

Green Mountain Care Board
144 State Street
Montpelier, VT 05602

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Kevin Mullin, Chair
Jessica Holmes, PhD
Robin Lunge, JD, MHCDS
Maureen Usifer
Tom Pelham
Susan Barrett, JD, Executive Director

MEMORANDUM

TO: Susanne Young; Secretary, Agency of Administration (AOA)
FROM: Susan Barrett; Executive Director, Green Mountain Care Board (GMCB)
DATE: April 24, 2018 e-Signed by Susan Barrett
on 2018-05-09 17:57:05 GMT
SUBJECT: Request for Approval to Reimburse Deloitte Transactions and Business Analytics, LLP., for Detailed Travel Expenses

The Green Mountain Care Board (GMCB) respectfully requests approval to waive all-inclusive fixed/hourly rate(s) stated in Bulletin 3.5, Section IX.A.5.e – Reimbursable Travel Expenses and allow Deloitte Transactions and Business Analytics, LLP (Contractor) reimbursement for detailed travel expenses. If travel is needed, Contractor would be required to seek lowest cost airfare and ground transportation, and reimbursement for mileage, meals, and lodging expenses would not exceed State-approved mileage and per diem rates at the time the expense occurred. Contractor may be required to travel to Vermont to testify at administrative hearings. It is unclear whether testimony will be needed. Details of any required travel (e.g., duration and number of individuals) are uncertain; GMCB needs will depend on the issues involved in the case. GMCB would prefer to reimburse for detailed travel expenses at reasonable State rates rather than try to specify a fixed allowance or build travel into Contractor's rates.

Contractor shall provide assistance and analyses related to the Certificate of Need (CON) program. New health care projects in Vermont must obtain a CON from the Green Mountain Care Board prior to implementation. The CON process is intended to prevent unnecessary duplication of health care facilities and services, guide their establishment in order to best serve public needs, promote cost containment, and ensure the provision and equitable allocation of high quality health care services and resources to all Vermonters.

Approval:

e-Signed by Bradley Ferland
on 2018-05-09 20:41:06 GMT

Bradley Ferland, Secretary of Administration

Date



STATE OF VERMONT CONTRACT SUMMARY AND CERTIFICATION ----- Form AA-14 (12/15/2017)

Note: All sections must be completed. Incomplete forms will be returned to the originating department.

I. CONTRACT INFORMATION:

Agency/Department: Green Mountain Care Board **Contract #:** 36261 **Amendment #:**
Vendor Name: Deloitte Transactions & Business Analytics, LLP. **VISION Vendor No:** 337941
 Vendor Address: 30 Rockefeller Plaza, New York, NY 10112
Starting Date: 5/31/2018 **Ending Date:** 4/30/2020 **Amendment Date:**
Summary of agreement or amendment: General services of providing assistance and analyses related to the Certificate of Need (CON) program.

II. FINANCIAL & ACCOUNTING INFORMATION

Maximum Payable: \$240,000.00 Prior Maximum: \$ Prior Contract # (If Renewal):
 Current Amendment: \$ Cumulative amendments: \$ % Cumulative Change:
Business Unit(s): 3330; ; - [notes:] **VISION Account(s): 507600;**
 Estimated Funding Split: % GF % SF % EF % Other
 % TF % GC % FF (name)

III. PROCUREMENT & PERFORMANCE INFORMATION (section A & B)

A. The agency has taken reasonable steps to control the price of the contract and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:
 Standard Bid/RFP Simplified Sole Source Qualification Based Selection Statutory
B. Contract includes **performance measures/guarantees** to ensure the quality and/or results of the service? Yes No

IV. TYPE OF AGREEMENT (select all that apply)

Personal Service Construction Arch/Eng. Marketing Info. Tech. Prof. Service
 Non-Personal Service Retiree/Former SOV EE Financial Trans Zero-Dollar Privatization Other
 Commodity

V. SUITABILITY FOR CONTRACT FOR SERVICE

Yes No n/a Does this contract meet the determination of an Independent Contractor? If "NO", the contractor must be set up and paid on payroll through the VTHR system.

VI. CONTRACTING PLAN APPLICABLE

Is any element of this contract subject to a pre-approved Agency/Dept. Contracting Waiver Plan? Yes No

VII. CONFLICT OF INTEREST

By signing below, I (Agency/Dept. Head) certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.
 Yes No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VIII. PRIOR APPROVALS REQUIRED OR REQUESTED

Yes No Agreement must be Certified by the Attorney General under 3 V.S.A. § 342 (sign line #4 below)
 Yes No Attorney General review As To Form is required or requested: _____ (AAG initial)
 Yes No Agreement must be approved by the Secretary of ADS/CIO
 Yes No Agreement must be approved by the CMO: for Marketing services over \$25,000
 Yes No Agreement must be approved by Comm. Human Resources: for Privatization, Retirees, Former Employees, & if a Contract fails the IRS test.
 Yes No Agreement must be approved by the Secretary of Administration

IX. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

I have made reasonable inquiry as to the accuracy of the above information (sign in order):

1-Date	1-Agency/Department Head		2-Date	2-Agency Secretary (if required)	
3a-Date	3a-CIO	3b-Date	3b-CMO	3c-Date	3c-Commissioner DHR
4-Date	4-Attorney General		5-Date	5-Secretary of Administration	

1. **Parties.** This is a contract for services between the State of Vermont, Green Mountain Care Board (hereinafter called "State"), and Deloitte Transactions & Business Analytics, LLP, with a principal place of business in New York, NY, (hereinafter called "Contractor" or "Party"). Contractor's form of business organization is limited liability partnership. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of providing assistance and analyses related to the Certificate of Need (CON) program. General services available to be provided by Contractor are described in Attachment A. From time to time during the term of this contract as the State, in its sole discretion, determines that it requires any such services, the State shall request such services from Contractor (each a "Project") pursuant to and in accordance with separate Statements of Work (each a "Project SOW"). Each Project SOW shall specifically reference this contract and shall specify the details of the particular services to be performed under the Project SOW, including the specific deliverables, a timeline for completing the work, the maximum amount for such Project SOW (Project Maximum Amount), and an invoicing schedule. A Project SOW may also include performance expectations with respect to the work. A Project SOW shall not be binding upon the parties, and Contractor may not begin work under any Project SOW, until the Project SOW is fully executed by both the State and Contractor.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$240,000 (Contract Maximum Amount). No Project SOW may increase the Contract Maximum Amount specified in this section.

4. **Contract Term.** The term for this Contract shall begin on May 31, 2018 and end on April 30, 2020. This contract may be renewed for two additional 12-month periods, as agreed by both parties and reduced to a written amendment.

5. **Prior Approvals.** This contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance.

8. **Attachments.** This contract consists of 22 pages including the following attachments which are attached hereto and incorporated herein:

Attachment A – General Statement of Work

Attachment B - Payment Provisions

Attachment C – Standard State Provisions for Contracts and Grants (revision date 12/15/2017)

Attachment D - Other Contract Provisions

9. *Order of Precedence.* Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment D (Other Contract Provisions)
- (3) Attachment C (Standard Contract Provisions for Contracts and Grants)
- (4) Attachment A (General Statement of Work)
- (5) Attachment B (Payment Provisions)

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By the Contractor:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTACHMENT A – GENERAL STATEMENT OF WORK**1. Introduction**

New health care projects in Vermont must obtain a CON from the Green Mountain Care Board prior to implementation. The CON process is intended to prevent unnecessary duplication of health care facilities and services, guide their establishment in order to best serve public needs, promote cost containment, and ensure the provision and equitable allocation of high quality health care services and resources to all Vermonters.

The law that governs the CON process can be found in Chapter 221 of Title 18 of the Vermont Statutes and in GMCB Rule 4.000.

2. General Scope of Work

Contractor shall be available to help the State analyze CON projects by performing the following services, to the extent set forth in Project SOWs:

2.1. Provide general advice and recommendations to assist State staff identify the scope of financial information to be required from CON “Applicants” relative to jurisdictional determinations, letters of intent and applications.

2.2. Analyze financial information to assist the State in its review of CON applications. For example, Contractor may

- a. Analyze and summarize an Applicant’s CON assumptions and projections and changes thereto (e.g., regarding increases or decreases in income, revenue source projections, utilization, staffing projections, liquidity, cash flow, balance sheet, financing arrangement, capital structure and debt) to analyze the project funding; and
- b. Compare an Applicant’s financial information to the publicly available information for industry peers.

2.3. Develop specific questions regarding aspects of the Project covered by an Applicant’s CON submission or other issues that require clarification or additional detail, and analyze responses to questions.

2.4. Make recommendations to assist the State analyze: whether the cost of the Project is reasonable under 18 V.S.A. § 9437(2), such as

- a. Whether an Applicant’s financial condition can sustain any direct financial burden likely to result from completion of the Project;
- b. Whether the Project could increase the costs of medical care, weighing the financial implications of the Project on hospitals and other clinical settings (including the impact on their services, expenditures, charges, rates and net patient revenue) against the benefit of the Project to the public; and
- c. How other alternatives presented by the CON Applicant or the State compare from a cost benefit standpoint.

2.5. Work will include discussions with State staff (which may be via teleconference), and may include discussions with the Applicant and/or relevant state and local agencies regarding laws, regulations and policies relating to project components and potential costs. Work may include a detailed costing out of project components including analysis of components to assess if costs are appropriate and reasonable.

2.6. Respond to questions raised by the State, by telephone or otherwise, and be available to State staff as needed.

2.7. Prepare a written report to the State for inclusion in the State's CON record. Present written or oral summary of findings.

2.8. Attend and/or testify at public administrative hearings as to the findings in the written report, as set forth in the Project SOW or otherwise mutually agreed in writing by the parties.

2.9. Perform other work as requested by the State and set forth in the Project SOW.

3. Project SOWs

In accordance with Section 2 of the Contract, the parties will use individually executed Project SOWs to specify the services Contractor will perform with respect to specific Projects. Both parties recognize that the Project SOWs will be governed by the terms and conditions of the Contract, and the Contract can only be modified by mutually agreed and executed contract amendments. Project SOWs may not be used to change the terms of this contract, by, for example, changing the Contract Maximum Amount, expanding or decreasing the general scope of work, extending the contract duration, changing the payment terms beyond those defined in Attachment B, or changing the terms of any other attachments to this contract.

4. Standards for Review of Certificate of Need Applications

When information is received by Contractor, reviews **must** be completed **within the time period specified by State staff and mutually agreeable to the Contractor**. Contractor will keep State staff informed on an ongoing basis regarding the status of its review for all work requested by the State. Emails or phone calls from State staff must be returned **within 48 hours**.

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract or under a Project SOW, including any and all expenses, is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually delivered or performed, as specified in a Project SOW, up to the Project Maximum Amount, which may not cause the total amount payable to Contractor to exceed the Contract Maximum Amount specified on page 1 of this contract. The State provides no guarantee of work during the term of this contract.

1. Prior to commencement of work under this contract, Contractor shall submit to the State:
 - a. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation. The State shall pay Contractor in accordance with the aforementioned payment terms.
3. Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract # for this contract.
4. Contractor shall submit invoices not more frequently than monthly.
5. Invoices shall be submitted to the State at the following address:

Erin Collier
 Green Mountain Care Board
 89 Main Street
 Montpelier, VT 05620

6. Charges payable by the State under a Project SOW will be computed on a time and materials basis at the following rates:

Position	Rate per Hour
Managing Director	\$498
Senior Manager	\$ 465
Manager	\$ 433
Senior Consultant	\$ 380
Consultant	\$ 328

The parties agree that Contractor will not be required to incur expenses, including travel expenses, in connection with this Contract, except as specifically agreed to by the parties in a Project SOW.

If, under a Project SOW, Contractor will be required to incur travel expenses, transportation costs will be reimbursed as incurred, including air transportation, ground transportation, and parking. Contractor shall seek the lowest rates available when booking airfare and ground transportation. All travel mileage, meals, and lodging expenses shall not exceed State-approved mileage and per diem rates at the time the expense

occurred. Contractor is responsible for submitting invoices within 30 days in compliance with the current per diem and mileage rates, which change periodically. As of January 2018, these rates are as follows:

- i. Mileage reimbursement: \$0.545 per mile. Current rates are available at: <http://humanresources.vermont.gov/compensation/expense-reimbursement>.
- ii. Meal reimbursement: \$5.00 for breakfast; \$6.00 for lunch; \$12.85 for dinner. Current rates are available at <http://humanresources.vermont.gov/compensation/expense-reimbursement>.
- iii. Lodging: Contractor is responsible for ensuring the reasonableness of all lodging expenses. When arranging travel, Contractor may reference the U.S. General Services Administration's website of per diem lodging rates to evaluate the reasonableness of lodging costs for the travel destination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

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

\$1,000,000 Personal & Advertising Injury

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

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

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

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

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

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

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

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

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

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

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

- B.** Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

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

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

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

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

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

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

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

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

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

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

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

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

27. Termination:

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

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

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

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

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

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

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

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

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

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

32. Requirements Pertaining Only to State-Funded Grants:

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

B. Good Standing Certification (Act 154 of 2016): If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of

Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

ATTACHMENT D: Other Contract Provisions

1. Confidentiality. The parties hereby agree that Section 24 (Confidentiality) of Attachment C is hereby deleted entirely and replaced with the following text:

The Party agrees, with respect to information obtained in relation to the services performed under this contract, to keep information related to the State and all agencies and companies related to this contract confidential using at least the same degree of care as it employs in maintaining in confidence its own confidential information of a similar nature, but in no event less than a reasonable degree of care, and agrees not to use any State confidential information obtained in relation to the services performed under this contract for any purpose other than as permitted by this contract or authorized by the State. The State hereby consents to the receiving party disclosing State confidential information: (i) as expressly permitted in this contract; (ii) to contractors located within the United States, in connection with this contract, that have agreed to be bound by confidentiality obligations similar to those in this Section, (iii) as may be required by law or regulation, or in accordance with applicable professional standards or rules, or in connection with litigation pertaining to this contract, or (iv) to the extent such information (A) is or becomes publicly available other than as the result of a disclosure in breach hereof, (B) becomes available to the Party on a nonconfidential basis from a source that the Party believes is not prohibited from disclosing such information to the Party, (C) is already known by the Party without any obligation of confidentiality with respect thereto, or (D) is developed by the Party independently of any disclosures made to the Party. The Party agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form or authorize or permit others to do so, except in order to perform its obligations under this contract. The Party will take reasonable measures as are necessary to restrict access to confidential information in the Party's possession to those employees who must have the information to perform their job. The Party agrees to promptly notify, in writing, the State's authorized representative in the event the Party confirms that there has been unauthorized disclosure of State confidential information in breach of this requirement.

The Party shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Party may have access, so that the State may seek an appropriate protective order.

The Party acknowledges and agrees that this Contract and any and all Party information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formula plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Party, and which gives the Party an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify the Party of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Party information. The Party may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law. The Party agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production; provided the State complied with this Section 1.

All services performed, and deliverables created, under this Contract shall be solely for the State's benefit, and are not intended to be relied upon by any person or entity other than the State. Except as required by law,

the State shall not disclose the services or deliverables, or refer to the services or deliverables in any communication, to any person or entity.

2. Obligations Regarding Protected Information. The Party shall assure compliance by the Party of any and all obligations the Party may have under HIPAA and any other applicable state or federal law regarding protected health, personal, or otherwise confidential information.

3. Security. The Party shall maintain security and confidentiality policies and procedures consistent with industry standards with regard to the information obtained from regulated entities. The Party shall have recovery procedures in place to handle replacement of data in the event of a disaster.

4. Conflict of Interest. The parties hereby agree that Section 23 (Conflict of Interest) of Attachment C is hereby deleted entirely and replaced with the following text:

If an unlawful conflict of interest exists between a regulated entity and a member or members of the Party's staff, the Party shall substitute similarly qualified individuals for the conflicted members. If an unlawful conflict of interest exists between the Party and a regulated entity, the State may immediately remove that assignment from the Party, or may invoke its right to terminate this Contract pursuant to paragraph 7 on page 1 of this contract. The Party agrees that the failure to disclose any such conflicts shall be deemed an event of default under this Contract, and this Contract may be terminated in accordance with Section 17 of Attachment C, as modified by Section 16 of this Attachment D.

5. Protection of Personal Information. The Party agrees to establish and maintain policies and procedures designed to ensure compliance with 9 V.S.A. Chapter 62 (Protection of Personal Information) with respect to data collected in connection with the Party's activities pursuant to the Contract.

6. Prior Approval of Workers. The State shall have the right to approve any personnel the Party proposes to assign to work requested by the State prior to the commencement of such work, which approval will not be unlawfully or unreasonably withheld. If the proposed personnel of the Party are not approved by the State in accordance with the preceding sentence, the Party will propose alternative individuals for the State's consideration. The State's right to approve or request replacement of Party personnel hereunder relates solely to the removal of individuals from work on this Contract with the State and does not create any employment or principal-agent relationship. Nothing in this Contract authorizes the State to direct the Party's termination of, or other adverse action related to, the employment of any individual.

7. Intellectual Property/Work Product Ownership. Upon full payment to the Party under this Contract, and subject to the terms and conditions herein, the Party shall assign to State all ownership rights in and to all data, technical information, materials first gathered, originated, developed, or prepared by the Party for delivery to the State under this agreement, including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared by the Party for delivery to the State specifically for this agreement ("Work Product"), except to the extent any Work Product contains any Party Technology. "Party Technology" means all works of authorship, materials, information, and other intellectual property created prior to or independently of the performance of the services, or created by the Party or its subcontractors as a tool for their use in performing the services, plus any modifications or enhancements thereto and derivative works based thereon. Upon full payment to the Party under this Contract, and subject to the terms and conditions contained herein, the Party hereby grants to the State a perpetual, non-exclusive, irrevocable, royalty-free license to use, for the State's internal business purposes, any Party Technology included in the Work Product in connection with its use of the Work Product and, subject to the State's obligations with respect to Party's Confidential

Information, the right to sublicense the same to contractors solely for their use in providing services to the State on the State's behalf. Except for the foregoing license grant, the Party or its licensors retain all rights in and to all Party Technology.

To the extent any Party Technology provided to the State hereunder constitutes inventory within the meaning of section 471 of the Internal Revenue Code, such Party Technology is licensed to the State by the Party as agent for its product company subsidiary on the terms and conditions contained herein. The rights granted in this Section 7 do not apply to any works of authorship, materials, information, and other intellectual property (including any modifications or enhancements thereto or derivative works based thereon) that are subject to a separate license agreement between the State and any third party.

The Work Product shall be delivered to the State of Vermont in accordance with any timing requirements agreed to in this contract and otherwise upon 30 days' notice by the State; provided that any work-in-progress Work Product shall be provided on an as-is basis, without warranty of any kind.

8. Notices. All notices hereunder shall be (a) in writing; (b) delivered to the representatives of the parties at the addresses set forth below unless changed by either party by notice to the other party; and (c) effective upon receipt.

Bruce T. Spector
Deloitte Transactions and Business Analytics LLP
30 Rockefeller Plaza
New York, NY 10112

Judy Henkin
Green Mountain Care Board
89 Main Street, 3rd Floor,
Montpelier, VT 05620

9. Severability. If any provision of this Contract is unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.

10. Survival and Interpretation. All provisions that are intended by their nature to survive performance of the services under this Contract shall survive such performance, or the expiration or termination of this contract. Each of the provisions of these terms shall apply to the fullest extent of the law, whether in contract, statute, tort (such as negligence), or otherwise notwithstanding the failure of the essential purpose of any remedy. Any references herein to the term "including" shall be deemed to be followed by "without limitation."

11. Force Majeure. The parties hereby agree that Section 25 (Force Majeure) of Attachment C is hereby deleted entirely and replaced with the following text: ·

Neither party shall be liable for any delays or nonperformance directly or indirectly resulting from circumstances or causes beyond its reasonable control, including: fire, epidemic, or other casualty; act of God; war or other violence; or any law, order, or requirement of any governmental agency or authority. The nonperforming party asserting Force Majeure shall promptly notify the other party of the event giving rise to the Force Majeure, and use commercially reasonable efforts to perform notwithstanding the event giving rise to the Force Majeure.

12. Limitation on Warranties. This is a services engagement. The Party warrants that it shall perform the Services in good faith and with due professional care. THE PARTY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

13. Services Exclusions. In connection with the Services provided under any Project SOW, in no event shall the Party be required to (1) provide testimony or serve as a witness, except as specified in Attachment A of this contract, (2) update any Deliverable (as defined herein) for any events or circumstances occurring subsequent to the date of such Deliverable, or (3) furnish additional work or services, unless pursuant to a separate, signed agreement with terms and conditions that are acceptable to the Party and the State. The State acknowledges that the Deliverables are complete only when accepted, as applicable, in their entirety and only for the purpose stated therein. For the purpose of this paragraph, the Deliverables are accepted when the State provides written notice of acceptance to the Party. Furthermore, the State acknowledges that: (1) neither the Services nor any Deliverables, in whole or in part, shall constitute a fairness or solvency opinion; (2) the Party will not provide any legal advice or address any questions of law; and (3) the performance of the Services does not constitute an audit conducted in accordance with generally accepted auditing standards, an examination of internal controls, or other attestation or review services in accordance with standards established by the American Institute of Certified Public Accountants, the Public Company Accounting Oversight Board (the "PCAOB"), or other regulatory body.

14. State Responsibilities, Third Party Information, and Assumptions.

14.1. The State shall cooperate with the Party in the performance of the Services, including providing the Party with reasonable facilities and timely access to data, information, and personnel of the State. The Party shall not be responsible for, among other things, (1) the accuracy and completeness of all data and information provided by the State to the Party for purposes of the performance of the Services, (2) making all management decisions and performing all management functions; and (3) evaluating the adequacy and results of the Services. The Party's performance is dependent upon the timely and effective satisfaction of the State's responsibilities hereunder and timely decisions and approvals of the State in connection with the Services. The Party shall be entitled to rely on all decisions and approvals of the State.

14.2 The Party may use information and data furnished by parties other than the State and its agents if the Party in good faith believes that such information and data is reliable. The Party, however, shall neither be responsible for, nor provide any assurance regarding, the accuracy or completeness of any such information or data.

14.3 The Party shall be entitled to assume, without independent verification, the accuracy and completeness of any and all assumptions provided to the Party by or on behalf of the State for purposes of the performance by the Party of the Services.

14.4 The State shall be solely responsible for, and the Party shall have no responsibility for, any and all (1) financial and tax reporting, and (2) matters of legal description or title relating to or arising from the Services.

14.5 The Party shall be entitled to make, and shall have no responsibility for, the following assumptions regarding the assets, properties, or business interests included in the Services: (1) title is good and marketable; (2) such assets, properties, or business interests are free and clear of any and all liens or encumbrances; (3) there is full compliance with all applicable, federal, state, local, and national regulations and laws (including, without limitation, zoning regulations); (4) there are no encroachments; (5) the land is free of adverse soil conditions that could prohibit development of the property to its highest and best use; (6) there is responsible ownership and competent management with respect to such assets, properties, or

business interests; (7) all required licenses, certificates of occupancy, consents, or legislative or administrative authority from any federal, state, local, or national government, private entity, or organization have been obtained or renewed or will be obtained or renewed when needed for any use on which the Services are to be based; and (8) any plot plans, sketches, drawings, or other exhibits that may be included in a Deliverable, if any, are included only to assist the reader in visualizing the property.

14.6 The Party shall not assume any responsibility for identifying structural conditions and the Services (1) will be based upon surface rights only, and no analysis will be made of the subsurface or of hazardous waste conditions, if any, and (2) shall not take into consideration the possibility of the existence of asbestos; PCB transformers; other toxic, hazardous, or contaminated substances; underground storage tanks; or the cost of removal of any such substance or item. The Party is not qualified to detect, and shall not be responsible for detecting, such substances or items.

15. Professional Liability Insurance. In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, the Party agrees to procure and maintain Professional Liability insurance for any and all services performed under this Contract, with minimum coverage of \$5,000,000.00 per claim, \$10,000,000.00 aggregate.

16. Termination. The parties hereby agree that Section 27 (Termination) of Attachment C is hereby modified as follows:

16.1. Section 27 is modified by adding the following lead-in language: “In addition to any right of the State to terminate for convenience, the State and Contractor may terminate this Agreement as follows:”

16.2. The following language shall be added to the end of subsection A (Non-Appropriation): “The State shall provide the Party with written notice of its intent to terminate under this paragraph as much in advance as possible.”

16.3. Section 27(C) (Termination Assistance) is deleted and replaced with the following:

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State, not to exceed twenty-five (25) hours. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

16.4. The following shall be added as new Sections 27(D) and (E).

D. Termination for Independence Reasons: The Party may terminate this Agreement or performance of any part of the Services, upon written notice to the State, if the Party determines that performance of any part of the Services would be in conflict with law, or independence or professional rules.

E. Effect of Termination: In the event of any cancellation or termination of this contract for any reason, the State will pay the Party for the services rendered to and expense incurred up through the effective date of cancellation or termination.

17. Defense and Indemnification. The parties hereby agree that Section 7 (Defense and Indemnity) of Attachment C is hereby deleted entirely and replaced with the following text:

The Party shall indemnify and defend the State and its officers and employees against all claims or suits arising in whole or in part from all Claims attributable to the claims of third parties solely for bodily injury, death, or physical damage to real or tangible personal property, to the extent directly and proximately caused by the negligence or intentional misconduct of the Party while engaged in the performance of the services hereunder.

The Party shall indemnify and defend the State for any employment-related payment obligations (including taxes, interest, and penalties arising therefrom) assessed against the State with respect to the Party's personnel performing the Services, except to the extent that such payment obligations are assessed against the State as a result of acts or omissions of the State.

The Party shall indemnify and defend the State from all Claims brought against the State by any subcontractor of the Party or any other person performing a portion of the Services under this contract for payment of its fees to the extent caused by the Party's failure to pay such fees in accordance with the terms of the applicable subcontract.

The Party shall indemnify and defend the State and its officers and employees from all Claims attributable to the claims of third parties for infringement by any Work Product of any U.S. patent existing at the time of delivery and known to the Party or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) modification of such Work Product other than by the Party or its subcontractors or use thereof in a manner not contemplated by this Contract, (ii) the failure of the indemnified party to use any corrections or modifications made available by the Party, (iii) information, materials, instructions, specifications, requirements or designs provided by or on behalf of the indemnified party, or (iv) the use of such Work Product in combination with any platform, product, network or data not provided by the Party. If the State's use of any such Work Product, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, the Party, at its option and expense, shall have the right to (x) procure for the State the continued use of such Work Product, (y) replace such Work Product with a non-infringing Work Product, or (z) modify such Work Product so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by the Party, the replacement or modified Work Product is capable of performing substantially the same function. In the event the Party cannot reasonably procure, replace or modify such Work Product in accordance with the immediately preceding sentence, the Party may require the State to cease use of such Work Product and refund the professional fees paid to the Party with respect to the Services giving rise to such Work Product. The foregoing provisions of this Section constitute the sole and exclusive remedy of the indemnified parties, and the sole and exclusive obligation of Contractor, relating to a claim that any of the Party's Work Product infringes any patent, copyright or other intellectual property right of a third party.

The State shall notify the Party in the event of any such claim or suit that is subject to indemnification under this Contract ("Indemnity Claim"), and the Party shall have control over the defense of any Indemnity Claim. The State retains the right to participate at its own expense in the defense of any Indemnity Claim. The State shall have the right to approve all proposed settlements of Indemnity Claims, except such approval is not required if the sole relief provided is the payment of monetary damages by the Party and, to the extent that any non-monetary relief is provided, such non-monetary relief is applicable only to the Party.

18. Limitation on Damages. THE PARTY AND ITS PERSONNEL SHALL NOT BE LIABLE TO THE STATE FOR ANY CLAIMS, LIABILITIES, OR EXPENSES RELATING TO THIS CONTRACT OR ANY PROJECT SOW ("CLAIMS") FOR AN AGGREGATE AMOUNT IN EXCESS OF THREE TIMES THE MAXIMUM AMOUNT FOR THE APPLICABLE PROJECT SOW. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES

WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY, SUCH AS LOSS OF ANTICIPATED BUSINESS, OR LOST PROFITS, INCOME, GOODWILL, OR REVENUE IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT.

THIS LIMITATION SHALL NOT APPLY TO THE EXTENT RESULTING FROM THE GROSS NEGLIGENCE, RECKLESSNESS, BAD FAITH, FRAUD, OR INTENTIONAL MISCONDUCT OF THE PARTY OR ITS SUBCONTRACTORS, OR TO ANY CLAIM (A) FOR WHICH THE PARTY HAS AN EXPRESS OBLIGATION TO INDEMNIFY THE STATE, OR (B) RESULTING FROM A DISCLOSURE OF STATE CONFIDENTIAL INFORMATION BY THE PARTY IN BREACH OF THE PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER SECTION 1 OF THIS ATTACHMENT D.

The provisions of this Section shall apply notwithstanding any other provisions of this Contract or any other agreement, and shall survive the expiration or termination of this Contract.

19. Subcontracting: The parties hereby agree that the first two sentences of Section 19 (Sub-Agreements) are hereby deleted entirely and replaced with the following text:

Except with respect to affiliates of the Party disclosed to the State prior to the execution of this Agreement, the Party shall not assign, subcontract or sub grant the performance of this Agreement or any portion thereof to any other individual or entity without the prior written approval of the State. Party shall be responsible to the State for the Services performed by any subcontractor (including any affiliate or other person performing work under this Agreement) to the same extent that Party would be responsible hereunder to the State if Party had performed such Services.

20. Continuity of Performance: The parties hereby agree that Section 28 (Continuity of Performance) of Attachment C is hereby deleted entirely and replaced with the following text:

In the event of a dispute between the Party and the State, but subject to their termination rights, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

21. Insurance: The parties hereby agree that Section 8 (Insurance) of Attachment C is hereby deleted entirely and replaced with the following text:

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

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

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

Premises - Operations
Products and Completed Operations
Personal and Advertising Injury Liability
Contractual Liability

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

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal & Advertising Injury

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

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

Notice of Cancellation or Change. There shall be no cancellation, material adverse change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days prior written notice to the State by Party in the event Party is unable to procure replacement insurance meeting the requirements and specifications herein in such situations.

22. Location of State Data: The parties hereby agree that Section 12 (Location of State Data) of Attachment C is hereby deleted entirely and replaced with the following text:

No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside continental United States, except with the express written permission of the State. The State hereby expressly consents to the Party performing the following services under this Contract outside of the continental United States through an affiliate of the Party: assisting the Party in analyzing and reviewing financial models provided by the State or created by the Party, drafting reports and performing other analyses and administrative tasks. As such, the State hereby agrees that the prohibition contained in the first sentence of this clause will not apply to a State data being processed, transmitted, stored, or transferred outside continental United States as a result of the Party performing such services outside of the continental United States.

23. Grants. The parties agree that this contract is neither a federal or state-funded grant and as such Sections 31 (Requirements Pertaining Only to Federal Grants and Subrecipient Agreements) and 32 (Requirements Pertaining Only to State-Funded Grants) of Attachment C are not applicable.