



REQUEST FOR BIDS

Financial Feasibility Analysis

The Central Vermont Regional Planning Commission (CVRPC) is requesting proposals from qualified individuals or firms to provide a financial feasibility analysis. The purpose of the analysis is to evaluate the financial future of a food co-operative that is considering two different expansion scenarios.

I. SCHEDULE

Date	Item
November 16, 2022	Request for Bids issued
November 30, 2022 at noon	Deadline for submission of questions in writing
December 2, 2022	Response to questions posted at www.centralvtplanning.org
December 11, 2022 at noon	Proposals Due
December 19, 2022	Contractor Notification
December 23, 2022	Contract Start
May 15, 2023	Contract Completion*

**If the schedule cannot be met as indicated, please provide an alternative timetable*

Questions in writing and inquiries may be directed to Jon Ignatowski, Planner, ignatowski@cvregion.com.

Proposals must be submitted via email. Proposals must be clearly marked "Co-op Financial Feasibility Analysis" and delivered via email to Jon Ignatowski, Planner, ignatowski@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. 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 proposers 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 proposals 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. INTRODUCTION

The Central Vermont Regional Planning Commission (CVRPC) was awarded a Rural Business Development Grant (RBDG) to provide business development assistance to the Winooski Valley Co-operative Market, d.b.a. Plainfield Co-operative in Plainfield, Vermont.

The CVRPC is working with the Co-op Board of Directors, its General Manager and members, and public partners to 1) update designs for an expansion of the Co-op's existing structure at 153 Main Street in Plainfield's historic Designated Village Center; 2) analyze and compare the economic viability of that expansion versus purchasing, retrofitting, and relocating elsewhere; 3) engage the Co-op's membership in choosing its best option; and 4) develop an Action Plan in response to the analysis and choice. Project beneficiaries will include the Co-op and its supply chain businesses who are seeking to maintain and expand product sales and viability.

The Plainfield Co-op occupies a 4,400 square foot, two-story historic building, of which approximately 1,200 square feet is sales area. The Co-op is considering two different expansion scenarios: expanding the existing floor area or relocating elsewhere.

A Market Study was performed for the Co-op in 2018 which analyzed present performance and evaluated proposed store expansion and relocation opportunities. This study is in need of updates and will be an important document to the Co-op Board and membership as they navigate their options. The study is available on the Co-op website:
<https://www.plainfieldcoop.com/documents/2018%20marketing%20study.pdf>

The Vermont Agency of Transportation plans to improve the intersection of US Route 2 and Main Street in 2027, and it is anticipated that the Co-op will be inaccessible from Route 2 for several months. No practical detour exists – as such, it is projected that supply trucks and customer traffic will be significantly impacted.

Financial feasibility analysis is one out of four components in the grant project. The scope of this request for bid only pertains to financial feasibility analysis and no other portion of the

project. A bid submission to this request does not preclude an individual or firm from submitting proposals to other requests for bids associated with this project.

A total of \$12,000 has been budgeted for this project. The CVRPC will accept proposals with proposed budgets that exceed \$12,000, but the CVRPC cannot guarantee that such proposals will be funded. The CVRPC welcomes proposals with alternative schedules, including a later contract completion date. The CVRPC will not consider proposals that add or remove elements from the scope of work.

III. SCOPE OF WORK

SERVICES REQUIRED

- 1) With the project team, review:
 - a. the Co-op's current financials
 - b. the Co-op's vision for the expansion and relocation scenarios
 - c. information such as the prior 2018 Market Study
 - d. the potential impacts of the intersection reconstruction project
- 2) Develop pro forma financial statements in an Excel workbook to estimate:
 - a. costs to develop in each scenario
 - b. projected sources of funds along with the cost of any required debt
 - c. 10 years of projected future operating results based in part on current financials
- 3) Review and analyze market conditions, which will include:
 - a. an assessment of competition
 - b. an evaluation of the capacity and experience of management
 - c. an estimation of the general viability of the operation
- 4) Update the 2018 Market Study
- 5) Incorporate feedback from the project team into the final report
- 6) Meet with the project team to present draft and final pro forma results

PERFORMANCE REQUIREMENTS

The following performance measures must be adhered to by the contractor as part of this contract. If the schedule for the proposed deliverables cannot be met, please provide an alternative timeline.

Task	Date	Deliverable
1	February 1, 2022	Meeting with the project team to review Co-op's current finances, visions for the two scenarios for the Co-op, information available from the Co-op, potential impacts of the US Route 2 intersection project, and the 2018 Market Study. Establish assumptions for the initial pro forma.
2	March 15, 2023	Review Co-op financials, vision for expansion, information such as the prior marketing study, and impacts of the intersection reconstruction project. Draft pro forma financial statements in excel and present results in a memo with an income statement, balance sheet, cash flow statement and key financial metrics that demonstrate feasibility along with potential sources of finances. The memo will discuss assumptions, results, and recommendations, and outline potential sources of funds. Provide draft of market conditions and revisions and updates to the 2018 Market Study.
3	May 1, 2023	Final report, which includes: pro forma financial statements to estimate the costs of each expansion scenario, projected sources of funds with the cost of debt, and 10 years of estimated future operating results. The final report shall include an income statement, balance sheet, cash flow statement and key financial metrics that demonstrate feasibility along with potential sources of finances. The report shall also discuss assumptions, results, and recommendations, and outline potential sources of funds. Provide final market conditions assessment and final revisions and updates to the 2018 Market Study.

IV. PROPOSALS

SCOPE OF SERVICES

General Requirements

Proposals must:

- describe how the contractor intends to carry out the described project.
- provide a project schedule.
- identify what support, if any, will be required from CVRPC during all phases of work.
- describe how the proposer will work with a committee of Co-op members, staff and other stakeholders.

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, including retail grocery operations and cooperative businesses.
- 2) A statement of the 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 contractor.
- 5) Proof of insurance. The selected contractor 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 contractor currently has insurance or is eligible for insurance.
- 6) Experience working collaboratively with a committee of stakeholders.

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.).

SUBMISSION REQUIREMENTS

Proposals must be submitted electronically to Jon Ignatowski, Planner, ignatowski@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 contractor. The CVRPC retains the right to reject any and all proposals received, to interview or not interview any or all firms responding to this RFB prior to selection, to negotiate with any qualified source, or to cancel in part or in its entirety this RFB 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 registered vendors in writing. This solicitation in no way obligates the CVRPC to award a contract.

PROPOSAL EVALUATION

Contractor selection will be based on the following factors:

1. Completeness and responsiveness of submission
2. Scope of Work Format and Contents
3. Qualifications and Responsiveness
4. Cost Proposal
5. References

If any changes are made to this RFB, an addendum will be issued to contractors expressing interest and providing CVRPC with contact information. Alternative delivery methods may be

arranged by request. A contractor may correct, modify, or withdraw a response to this RFB via written notice received by CVRPC prior to the submission deadline. Modifications must be submitted electronically and clearly labeled "Modification No. ____". Each modification must be numbered in sequence, and must reference the original RFB.

After the opening of responses to this RFB, a contractor may not change any provision of the response in a manner prejudicial to the interests of CVRPC or fair competition. If a mistake and the intended correct wording are clearly evident on the face of the response document, the mistake will be corrected to reflect the intended correct meaning and the contractor will be notified in writing. Contractors may not withdraw responses to this RFB so corrected. A contractor may withdraw an opened response to this RFB if a mistake is clearly evident on the face of the response document, but the intended correct wording is not similarly evident.

CVRPC reserves the right to seek clarification of any statement submitted, conduct interviews with contractors, and to select a contractor 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.

IV. 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.

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.

V. CONTRACTING PROVISIONS

CONTRACT COMPLETION

Performance under the scope of work must be completed by the dates indicated in Section I, unless an alternative schedule is accepted.

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 receiving an accurate and complete invoice.

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 contractor must remain with the CVRPC.

COMPLIANCE WITH STATE AND FEDERAL LAWS

All contractors 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 recipient or subrecipient of state and federal funds are thereby passed along to the

contractor and any subcontractors, and those rights reserved by the state or federal government are likewise reserved by the Central Vermont Regional Planning Commission.

All contractors and any subcontractors must carry adequate insurance coverage and must affirm being an equal opportunity employer with an affirmative action plan. Contractor 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 contractor is a natural person, not a corporation or partnership, the contractor 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 contractor makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the contractor is a resident of Vermont, contractor makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

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

ATTACHMENT C

Standard Agreement Provisions

REVISED FEBRUARY 26, 2018

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Sub-Recipient, with whom the CVRPC 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 CVRPC, 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 CVRPC with regard to its performance under the Agreement.

4. Arbitration: The parties agree that any dispute under this Agreement shall be resolved by final and binding arbitration in Washington County, Vermont, under the then-existing and applicable commercial arbitration rules of the American Arbitration Association. Without intending to limit the power of authority of the arbitrator(s) in any such proceeding, the parties hereby consent and agree that such arbitrator(s) shall be vested with the full power and authority to order such equitable relief as the arbitrator(s) may deem proper. The parties consent to the jurisdiction of any court of competent jurisdiction for all purposes with respect to such arbitration, including enforcement of this Agreement to arbitrate and the entry of a judgment on any arbitration award. The prevailing party in any such arbitration proceeding shall be entitled to an award of reasonable attorney’s fees as determined by the arbitrator(s). The fees and expenses of the arbitrator(s) shall be borne equally by the Parties. The Parties shall use all reasonable efforts to ensure that the arbitration is completed as promptly as reasonably possible, and in any event, within not more than ninety (90) days after either party’s request for arbitration hereunder.

The undersigned understand that this agreement contains an agreement to arbitrate. After signing this document, both parties understand that neither will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, the parties agree to submit any such dispute to an impartial arbitrator.

Party agrees that the State of Vermont shall not be required to submit to binding arbitration or waive its right to a jury trial.

5. Severability: The provisions of this Agreement are severable. Should one or more provisions be unenforceable, all other provisions will remain in full force and effect.

6. Sovereign Immunity: The State of Vermont 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.

7. No Employee Benefits For Party: The Party understands that the CVRPC and 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 CVRPC or State employees, nor will the CVRPC or 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 CVRPC to the Internal Revenue Service and the Vermont Department of Taxes.

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

9. Defense and Indemnity: The Party shall defend the CVRPC and the State and their 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 CVRPC or 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 CVRPC and the State retains the right to participate at their own expense in the defense of any claim. The CVRPC and 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 CVRPC and the State of Vermont and their respective officers and employees in the event that the CVRPC or the State, their 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 obligate the CVRPC or 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.

10. 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 CVRPC 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 CVRPC and the State of Vermont.

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
- \$50,000 Fire/Legal/Liability

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 CVRPC and the State of Vermont and their 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 CVRPC and the State of Vermont and their 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

CVRPC.

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

12. False Claims Act: CVRPC is a political subdivision of the State of Vermont. 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 CVRPC and 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 CVRPC and State under the False Claims Act shall not be limited notwithstanding any agreement of the CVRPC or State to otherwise limit Party's liability.

13. 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.

14. 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 continental United States, except with the express written permission of the State.

15. 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 CVRPC, 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.

16. 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.

17. 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.

18. 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 the 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.

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

20. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the 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.

21. 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 CVRPC. Party shall be responsible and liable to the CVRPC and 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 CVRPC 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 CVRPC and subcontracts for work performed in the State of Vermont:

- Section 12, False Claims Act;
- Section 13, Whistleblower Protections;
- Section 14, Location of State Data
- Section 16, Fair Employment Practices and Americans with Disabilities Act;
- Section 18, Taxes Due the State;
- Section 20, Child Support;
- Section 22, No Gifts or Gratuities;
- Section 24, Certification Regarding Debarment;
- Section 34, CVRPC and State Facilities; and
- Section 37, State Funded Grants

22. 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 CVRPC or the State during the term of this Agreement.

23. 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.

24. 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 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>.

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

28. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the CVRPC or 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.

29. Force Majeure: Neither the CVRPC, State of Vermont or 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.

30. Marketing: Party shall not refer to the CVRPC or 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 CVRPC and State.

31. Termination: In addition to any right of the CVRPC to terminate for convenience, the CVRPC may terminate this Agreement as follows:

A. Non-Appropriation: If this Agreement extends into more than one fiscal year of the CVRPC or State (July 1 to June 30), and if appropriations or funding are insufficient to support this Agreement, the CVRPC 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 funded in whole or in part by state or federal funds, and in the event those funds become unavailable or reduced, the CVRPC may suspend or cancel this Agreement immediately, and the CVRPC shall have no obligation to pay Party from CVRPC 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 CVRPC. All CVRPC or State property, tangible and intangible, shall be returned to the CVRPC or State as applicable upon demand at no additional cost to the CVRPC or State in a format acceptable to the CVRPC or State.

D. Cancellation: Normal cancellation procedures notwithstanding, CVRPC reserves the right to order immediate suspension of Party operations and termination of this Agreement in the event of Party negligence or Party practices in apparent violation of State or Federal law or regulations.

32. Continuity of Performance: In the event of a dispute between the Party and the CVRPC, 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.

33. No Implied Waiver of Remedies: A 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.

34. CVRPC and State Facilities: If the CVRPC or State makes space available to the Party in any CVRPC or 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 CVRPC or State facilities which shall be made available upon request. CVRPC or State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

35. Ownership of Equipment: Any equipment purchased by or furnished to the Party by CVRPC under this Agreement is provided on a loan basis only and remains the property of, and must be returned to, CVRPC.

36. Professional Engineering Services: Any work on this Agreement which is "Professional Engineering Services" as defined in 26 V.S.A. §1161 must be performed by a Licensed or Registered Professional Engineer as required in 26 V.S.A. §1162.

☐ **37. State-Funded Grants.** If box is checked, this Agreement is funded in whole or in part by State grant funds. As such, the following additional provisions apply.

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

Provisions for Federally Funded Agreements

This Agreement is funded in whole or in part by federal funds. As such, the following additional provisions apply.

1. Federal Requirements Pertaining to All Grants and Subrecipient Agreements:

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 CVRPC and 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 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the CVRPC and 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.

2. Other Provisions for Federally Funded Agreements:

A. Davis-Bacon Act. The Party will comply with the provisions of the Davis-Bacon Act (40 U.S.C. 2761 7), the Copeland Act (40 U.S.C. 276C and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40.327-333), regarding labor standards for federally assisted construction contracts when construction is part of the contract.

B. Certification: By signing this Agreement, the Party certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been or will be paid, by or on behalf of the Party, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the recipient shall complete and submit Standard Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

The Party shall require that the language of this certification be included in the award of documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Sub-Recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section .1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$160,000 for each such failure.

C. Non-Discrimination. The Party will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Party will take affirmative action to ensure that applicants are employed, and that employees are treated during reemployment without regard to their race, creed, color or national origin. Such action shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Party agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

USDA's Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language) should contact the responsible Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY) or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <http://www.ocio.usda.gov/document/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation.

The completed AD-3027 form or letter must be submitted to USDA by:

(1) Mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410.

(2) Fax: (833) 256-1665 or (202) 690-7442; or

(3) Email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.