



REQUEST FOR PROPOSALS

Plainfield Gully Stormwater Implementation Engineering Services

The Central Vermont Regional Planning Commission (CVRPC) is requesting proposals from qualified individuals or firms to conduct engineering bid services and construction oversight for stormwater mitigation at a gully located at The Health Center in Plainfield, Vermont.

I. SCHEDULE

Date	Item
July 29, 2021	Request for Proposals issued
August 6, 2021 at 4 PM	Deadline for submission of questions in writing
August 11, 2021	Response to questions will be sent via email
August 20, 2021 at 4 PM	Proposals Due
September 3, 2021	Contractor Notification
September 8, 2021	Contract Start
October 31, 2022	Contract Completion

Questions in writing may be sent via email to deandrea@cvregion.com. Inquiries are to be directed to Pam DeAndrea, Senior Planner at deandrea@cvregion.com.

Proposals must be submitted via email. Proposals must be clearly marked "Plainfield Gully Stormwater Implementation" and delivered via email to **Pam DeAndrea, Senior Planner at deandrea@cvregion.com**.

Proposals received after the submittal deadline will not be considered. Proposals sent via fax or mail will not be considered.

Qualified disadvantaged (DBE) and women-owned (WBE) businesses are encouraged to submit proposals. Proposers are required to document whether the individual is a DBE or WBE (see Attachment A). CVRPC, in accordance with the provisions of Title VI of the Civil Rights Act of

1964 (78 Stat. 252, 42 U.S.C §§ 2000b to 200b-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, will afford disadvantaged business enterprises full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

II. BACKGROUND

The Central Vermont Regional Planning Commission (CVRPC) works to assist its member municipalities in providing effective local government and to work cooperatively with them to address regional issues. As one of eleven regional planning commissions enabled through 24 V.S.A. §4341, CVRPC is a political subdivision of the State of Vermont. As such, it is a tax exempt organization.

This site is located at The Health Center in Plainfield, Vermont where a large gully has developed as a result of stormwater runoff from Route 2, Route 214 and developed lands within the drainage basin. The project originated from a Stormwater Master Planning effort conducted in 2017-18 by Watershed Consulting Associates, LLC and managed by the Central Vermont Regional Planning Commission. Final design was completed by Milone and MacBroom (now SLR) in 2019. The final design report including treatment design details, photos, watershed map, design plans and cost estimate is available via this [link](#).

Currently there is a stormwater pond and associated permit at the site to treat water from The Health Center and its parking lot. However, the gully developed historically and continues to head cut up gradient and contribute to sediment loading into the Winooski River. There currently are two stormwater outlets into the gully: one from The Health Center stormwater pond and one from Route 2 drainage. The design solution for the stormwater treatment is to temporarily store stormwater, remove sediment, and slow velocities of stormwater flow in a regraded stormwater settling area and rock berm as well as stabilization of the gully. The access to the gully area and grading of the side slopes is difficult so a settling area will help to slow flow velocities and capture sediment prior to enter the gully. This will enable easier operations and maintenance in the future.

- a) CVRPC has been awarded a contract from the Vermont Department of Environmental Conservation (DEC) via the Lake Champlain Basin Program (a Federal funding source through the Environmental Protection Agency (EPA)). The selected engineer will be a subcontractor to the CVRPC.
- b) The total available funding for construction, including engineering services and permit fees, is \$213,417.

- c) This subcontract will require a professional engineer licensed with the State of Vermont. The engineer must oversee construction including signing off on any design changes, approving any payment requisitions from the construction subcontractor, and conducting inspections including a final inspection. The engineer will be required to attend stakeholder meetings, update the final design if necessary, produce bid documents that contain all contract requirements, secure permits for the construction, and provide CVRPC with inspection reports.
- d) Per CVRPC's contract with the Vermont Department of Environmental Conservation, the engineering subcontractor, must have experience in stormwater treatment construction implementation (i.e., bid document development, permitting, and construction oversight) and stream channel stabilization and bio-engineering techniques including implementation on both private and public lands.

III. SCOPE OF WORK

SERVICES REQUIRED

For the gully that has developed from stormwater runoff from The Health Center and associated parking lots and driveway and drainage collected from High St (Route 2) and Towne Avenue, the engineering subcontractor will attend a kickoff meeting, update the final design if necessary, obtain permits for construction, finalize bid documents, and conduct construction oversight including final inspection and approval of pay requisitions from the construction subcontractor. The project outcome will be finished construction that will eliminate further migration of the gully and thereby reduce sediment loading into the nearby Winooski River.

Stakeholders involved will include CVRPC, The Health Center representatives, the Town of Plainfield, and a private landowner. CVRPC will assume responsibility for organizing a kick-off meeting with stakeholders. Upon finalization of a contract, the engineering subcontractor will conduct the following:

Task 1: Kickoff Meeting & Permitting

Once the DEC approves the selected engineering subcontractor, CVRPC will organize a kickoff meeting to take place within two weeks of the contract start date. The selected engineering subcontractor will attend and representatives from the CVRPC, DEC, Town, The Health Center, and the private landowner will be invited to participate. The final design will be discussed as well as the need for an updated design plan, permit needs, bid and construction schedule and committed future operations and maintenance. If, at the start of the project, COVID-19

guidelines inhibit meeting in person, this meeting will take place virtually via an online platform.

The engineering subcontractor will be expected to obtain the following permits:

- Stormwater construction general permit,
- Act 250 permit update,
- Town conditional use site plan permit, and
- Other permits as required/needed.

The engineering subcontractor will ensure final permits are included among deliverables to the CVRPC.

Task 2: Bid Phase

The Bid Phase for the project will entail establishing required documents for construction and post construction, and assisting with hiring a construction subcontractor.

Task 2.a: Operations and Maintenance Plan and Agreement

The engineering subcontractor will assist the CVRPC and work with the Town of Plainfield and the landowner to develop a Third-Party Operations and Maintenance (O&M) Plan and Agreement to be signed by the Town of Plainfield. The CVRPC will provide the engineering subcontractor a template for the O&M Plan and Agreement. The O& Plan and Agreement must be executed before initiating bidding of the construction work.

Task 2.b: Review and Update Final Design

The engineering subcontractor will ensure that all relevant and necessary input and approval from stakeholders are included in the final design plans. Stakeholders include, but are not limited to the Town of Plainfield, The Health Center, private landowners, and the DEC. Once the design plans are final, the engineering subcontractor will submit them to CVRPC for its and DEC's review and approval.

Task 2.c: Finalize Bid Documents

Once all stakeholders are in agreement with the final designs and the O&M Plan and Agreement, the CVRPC will initiate the bid phase process with the engineering subcontractor's assistance. The engineering subcontractor will ensure the bid documents are developed to the specifications of the final design plans and meet all contract requirements.

The engineering subcontractor will provide the final bid documents to the CVRPC for its and DEC's review and approval.

Task 2.d: Hire Construction Subcontractor

Upon approval of the bid documents by CVRPC and DEC, the CVRPC will advertise the bid with a pre-bid site visit requirement. A sealed bid process will be conducted with bids to be opened at a predetermined location. Following the bid opening, CVRPC, the engineering subcontractor, The Health Center, and the Town of Plainfield will convene to select the best construction firm for the project based on cost and qualifications. Once the CVRPC has received approval for the construction subcontractor from the DEC, the CVRPC will issue the notice of award for the selected construction subcontractor.

Task 3: Construction Phase

Once contracting with the construction firm is complete, the CVRPC will schedule a pre-construction meeting with the engineering subcontractor, the construction subcontractor, and the landowners to work out construction schedule and logistics. The engineering subcontractor will ensure that the construction subcontractor will adhere to the proposed schedule for construction to be completed within the time frame of the contract. During construction, the construction subcontractor will be expected to layout the project using conventional survey equipment to ensure that elevation specifications on the design plans are met. The engineering subcontractor will be required to approve any payment requisitions from the construction subcontractor and provide those requisitions and approvals to CVRPC for review. Any changes or deviations from the construction plans will be required to be approved by the engineering subcontractor and communicated to the CVRPC. During and at the conclusion of construction, the engineering subcontractor will be required to conduct frequent inspections including a final inspection to ensure the construction was completed per specifications in the final design. The engineering subcontractor will be required to submit inspection reports with photos and descriptions of findings and required fixes for the construction subcontractor.

Task 4: Final Reporting

The engineering subcontractor will assist the CVRPC to obtain information required for the DEC Clean Water Initiative Program's Final Performance Reporting Template and the Stormwater BMP Reporting Template. The engineering subcontractor will also be required to submit the as-built design and a final inspection report. For the Final Performance Report, the CVRPC will need to provide pre-intervention data relating to the gully for the following parameters: soil

type¹, age of erosion², and average volume of erosion before restoration as defined in the MRGP SOP³, page 13 and 14 available at this [link](#). Before starting the final reporting process, the CVRPC will obtain updated templates from the DEC for the Stormwater BMP Report and Final Performance Report. Any additional data required in a revised template beyond what is expected in the current version will be limited to existing data relating to the project.

PERFORMANCE REQUIREMENTS

The following performance measures must be adhered to by the engineering subcontractor as part of this contract:

Task	Date	Deliverable
1-Kickoff Meeting & Permitting	September 24, 2021 October 15, 2021	Meeting minutes Permit application documentation
2-Bid Phase 2a: O&M Plan & Agreement 2b: Review & Update Final Design 2c: Finalize Bid Documents	October 15, 2021 October 15, 2021 November 12, 2021	O&M Plan and Agreement Updated Final Design Bid Documents
3-Construction Phase	August 31, 2022	Site Visit Inspection Reports
4-Final Reporting	September 30, 2022	Final Inspection Report As-built Designs Values for DEC Final Reporting Template & BMP Final Performance Report

¹ The description of soils as erodible sand/ fine sand / silt in layers is sufficient (source: *The Gully Stabilization and Stormwater Mitigation at the Health Center, Plainfield Final (100%) Design Report*, dated February 19, 2020.)

² The age of erosion may be determined using either method 1 or 2 outlined in the MRGP SOP.

³ *Draft Standard Operating Procedures for Tracking & Accounting of Stormwater Permit Programs: Municipal Roads General Permit (MRGP)* prepared by Vermont Agency of Natural Resource Department of Environmental Conservation, dated 6/1/2020.

IV. PROPOSALS

SCOPE OF SERVICES

General Requirements

Proposals must:

- be held to a maximum of 10 pages.
- describe how the engineering subcontractor intends to carry out the services described including project organization and staffing.
- provide a services/deliverables schedule.
- describe any changes to the scope of work identified in Section III of this request.
- identify what support will be required from CVRPC during all phases of work.
- include Project Minority Business Enterprise / Women's Business Enterprise (MBE/WBE) Fair Share Information.

Technical Qualifications

Proposals must include the following:

- 1) A description of the firm, including addresses of all offices proposed for involvement in this project, structure of the firm, size of the firm, number of years the firm has been in business, and the firm's experience with similar projects.
- 2) A statement of the subcontracted firm's financial stability and ability to complete all services.
- 3) List of people who will work on the contract, including names, education, professional licenses, registrations or certifications, relevant experience (resumes are acceptable), and role in the contract. CVRPC must preapprove use of any staff not identified in the proposal.
- 4) Examples of relevant past experience and a minimum of three references, which will include project description, contact person, phone number, and address of reference. References should demonstrate the experience of the specific staff proposed to work under the CVRPC contract. CVRPC reserves the right to check references beyond those provided by the engineering subcontractor.
- 5) Proof of insurance. The selected engineering subcontractor will be required to add CVRPC and its officers and employees as an additional insured for services performed. The proposal must demonstrate that either the engineering subcontractor currently has insurance or is eligible for insurance.

COST PROPOSAL

The Cost Proposal must:

- identify costs by task and person hours.
- identify an hourly rate(s) by individual(s) providing services.
- detail other expenses (travel, etc.).
- total cost.

SUBMISSION REQUIREMENTS

Proposals must be submitted electronically to Pam DeAndrea at deandrea@cvregion.com.

The CVRPC assumes no responsibility and no liability for costs incurred relevant to the preparation and submission of the Proposal or any other costs prior to issuance of a contract.

Proposals received after due date and time will not be considered.

Upon submission, all Proposals become the property of the CVRPC. The expense of preparing, submitting, and presenting a Proposal is the sole responsibility of the engineering subcontractor. The CVRPC retains the right to reject any and all Proposals received, to interview or not interview any or all firms responding to this RFP prior to selection, to negotiate with any qualified source, or to cancel in part or in its entirety this RFP if it determines such action to be in the best interest of the CVRPC or that of eligible parties. Reasons for cancellation or rejection will be provided to all engineering subcontractors who have submitted Proposals in writing. This solicitation in no way obligates the CVRPC to award a contract.

PROPOSAL EVALUATION

Engineering subcontractor selection will be based on the following factors:

1. Completeness and responsiveness of submission.
2. Scope of Work Format and Contents (10%):
 - a. Is the proposal written in concise language understandable to a non-technical audience?
 - b. Is the proposal well organized and easily navigable?
 - c. Does the proposal show understanding of process to complete project tasks including stakeholder involvement and construction oversight?
3. Qualifications and Responsiveness (60%): To what degree:

- a. Do the personnel to be assigned to this project have the necessary qualifications to conduct this work?
 - b. Do the personnel to be assigned to this project have experience in support and maintenance for similar systems and organizations?
 - c. Does the subcontractor have a proven record of successful completion of similar work within time and budget constraints?
 - d. Are communication skills responsive to the audience that will be served?
 - e. If multiple staff will be used to serve this contract, do the assigned staff members demonstrate success working together with each other specifically as a team unit?
 - f. Is the subcontractor's availability and accessibility adequate for CVRPC's needs? For example, is the subcontractor's demonstrated response time and react system for support requests adequate and competitive?
3. Cost Proposal (20%):
- a. Is the Cost Proposal thorough and clearly linked to the proposed scope of work?
 - b. Are rates and costs reflective of an efficient level of effort necessary to complete the task, compensation reflective of level of expertise, materials appropriate to the task and expectations of quality, and overall reasonable costs as accepted in the industry?
5. References (10%):
- a. Which types of services has the subcontractor provided to the reference?
 - b. How satisfied was the reference with the subcontractor's interactions with it?
 - c. How satisfied was the reference with the subcontractor's technical expertise, ability to meet deadlines and budgets, reporting, and overall value and quality of work?
 - d. How did the subcontractor demonstrate value-added expertise?
 - e. Was the reference satisfied with how the subcontractor dealt with problems that arose? Give an example.
 - f. What, if any, challenges did the reference experience with the subcontractor?
 - g. How does this subcontractor compare with others the reference has worked with?
 - h. Would the reference recommend the subcontractor for providing the described Scope of Work and desired qualifications?

If any changes are made to this RFP, an addendum will be issued to engineering subcontractors expressing interest and providing CVRPC with contact information.

CVRPC reserves the right to seek clarification of any statement submitted, conduct interviews

with engineering subcontractors, and to select an engineering subcontractor that is best able to address the services requested and promote the public interest.

CVRPC reserves the right to examine all aspects of responses submitted, tangible and intangible. CVRPC reserves the right to withdraw this Request for Proposals, and/or to advertise for new submissions at any time if it is in the best interest of the CVRPC to do so. A contract will be awarded as deemed to be in the best interest of the CVRPC.

Pursuant to State of Vermont Laws, anyone in any matter relative to the procurement of services who intentionally makes a material statement that is false, omits or conceals a material fact in a written statement, submits or invites reliance on a material writing that is false, submits or invites reliance on a sample or other object that is misleading, or uses any trick, scheme or device that is misleading in a material respect will be subject to sanction pursuant to the laws of the State of Vermont.

V. STANDARDS AND DELIVERABLES

1. Except for appendices, all reports are to:
 - a. be presented for ease of readability by the average citizen;
 - b. include charts, graphs and other graphics as appropriate;
 - c. include executive summaries or abstracts suitable for broad distribution;
 - d. include a glossary of technical terms, and a list of references or citations for all sources of data and information.
3. All documents must be provided in digital form (Microsoft Office format for report text and PDF format for full report). Images (photos, maps, drawings, graphics, etc.) must be provided as separate files for use by CVRPC. Any digital data created for this project, such as updated hydrologic modeling data, shall be provided to CVRPC as well.
4. All written reports must be provided double-sided. The use of recycled paper is strongly encouraged.
5. Copies of all reports and documents, including drafts, should be provided to CVRPC *no less than one week prior* to any scheduled review or discussion.
6. All data, databases, reports, programs and materials, in digital and hard copy formats, created under this project must become the property of the Central Vermont Regional Planning Commission.

VI. CONTRACTING PROVISIONS

CONTRACT COMPLETION

Performance under the scope of work must be completed by the dates indicated in Section I.

PAYMENT

The amount and timing of payments will be determined during contract negotiations. Requests for payments must be made directly to the CVRPC, and payments made must be 100 percent of the amount requested for eligible services. CVRPC anticipates making payments within 30 days of invoicing.

OWNERSHIP OF MATERIAL

All rights, titles to and ownership of the data, material, and documentation resulting from this contract project and/or prepared for the CVRPC pursuant to a contract between CVRPC and the selected subcontractor must remain with the CVRPC.

COMPLIANCE WITH STATE AND FEDERAL LAWS

All subcontractors must comply with any and all applicable laws, statutes, ordinances, rules, regulations, and/or requirements of federal, state, and local governments and agencies thereof, which relate to or in any manner affect the performance of this agreement. CVRPC receives funding from numerous state and federal agencies. Those requirements imposed upon the CVRPC as a contractor, recipient or subrecipient of state and federal funds are thereby passed along to any subcontractors, and those rights reserved by the state or federal government are likewise reserved by the Central Vermont Regional Planning Commission.

All subcontractors must carry adequate insurance coverage and must affirm being an equal opportunity employer with an affirmative action plan. The subcontractor must further certify that it will comply with the provisions of the Americans with Disabilities Act.

It is the policy of the CVRPC that Disadvantaged Business Enterprises (DBE) have the opportunity to participate to the maximum extent feasible in procurement and contracting.

If the subcontractor is a natural person, not a corporation or partnership, the subcontractor states that, as of the date the contract 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.

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

OTHER CONTRACTING PROVISIONS:

**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 Suspension or 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: Lake Champlain Basin Program Administrative Conditions

C. Disadvantaged Business Enterprise (DBEs)

UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33 except as described below based upon the associated class deviation.

EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B

A class exception to the following provisions of Subpart B of 40 CFR Part 33 has been issued suspending the EPA MBE/WBE certification program: §33.204(a)(3) providing that an entity

may apply to EPA MBE or WBE certification after unsuccessfully attempting to obtain certification as otherwise described in §33.204; and

§33.205 through and including §33.211. The class exception was authorized pursuant to the authority in 2 CFR 1500.3(b).

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302 (a)-(d) and (i).

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A class exception to the entire Subpart D of 40 CFR Part 33 has been authorized pursuant to the authority in 2 CFR 1500.3(b). Notwithstanding Subpart D of 40 CFR Part 33, recipients are not required to negotiate or apply fair share objectives in procurements under assistance agreements.

MBE/WBE REPORTING- SPECIFIC CHANGES PURSUANT TO CLASS DEVIATION, 40 CFR, Part 33, Subpart E

When required, the recipient agrees to complete and submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) on an annual basis. The current EPA Form 5700-52A can be found at the EPA Grantee Forms Page at

<https://www.epa.gov/grants/epa-grantee-forms>.

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category) with a cumulative total that exceed the threshold amount of \$250,000, including amendments and/or modifications. When reporting is required, all procurement actions are reportable, not just that portion which exceeds \$250,000.

Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502.

EPA General Terms and Conditions Effective October 1, 2019

1. Introduction

- The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions, and restrictions reflected on the official assistance award document. **Please note that EPA updated these terms and conditions to include coverage effective August 13, 2020 prohibiting the use of EPA funds to purchase certain telecommunications services or products (General Term and Condition #6) and amending the termination bases available for EPA assistance**

agreements (General Term and Condition #3). Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in 2 CFR 200.338 and 200.339.

- If the EPA General Terms and Conditions have been revised, EPA will update the terms and conditions when it provides additional funding (incremental or supplemental) prior to the end of the period of performance of this agreement. The recipient must comply with the revised terms and conditions after the effective date of the EPA action that leads to the revision. Revised terms and conditions do not apply to the recipient's expenditures of EPA funds or activities the recipient carries out prior to the effective date of the EPA action. EPA will inform the recipient of revised terms and conditions in the action adding additional funds.

- 2. Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards** This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts 200 and 1500. 2 CFR 1500.1, Adoption of 2 CFR 200, states Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non- Federal Entities (subparts A through F of 2 CFR 200), as supplemented by 2 CFR Part 1500, as the Environmental Protection Agency (EPA) policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of 2 CFR 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

**The Central Vermont Regional Planning Commission
is an Equal Opportunity Employer.**

ATTACHMENT A

MBE/WBE PARTICIPATION

Under the terms of its grant agreements with the State of Vermont and the Lake Champlain Basin Program, the Central Vermont Regional Planning Commission (CVRPC) is required to ensure, to the fullest extent possible, that at least the applicable "fair share" objects of Federal funds for prime contract or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals, women, and Historically Black Colleges and Universities.

To meet this objective, CVRPC tracks report all activity by Disadvantaged Business Enterprises (DBE) and Women-owned Business Enterprises (WBE). Each federal agency has established DBE/WBE "fair share" goals/objectives for its program.

Subcontractors awarded contracts under this RFP agree to ensure, to the fullest extent possible, that at least the applicable "fair share" objects of Federal funds for prime contract or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals, women, and Historically Black Colleges and Universities. Contractors are required to include the applicable "fair share" objectives in bid documents and to require all prime contractors do the same for subcontracts.

Please indicate whether your firm is an DBE or WBE by checking one of the following:

- ☐ Yes, I am a certified DBE or WBE
- ☐ No, I am not a certified DBE or WBE

Company Name: _____
(Print your company name here)

By: _____
(Name of person certifying DBE/WBE status)

Date: ____/____/____

Date of Submittal: _____
Contractor Name: _____

Work Description: _____

DBE/MBE/WBE UTILIZATION

A completed copy of this form must be included with each invoice for payment to be made. Check one of the following:

- ☐ No DBE/MBE/WBE businesses were used during this invoice period.
- ☐ DBE/MBE/WBE businesses used during this invoice period are described below.

Procurement Made BY (✓ "contractor" if you or provide subcontractor name)		Business Enterprise (Check all that apply)			\$ Value of Service	Date(s) of Services (MM/DD/YYYY)	Type of Produce or Services ¹ (Enter Code)	Name/Address/Phone of DBE/MBE/WBE Contractor or Vendor
Contractor	Subcontractor	Disadvantaged	Minority	Women				
	Name:							
	Name:							
	Name:							

¹Codes for Type of Product or Services:

1 = Construction

2 = Supplies

3 = Services

4 = Equipment