 874, as supplemented by Department of Labor Regulations, 29 CFR § 3.
- (b) Davis-Bacon Act. For any Federal-Aid construction contracts in excess of \$2,000, the Consultant agrees to comply with the Davis-Bacon Act 40 U.S.C. §§ 276a to a-7, as supplemented by Department of Labor Regulations, 29 CFR § 5.
- (c) Work Hours. For any Federal-Aid construction contracts in excess of \$ 2,000, or in excess of \$ 2,500 for other contracts involving employment of mechanics or laborers, the Consultant agrees to comply with the Contract Working Hours and Safety Standards Act, 40 U.S.C. §§ 327-330, as annexed by Department of Labor Regulations, 29 CFR § 5.
- (d) Proprietary Rights. The parties under the Agreement hereby mutually agree that, if patentable discoveries or inventions should result from work performed under the Agreement, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. The Consultant, however, agrees to and does hereby grant to the Municipality, the State of Vermont and the United States Government 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 Agreement.

- (e) Publications. All data, EDM, valuable papers and documents produced under the terms of the Agreement, shall become the property of the Municipality. The Consultant agrees to allow access to all data, EDM, valuable papers and documents at all times. The Consultant shall not copyright any material originating under the Agreement without prior written approval of the Municipality.

**PERSONNEL REQUIREMENTS AND CONDITIONS:** A Consultant shall employ only qualified personnel, for responsible authority to supervise the work. The Municipality shall have the right to approve or disapprove key personnel assigned to administer activities related to the Agreement.

Except with the approval of the Municipality, during the life of the Agreement, the Consultant shall not employ:

- (a) Personnel on the payroll of the Municipality who are directly involved with the awarding, administration, monitoring, or performance of the Agreement or any project(s) that are the subjects of the Agreement.
- (b) Any person so involved within one (1) year of termination of employment with the Municipality.

The Consultant warrants that no company or person has been employed or retained, other than a bonafide employee working solely for the Consultant, to solicit or secure this Agreement, and that no company or person has been paid or has an agreement with the Consultant to be paid, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, the Municipality shall have the right to annul the Agreement, without liability to the Municipality, and to regain all costs incurred by the Municipality in the performance of the Agreement.

The Municipality reserves the right to require removal of any person employed by a Consultant, from work related to the Agreement, for misconduct, incompetence, or negligence, in the opinion of the Municipality in the due and proper performance of its duties, or who neglects or refuses to comply with the requirements of the Agreement.

**TRANSFERS, SUBLETTING, ETC:** A Consultant shall not assign, sublet, or transfer any interest in the work, covered by an Agreement, without prior written consent of the Municipality and further, if any subconsultant participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the Municipality. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Consultant 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 Consultant and approved by the Municipality. The Consultant shall ensure that adequate insurance coverage exists for any operations to be performed by any subconsultant.

The services of the Consultant, to be performed under the Agreement, are personal and shall not be transferred without written authorization of the Municipality and, when applicable, approved by the State of Vermont and FHWA. Any authorized subagreements, exceeding ten thousand dollars in cost, shall contain all of the same provisions specified for and attached to the original Agreement with the Municipality.

**BEGINNING AND COMPLETION OF WORK:** The Consultant agrees to begin performance of services, specified in the Agreement, in accordance with the terms of the Agreement, as arranged in negotiations with the Municipality, or within ten (10) days of the date of written notice to begin work by the Municipality, and to complete the contracted services by the completion dates specified in the Agreement.

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

**CONTINUING OBLIGATIONS:** The Consultant agrees that if, because of death or other occurrences, it becomes impossible to effectively perform its services in compliance with the Agreement, neither the Consultant nor its surviving members shall be relieved of their obligations to complete the Agreement. However, the Municipality may terminate the Agreement 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 Agreement.

**OWNERSHIP OF THE WORK:** The Consultant 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 Consultants, hereafter referred to as "instruments of professional service", shall become the property of the Municipality as they are prepared and/or developed during execution of the Agreement.

The Consultant shall surrender to the Municipality upon demand or submit for inspection at any time any instruments of professional service that have been collected, undertaken or completed by the Consultant pursuant to the Agreement. Upon completion of the work, in full, these instruments of professional service will be appropriately endorsed by the Consultant and turned over to the Municipality.

Data and publication rights to any instruments of service produced under this agreement are reserved to the Municipality and shall not be copyrighted by the Consultant at any time without written approval of the Municipality. No publications or publicity of the work, in part or in total, shall be made without the agreement of the Municipality, except that Consultants may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.

**PUBLIC RECORDS:** The Consultant 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 the City.

**RECORDS RETENTION:** The Consultant agrees to retain, in company files, all books, documents, EDM, valuable papers, accounting records, and other evidence, pertaining to costs incurred for work performed under the Agreement, for a period of at least three (3) years after the final "date of acceptance" by the Municipality, unless otherwise notified by the Municipality. The Consultant further agrees that the Municipality, the State of Vermont, FHWA or other authorized representatives of the Federal Government, shall have access to all the above information for the purpose of review and audit during the Agreement period and anytime within the aforementioned retention period. Copies of all the above referenced information shall be provided to the Municipality if requested.

**APPEARANCES:**

- (a) Hearings and Conferences. The Consultant shall provide professional services required by the Municipality and necessary for furtherance of any work covered under the Agreement. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Agreement.

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

The Consultant further agrees to participate in meetings with the Municipality, the State of Vermont, FHWA, and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Agreement. The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract document.

- (b) Appearance as Witness. If and when required by the Municipality, a Consultant, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related Agreement, on behalf of the Municipality. The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract document.

**CHANGES AND AMENDMENTS:** No changes or amendments of the Agreement shall be effective unless documented in writing and signed by authorized representatives of the Municipality and the Consultant.

**APPENDICES:** The Municipality may attach, to these specifications, appendices containing various forms and typical sample sheets for guidance and assistance to the Consultant 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 Municipality as occasions may

require. It is the responsibility of the Consultant to ensure that they have the latest versions applicable to the Agreement.

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

**SETTLEMENTS OF MISUNDERSTANDINGS:** In order to prevent misunderstandings and litigation, it is mutually agreed by all parties that the selectboard and/or city council shall act as referee on all questions arising under the terms of an Agreement and that the decision of this governing body in such cases shall be binding upon both parties.

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

**FAILURE TO COMPLY WITH TIME SCHEDULE:** 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 Agreement within two (2) years of the originally scheduled completion date, either party may by written notice request to amend or terminate the Agreement.

**MUNICIPALITY'S OPTION TO TERMINATE:** The Agreement may be terminated in accordance with the following provisions:

- (a) Breach of Contract. Administrative remedies - the Municipality reserves the right to terminate a Contract for breach of Contract agreements. Termination for breach of Contract will be without further compensation to the Consultant.
- (b) Termination for Cause. The Municipality reserves the right, upon written notice to the Consultant, to terminate the Agreement, as of a date to be specified by the Municipality, if the Consultant fails to complete the designated work to the satisfaction of the Municipality, within the time schedule agreed upon. The Consultant shall be compensated on the basis of the work performed and accepted by the Municipality at the date of final acceptance of the Agreement.
- (c) Termination for Convenience. In addition to its rights and options to terminate an Agreement as provided herein, the Municipality may, at any time prior to completion of services specified under an Agreement, terminate the Agreement by submitting written

notice to a Consultant, within not less than fifteen (15) days prior to the effective date, via certified or registered mail, of its intention to do so. If the termination is for the Municipality's convenience, payment to the Consultant 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 Consultant prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Consultant 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 Municipality's approval. The Consultant shall make no claim for additional compensation against the Municipality by reason of such termination.

## **5. OPERATIONAL STANDARDS**

**RESPONSIBILITY FOR SUPERVISION:** The Consultant shall assume primary responsibility for general supervision of Consultant employees and his/her or their subconsultants 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 Agreement.

**INDEPENDENCE:** The Consultant shall act in an independent capacity and not as officers or employees of the Municipality.

**WORK SCHEDULE AND PROGRESS REPORT:** Prior to initiating any work, the Consultant shall prepare, and submit to the Municipality, a general work schedule showing how the consultant will complete the various phases of work in order to meet the completion date in the contract. The Municipality will use this general work schedule to monitor the consultant.

During the life of the Contract the Consultant will make monthly progress reports indicating the work achieved through the date of the report. The Consultant shall link the monthly progress reports to the general schedule submitted.

The report shall indicate any matters that have or are anticipated to adversely affect progress of the work. The Municipality may require the Consultant to prepare a revised work schedule, in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days.

**UTILITIES:** Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Consultant will counsel with the Municipality, 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 Consultant shall inform the Municipality, in writing, of any such contacts and the results thereof.

**PUBLIC RELATIONS:** Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Consultant will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Consultant shall conduct themselves with propriety. The Consultant 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 Municipality, in accordance with VSA Title 19 § 35 and § 503, in order to accomplish the work under the Agreement. The Consultant agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Consultant, the Municipality shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Consultant is acting as an agent of the Municipality.

**INSPECTION OF WORK:** The Municipality shall, at all times, have access to the Consultant's work for the purposes of inspection, accounting, and auditing, and the Consultant shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Consultant shall permit the Municipality or representative for the Municipality the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Consultant pursuant to execution of the Agreement.

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 Municipality, the State of Vermont or FHWA.

**WRITTEN DELIVERABLES:** Written deliverables, presented under terms of the Agreement, shall be on 8 1/2" by 11" paper, consecutively printed on both sides. Reports shall be bound and have a title page that identifies the name and number of the project and publication date. The report shall have a table of contents and each page shall be numbered successively. Draft reports shall be identified as such.

## ***6. PROJECT DEVELOPMENT AND STANDARDS***

**PLANS RECORDS AND AVAILABLE DATA:** The Municipality agrees to make available, at no charge, for the Consultant's use all available data related to the Agreement including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plans, or any other pertinent public records.

**DESIGN STANDARDS:** Unless otherwise specifically provided for in the Agreement, or directed in writing, Consultant services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data necessary for construction of a designed facility, shall be in conformance with applicable portions of the following specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted and in effect prior to award of the Agreement:

- (a) VAOT=S latest edition of the Standard Specifications for Construction.
- (b) VAOT=S Bridge Design Manual.
- (c) All applicable AASHTO roadway, traffic, bridge, bicycle and pedestrian policies, guides

and manuals.

- (d) VAOT=S Manual on Survey.
- (e) VAOT=S Right-of-Way Manual.
- (f) The Highway Capacity Manual - Special Report 209.
- (g) The ANSI/AASHTO/AWS D-1.5, Bridge Welding code.
- (h) The MUTCD and Vermont Supplement requirements.
- (i) The Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals
- (j) Other Municipality directives and guidelines current at the time of the Agreement and as may be issued by the Municipality during the progress of the design.

In case of any conflict with the guidelines referenced, the Consultant is responsible to identify and follow any course of direction provided by the Municipality.

**DEVELOPMENT OF PLANS:** Unless otherwise indicated in an Agreement, the provisions of these specifications shall apply to any contract requiring preliminary engineering services in connection with highway, bridge, bicycle and pedestrian survey and design. The Consultant is responsible for the development of any and all work outlined in an Agreement.

The Municipality shall establish the termini of the project and may substantiate other conditions relative to locations established in the Agreement. When required under the Agreement, the Consultant will produce an acceptable survey and/or set of plans between such termini and follow any established provisions.

Endorsement of a recommended alignment made, by the Municipality, does not relieve the Consultant of the responsibility for making changes occasioned as a result of an alignment not conforming to standards or good engineering practices when the design is advanced. Nor is the Consultant relieved of changes developed by normal refinements.

Changes in work or Supplemental Agreements, requested or required of the Consultant by the Municipality, involving extra work or additional services must be properly documented and approved prior to initiating action of any work.

**METRICATION:** All work performed under a Contract shall be designed to comply with metrication units if specified in the Request for Proposals or the Scope of Work. Guide requirements for metric conversion shall follow criteria outlined in an AASHTO publication "Guide To Metric Conversion", copyright 1993. Copies of the Guide Requirements are available from AASHTO, 444 North Capitol St., N.W., Suite 225, Washington, DC 20001.

Unless otherwise required for special cases, the Consultant shall use the following conversions for metric units:

- (a) Lengths. For lengths less than 1 kilometer use meters. For lengths less than 1 meter use millimeters. For lengths less than 1 millimeter use micrometers.

- (b) Mass. For a mass less than 1 metric ton use kilograms. For a mass less than 1 kilogram use grams. For a mass less than 1 gram use milligrams.
- (c) Liquid Volume. For liquid volumes less than 1 cubic meter use liters. For liquid volumes less than 1 liter use milliliters. A liter is one thousandth of a cubic meter or 1000 cubic centimeters.
- (d) Solid Volume. For a solid volume less than 1 cubic meter use cubic millimeters.
- (e) Area. For an area less than 1 hectare use square meters. For an area less than 1 square meter use square millimeters.
- (f) Basic Engineering Conversion Factors.
  - 1. Mass/Unit Length      Pounds/Linear Foot to kilograms/meter (kg/m)
  - 2. Mass/Unit Area        Pounds/Square Foot to kilograms/square meter (kg/M<sup>2</sup>)
  - 3. Mass Density            Pounds/Cubic Foot to kilograms/cubic meter (kg/M<sup>3</sup>);
  - 4. Force                     Pounds to newtons (N)
  - 5. Pressure                 Pounds/Square Foot to Pascal (Pa = N/M<sup>2</sup>)
  - 6. Bending Moment        Newton - meter (N\*m)

**ELECTRONIC DATA MEDIA:** Consultant, subconsultants, or any representatives performing work related to the Agreement, 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.

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

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

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

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

## ***7. PAYMENT FOR SERVICES RENDERED***

**PAYMENT PROCEDURES:** The Municipality shall pay, or cause to be paid to the Consultant or the Consultant’s legal representative, progress payments, that may be monthly or as otherwise

accepted by the Municipality, as determined by the percentage of work completed, as documented by a progress report of such work duly attested, for each phase of the required services covered by the Agreement. When applicable, for the type of payment specified in the Agreement, 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 Agreement number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Agreement, 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 Municipality and must be accompanied with documentation to substantiate their charges.

Invoices shall be submitted to the Municipality; one original and three (3) copies are required.

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 Municipality agrees to pay the Consultant and the Consultant 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.

- (a) Indirect Cost Rates. For actual cost contracts, the Consultant is responsible for furnishing the Municipality with independently-prepared, properly supported, Indirect Cost Rates, in accordance with 48 CFR 52.216-7, for all time periods covered under the Agreement. These rates must be developed in accordance with the cost principles in 48 CFR Part 31. A Consultants overhead rate shall be based upon an actual audited overhead rate, unless otherwise specified in the Agreement.
- (b) Contract Types. Contracts shall conform with 48 CFR Part 16 - TYPES OF CONTRACTS.

**PAYMENT FOR ADDITIONS OR DELETIONS:** The Municipality may, upon written notice, and without invalidating the Agreement, require any changes to, additions to, or deletions from, the originally contemplated extent of the work, prior to completion of the Agreement by means of an amendment to the original contract. Any adjustments of this nature shall be executed under the appropriate fee established in the Agreement, 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.

**PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES:** The Municipality may, upon written notice, and without invalidating the Agreement, require changes resulting from revision or abandonment of work already performed by the Consultant or changes in the scope of work.

The value of such changes, to the extent not reflected in other payments to the Consultant, shall be incorporated in an amendment and be determined by mutual agreement, by one or more of the following:

- (a) 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.
- (b) Rate Schedule. By unit prices designated in the Agreement, or by unit prices covered under any subsequent Agreements.
- (c) 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 Municipality, and no claim shall be valid unless so ordered.

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

## **APPENDIX C - CITY OF BURLINGTON'S LIVABLE WAGE POLICY AND CERTIFICATE OF COMPLIANCE**

Pursuant to The City of Burlington's Ordinance Sections 21-80 through 21-85, Bidders are advised that certain contractors and sub-consultants are required to comply with the City of Burlington's livable wage ordinance. The livable wage ordinance is applicable to service contracts with the City of Burlington, as opposed to purchasing of goods, where the total amount of the contract or contracts with the same person or entity exceeds \$15,000 for any twelve-month period. As of the date of this RFP, the livable wage for employees who receive health care benefits (i.e. employer cost or contribution of at least \$1.20 per hour) is \$13.94 per hour. The livable wage for employees who do not receive health care benefits is \$15.83 per hour.

An employee of a covered contractor must be paid the livable wage during the period of time he or she spends on furnishing services funded by the City. Employers must agree to the payment of the livable wage as a condition of entering into a covered service contract with the City. A covered employer who violates the livable wage ordinance may be barred from receiving a contract or grant from the City for a period of up to 2 years and may be subject to other civil enforcement remedies.

The affected employer shall agree to post a notice regarding the applicability of this ordinance in any workplace or location where employees or other persons contracted for employment are working. The affected employer shall agree to provide payroll records or other documentation as deemed necessary by the chief administrative officer of the City of Burlington within 10 business days from the receipt of the City's request. The affected employer shall inform employees making less than \$12 per hour of their possible right to the Earned Income Tax Credit under federal and state law.

### Exemptions to this ordinance include:

1. Contract work or grants to the same person or entity for under \$15,000.
2. Person(s) working:
  - a. As part-time employees.
  - b. As volunteers without pay.
  - c. In an approved apprenticeship program.
  - d. In youth employment programs.
  - e. As student workers.
  - f. In established educational internship programs.
3. Workers whose compensation includes tips.
4. Employees covered by a bargaining unit or labor union pursuant to rights conferred by state or federal law.

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

I, \_\_\_\_\_, on behalf of \_\_\_\_\_ (Contractor) and in connection with \_\_\_\_\_ (City contract/project/grant), hereby certify under oath that (1) Contractor shall comply with the City of Burlington's Livable Wage Ordinance; (2) as a condition of entering into this contract or grant, Contractor confirms that all covered employees, as defined by Burlington's Livable Wage Ordinance, shall be paid a livable wage for the term of the contract as determined and adjusted annually by the City of Burlington's Chief Administrative Officer, (3) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace or other location where covered employees work, and (4) payroll records or other documentation, as deemed necessary by the Chief Administrative Officer, shall be provided within ten (10) business days from receipt of the City's request.

Dated at \_\_\_\_\_, Vermont this \_\_\_ day of \_\_\_\_\_, 20\_\_.

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

Duly Authorized Agent

Subscribed and sworn to before me: \_\_\_\_\_

Notary