



STATE OF VERMONT  
OFFICE OF THE STATE TREASURER

109 State Street, 4<sup>th</sup> Floor  
MONTPELIER, VERMONT 05609-6200  
802-828-2301  
[www.vermonttreasurer.gov](http://www.vermonttreasurer.gov)

## SEALED BID REQUEST FOR PROPOSAL

### VERMONT AFFINITY CARD PROGRAM

DATE: November 19, 2009  
QUESTIONS DUE BY: December 3, 2009  
DATE OF BID OPENING: December 18, 2009  
TIME OF BID OPENING: 2:00 P.M.  
LOCATION OF BID OPENING: 109 State Street, Montpelier, VT, 4<sup>th</sup> Floor

ALL NOTIFICATIONS, RELEASES AND AMENDMENTS WILL BE POSTED AT:  
[www.vermonttreasurer.gov](http://www.vermonttreasurer.gov)

THE OFFICE OF THE STATE TREASURER WILL MAKE NO ATTEMPT TO CONTACT BIDDERS WITH UPDATED INFORMATION. IT WILL BE THE RESPONSIBILITY OF EACH BIDDER TO PERIODICALLY CHECK THIS SITE FOR THE LATEST DETAILS.

CONTACT: Donna Holden  
TELEPHONE: (802) 828-3708  
E-MAIL: [Donna.Holden@state.vt.us](mailto:Donna.Holden@state.vt.us)  
FAX: (802) 828-2772



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## **SEALED BID INSTRUCTIONS**

All bids must be sealed and must be addressed to the Office of the State Treasurer, 109 State Street, 4<sup>th</sup> Floor, Montpelier, VT 05609-6200. **BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.**

All bidders are hereby notified that sealed bids must be in the office of the State Treasurer by the time of the bid opening. Bidders are cautioned that it is their responsibility to originate the sending of bids in sufficient time to ensure receipt by the Office of the State Treasurer prior to the time of the bid opening. Hand-carried bids shall be delivered to a representative of the Office of the State Treasurer prior to the bid opening. Bids not in possession of the Office of the State Treasurer at the time of the bid opening will not be considered.

The Office of the State Treasurer may, for cause, change the date and/or time of the bid opening. If a change is made, the Office of the State Treasurer will make a reasonable effort to inform all bidders.

All bids will be publicly opened. Any interested party may attend the bid opening. Bid results may be requested in writing and are available once an award has been made.





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## 1 OVERVIEW

The following subsections provide general information about the RFP.

### 1.1 Executive Summary

The Office of the Vermont State Treasurer (OVST) is issuing a request for proposal to establish a Vermont State-sponsored Affinity Card Program (Program) to support public purpose projects in the areas of sustainable agriculture, renewable energy, state parks and forestland, or any combination of these, as authorized during the 2009 legislative session as 32 V.S.A. § 584 - Vermont State-Sponsored Affinity Card Program.

The OVST anticipates that the Program will support two or three projects initially, but would like the Program to have the flexibility to support additional projects. The Program should offer benefits to both the State of Vermont and the cardholders. Affinity cards issued under this Program will offer best-in-class cardholder terms.

The OVST anticipates that cardholders will be primarily residents of Vermont, the other New England states and the other states on the east coast of the United States, who enjoy Vermont and support the types of projects and activities in Vermont which this Program is intended to benefit. There may also be demand for these cards among residents of the eastern provinces of Canada, especially the Province of Quebec.

Proposal specifications are set forth in Section 2, "Scope of Services."

**Proposals in response to this RFP are due no later than 2:00 P.M. Eastern Time (ET) on DECEMBER 18, 2009.**

### 1.2 Minimum Bidder Qualifications

**The bidder must meet all of the following minimum qualifications to be given further consideration. Failure to satisfy each of the minimum qualifications will result in the immediate rejection of the proposal.**

1. The bidder must have three or more years experience in creating and managing affinity card programs. Experience with governmental entities, agencies or departments, and/or not-for-profit entities is preferable.
2. The Program proposed by the bidder must be able to support multiple cards and designs.
3. The successful bidder must be able to provide marketing and advertising support for this Program.
4. The successful bidder, or its partner financial institution that issues the affinity cards, should issue cards that offer best-in-class cardholder terms and conditions.
5. The successful bidder must be able to offer reporting sufficient for the Treasurer's office to properly account for the different Program card designs and the total Program.

### 1.3 Single Point of Contact

The sole point of contact for questions and all other contractual matters relating to this RFP is:

Name: Ms. Donna Holden  
Title: Contract Administrator  
Vermont State Treasurer's Office

109 State Street, 4<sup>th</sup> Floor  
Montpelier, Vermont 05609-6200  
Telephone: 802-828-3708  
FAX: 802-828-2772  
E-Mail: [Donna.Holden@state.vt.us](mailto:Donna.Holden@state.vt.us)

All e-mail communication with Ms. Holden must include the words “Affinity Card RFP” in the subject line.

**Bidder’s proposals, due by 2:00 PM for bid opening on DECEMBER 18, 2009, and are to be delivered to the Treasurer’s Office marked to the attention of Ms. Donna Holden (see above).**

Attempts by bidders to contact any other party may result in the rejection of their proposal.

### 1.4 Bidder Questions

Questions must be submitted in writing until the date and time specified in Section 1, *RFP Timetable*. E-mail is the preferred method of communicating questions. All e-mail communications with Ms. Holden must include the words “Affinity Card RFP” in the subject line.

Response to questions will be posted to our Web site at [www.vermonttreasurer.gov](http://www.vermonttreasurer.gov). All questions submitted must include the name of the firm and the person submitting the questions.

### 1.5 RFP Timetable

RELEASE DATE OF THE RFP:	NOVEMBER 19, 2009
QUESTIONS DUE BY:	DECEMBER 3, 2009
ANSWERS TO QUESTIONS POSTED ON <a href="http://www.vermonttreasurer.gov">www.vermonttreasurer.gov</a>	DECEMBER 9, 2009
ALL PROPOSALS MUST BE SUBMITTED NO LATER THAN 2:00 P.M. Eastern Time ON:	DECEMBER 18, 2009

### 1.6 Attachments to RFP

VSERS has provided the following information as attachments to the RFP:

- **Attachment A** – Standard Contract Provisions
- **Attachment B** – Act No. 1. (2009 Special Session.) Sec. H.18. 32 V.S.A. § 584. VERMONT STATE-SPONSORED AFFINITY CARD PROGRAM

## 2 SCOPE OF SERVICES

### 2.1 General Information

The Office of the Vermont State Treasurer (OVST) is issuing a request for proposal to establish a Vermont State-sponsored Affinity Card Program (Program) to support public purpose projects in the areas of sustainable agriculture, renewable energy, state parks and forestland, or any combination of these. The successful bidder must have the ability to issue cards that designate specific projects, for which the revenues will be separately tracked and reported to the OVST.

### 2.2 Scope of Services

1. The successful bidder will provide a full-service affinity card program to the State of Vermont. The Program must provide a minimum of three, and up to five, distinct affinity card designs utilizing artwork provided and/or approved by OVST. The bidder must have the ability to create, change, add, or delete designated projects/cards under the Program, including the maximum number of unique card designs available.
2. Royalties and other revenues from each affinity card design shall be designated to one or more of the project types specified in the enabling legislation referenced in 1.1 Executive Summary. The bidder must be able to provide detailed reporting for each card, and aggregate reporting for the Program, on at least a monthly, quarterly, and annual basis. The reporting must be sufficiently detailed to allow the OVST to properly account for the Program.
3. The Program should include marketing and advertising support, either directly, or through application of existing standard tools available to affinity card clients. The marketing and advertising support options should be sufficient to allow the OVST to successfully market this Program.
4. On a periodic basis, to be agreed upon by the OVST and the bidder, the bidder will communicate with the OVST regarding potential markets for the Program, and plans to access those markets.
5. The bidder, or the bidder's card issuing partner, must offer best in class cardholder terms for the cards offered in this Program.
6. The bidder should provide detailed information on any cardholder redemption points reward programs associated with the cards that would be issued under this program.
7. If the Program would be administered by the OVST via a self-service website, a software as a service (SaaS) application, or other computer system, the bidder should provide general and technical specifications, and be prepared to provide a full demonstration to the Vermont Affinity Card Program project team.

### 2.3 Documents, Reports, and Other

All documents, reports, computer software, paper and other materials ("Papers"), except for those generally available to the public, which are provided by the State, and any copies of any such Papers that may be reproduced or otherwise procured and all information contained in such Papers, shall be deemed and shall remain property exclusively of the State and shall be available to the State's representatives upon their request. No Papers may be reproduced or otherwise used by for purposes unrelated to the subsequent contract.

#### **2.4 Requirements Related to Conflicts of Interest and Independence**

Bidders shall identify all existing or potential conflicts of interest that would prevent the bidder from fully performing the work described in this RFP. Such disclosure will be a continuing requirement subsequent to award of a Contract and for the life of the Contract.

In all matters relating to work required by the State the bidder shall remain free from personal and external impediments to independence, and verify their organization is independent and will maintain an independent attitude and appearance with respect to the services required.

#### **2.5 Insurance Coverage**

The Contractor shall maintain an errors and omissions insurance policy, which provides a prudent amount of coverage for the willful negligent acts or omissions of any shareholder, employee or agents thereof. The Contractor shall also maintain policies pursuant to the State's Standard Contract provisions as defined in Attachment A.

### 3 PROCUREMENT AND CONTRACTUAL ADMINISTRATION

The following subsections discuss the administrative and contractual requirements that pertain to this procurement.

#### 3.1 Bidding and Contractual Requirements

The State reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Bidders may be asked to give a verbal presentation. Failure of bidder to respond to a request for additional information or clarification could result in rejection of that bidder's proposal. The State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause. The State reserves the right to make an award without further discussion of the proposal submitted. The State does not guarantee that an award will be made as a result of this RFP.

##### *3.1.1 Incurred Expenses*

The cost of developing and submitting the proposal is entirely the responsibility of the bidder. This includes costs to determine the nature of this engagement, preparation of the proposal, submitting the proposal, negotiating for the contract, and other costs associated with this RFP.

##### *3.1.2 Public Records & Bidder Proprietary Information*

All responses will become the property of the State of Vermont and will be a matter of public record. Pursuant to V.S.A. §317 (15), public records requests for information regarding this RFP will not be acted upon pending contract negotiations, and until a signed contract has been recorded by the State.

##### *3.1.3 Pricing*

The bidder must be aware that the State wants the most effective combination of price, performance, and quality possible within the constraints of the OVST's budgets. Pricing must be a firm fixed price or specified as an hourly rate, including all expenses. The State will not accept any open-ended, time-and-materials bids. There may be no best and final offer procedure. Therefore, the proposal shall be submitted on the most favorable terms that the bidder can provide.

##### *3.1.4 Subcontracting*

The State of Vermont will only enter into contracts with the primary contractor, and the State must approve any subcontractor contract in writing (See State Standard Contract, sub-Attachment C: **Sub-Agreements**). The selected bidder must assume responsibility for subcontractor performance and payment. Subcontractors must abide by all conditions set forth in the contract with the primary contractor. The successful bidder will be expected to execute sub-agreements for each subcontractor named in the proposal upon award of this contract. The bidder must provide a brief description in the cost proposal in regard to the basis for selecting each subcontractor (low bid, competitive negotiation, technical capabilities, etc.). The bidder must provide subcontractor cost estimates in the bidder's cost proposal.

##### *3.1.5 Doing Business in Vermont*

The bidder awarded this contract shall, upon notification of award, apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, Corporations Division, 81 River Street, Montpelier, VT 05609-1104. The telephone number is (802) 828-2386. The Treasurer's Office will not execute the contract until the bidder is registered with the Secretary of State's Office.

Bidders are responsible for complying with all statutory provisions applicable to doing business in the State of Vermont (see above and Attachment A, attached to this RFP), which is required to be executed after the specific

details of the transaction have been inserted. Any objections or requested changes to the standard form language must be provided with the bid, or they shall be waived by the bidder.

### *3.1.6 Minority Business Enterprises*

The State of Vermont recognizes the important contribution and vital impact that small businesses have on the state's economy. In this regard, the state subscribes to a free and open bidding process that affords all businesses equal access and opportunity to compete for state contracts for goods and services. The state also recognizes the existence of businesses owned by minorities and women and has directed all state agencies and departments to make a good faith effort to encourage these firms to compete for state contracts.

### *3.1.7 Duration of Proposal Offer*

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of proposals. This period may be extended at the request of the State, and with the bidders' written approval.

### *3.1.8 Revisions to the Solicitation*

The State reserves the right to modify requirements should a bidder inquiry identify a change that is in the best interest of the State. Such modifications (or amendments) to the RFP will be posted to the Treasurer's Web site at [www.vermonttreasurer.gov](http://www.vermonttreasurer.gov) and will not be distributed through any other means. It is the bidder's responsibility to check the Web site for such changes.

### *3.1.9 General Conditions*

The general conditions and specifications of the RFP, the successful bidder's response/proposal, all questions and answers, and all RFP amendments (if any) will become part of the contract by reference.

The bidder is expected to respond with due diligence by providing the requested information in the designated manner. Bidders failing to respond to this RFP as prescribed will place themselves at a comparative disadvantage or will be subject to disqualification at the discretion of the State.

### *3.1.10 Contract Duration*

The successful bidder to this RFP can expect a contract with the State (see sample contract Attachment A), for a term of two years, with the option of two one-year extensions.

The successful bidder will be required to execute the State's standard contract after the specific details of the transaction have been inserted. Any objections, or requested changes to the standard form language must be provided with the bid, or they shall be waived by the bidder. Any bidder seeking changes to the State standard form contract, or to add additional language to the contract, must state whether the request is a requirement of their bid or simply a request for the State's consideration. In the event the State determines that an otherwise apparent winning bidder's requirements are unacceptable, it may handle the bid in the manner it deems most appropriate, including but not limited to rejecting the bid as not complying with this RFP. Bidders should be aware that the State of Vermont rarely accepts amendments to its standard form contract.

## 4 PROPOSAL PREPARATION

This section sets forth the format that must be followed by bidders in developing their proposals in response to this RFP. The instructions provided and format requested for bidder proposals are designed to ensure a clear and complete understanding and comprehensive evaluation of each proposal. There is no intent to limit the content of the proposals or to inhibit a presentation in other in than the bidder's favor.

### 4.1 Proposal Acceptance

The bidder is encouraged to include additional information or data as may be appropriate or to offer alternate solutions. However, the bidder should not exclude from its proposal any portion requested in this document. Proposals that vary materially from this prescribed format may be judged non-compliant and withdrawn from consideration.

The bidder must understand that the State will view the degree of compliance with this section as an indication of the degree of cooperation to be expected from the bidder in working with the State after contract award.

#### 4.1.1 *Proposal Packaging and Required Copies*

Bidders must submit FIVE bound copies of their proposals as well as one (1) CD-ROM containing the appropriate Microsoft Word 2000, Excel 2000, and Project 2003 files to comprise a full proposal set. In addition, the bidder must provide one (1) unbound master copy of the technical proposal and one (1) unbound master copy of the cost proposal.

The information in the table provided below must appear on the title page of each copy of each proposal, on the CD-ROM label, and on the outside of the packages in which they are shipped (if proposals are shipped by overnight courier, the title sheet may be affixed to the package inside the courier's packaging material):

#### Contents of Response Cover Page

RFP title: VERMONT AFFINITY CARD PROGRAM RFP
<b><i>Closing date and time for submission of proposals: DECEMBER 18, 2009, 2:00 pm.</i></b>
Name, address, e-mail, and (voice) telephone number of firm submitting proposal

Proposals must be addressed for this RFP to the point of contact identified in Section 1, *Single Point of Contact*.

Bidders' are to organize their proposals into four parts with a cover letter and other administrative information as follows:

Part I – Administrative	Cover page Cover Letter as described below Tax Certificate Table of Contents
Part II	Bidder Information
Part III	Technical Approach
Part IV	Bidder References
Part V	Cost

The following subsections describe the required content of the bidder's proposal.

## 4.2 Bidder's Proposal Part I -Administrative Section

In addition to the cover page and table of contents, the items that need to appear in the Administrative Section of the proposal are described below.

### *4.2.1 Cover Letter*

The response should contain a cover letter and introduction, including: the company name and address, and the name, e-mail address, and telephone number of the person or persons authorized to represent the respondent regarding all matters related to the response. The cover letter must contain the following statement:

*“We have read the State’s Request for Proposals (RFP) for the Vermont Affinity Card Program and fully understand its intent. We certify that we have adequate personnel, equipment, and facilities to provide the State’s requested services that we have indicated we can meet. We understand that our ability to meet the criteria and provide the required services shall be judged solely by the Office of the State Treasurer.”*

A person authorized to bind the firm to all commitments made in its response shall sign this letter.

In addition, the cover letter must certify that:

- The response is genuine, and is not collusive or a sham.
- The response is not made in the interest of or on the behalf of any person not named therein.
- The bidder has not directly or indirectly induced or solicited any person to submit a false or sham response or to refrain from submitting a proposal.
- The bidder has not in any manner sought by collusion to secure an advantage over any other respondent.
- The bidder has thoroughly examined the RFP requirements, and the proposed fees cover all the services that the State has requested.
- The bidder acknowledges and accepts all terms and conditions included in the RFP.
- The bidder agrees to provide services in a manner acceptable to the State, and as stipulated in the RFP and subsequent contract.
- The bidder and key professionals do not have or anticipate a potential conflict of interest with the Office of the State Treasurer or the Boards of Trustees of the three retirement systems.
- The bidder and key professionals do not accept fees and derive no benefit from relationships with any persons involved in the RFP.
- The bidder has completed and submitted, with the RFP response, the Vermont Tax Certificate, provided in this RFP.
- The bidder has submitted financial information. Publicly owned businesses agree to provide their most recent annual report, current balance and income statement, and D&B report. Privately owned businesses agree to provide company financials. Proprietary and/or confidential materials must be marked accordingly.

### *4.2.2 Tax Certificate*

This certificate appears on page 3 of this RFP and must be completed and submitted with the response to the RFP.

## 4.3 Bidder's Proposal Part II – Bidder Information

### *4.3.1 Section 1 – General*

In this section, the bidder shall provide basic information about its firm and staff, including the following:

- a. Please provide a description of the ownership and structure of the firm, including any parent company and any affiliated companies and/or joint ventures.
- b. Please list the principals of the firm that would work on this Program, and describe their backgrounds, credentials and certifications as they relate to this program.
- c. Please provide the most recently completed SAS 70 or external Quality Control Review, if applicable.
- d. If the firm is a publicly traded company, please provide the most recently completed public audited financial statements for the firm.
- e. Are any near-term changes to the firm's corporate or organizational structure anticipated? If yes, please specify.

#### 4.3.2 Section 2 – Experience Summary

In this part of the proposal, the bidder must describe its current and historical experience in providing services of a similar nature for other clients. Particular emphasis shall be placed on any experience in supporting public sector clients.

#### 4.4 Bidder's Proposal PART III – Technical Approach

This part of the bidder's proposal shall address the following:

- Section 1 – Technical Proposal Understanding, please describe your ability to provide the requirements listed in the Scope of Services section, including your organization's ability to provide affinity card program, reporting, and related services, and any technical software you would use in providing the requested services, e.g., computer software.
- The bidder should describe the process for creating, changing, adding, or deleting designated projects/cards under the Program, including the maximum number of unique card designs available.
- The bidder must provide descriptions and details of all royalty and revenue programs available to the State of Vermont, e.g. royalties, percentage of retail spend, account activation fees, percentage of interest amounts. The bidder must detail when and how royalties and revenues will be transferred to the OVST, and what reporting is available to the OVST and how reporting is delivered.
- The bidder must provide detailed plans of marketing and advertising available for this Program. These plans will include the resources expected of the bidder and those expected of the State of Vermont.
- The bidder will disclose all cardholder terms associated with the affinity cards to be issued under this Program.
- The bidder should identify its knowledge of Vermont and experience with affinity card programs related to entities and organizations based in Vermont. The bidder should provide contact information to these entities and organizations for the OVST to use as references if possible.
- If the bidder has a standard contract for services, a copy of such standard contract should be included in the proposal package.

- Section 2 - The bidder should provide any and all other information it believes would be useful to the Office of the Vermont State Treasurer in evaluating proposals for this Program.
- Section 3 – Proposed Value-Added Options – The OVST will consider any option proposed by the bidder as a value-added option that will substantially reduce costs and/or improve efficiency of operations. This Section is optional (but desirable) in the bidder’s proposal.
- Section 4 – The bidder should provide detailed information on business continuity plans related to its business as it relates to this Program.

**4.5 Bidder’s Proposal PART IV – Bidder References**

The bidder shall provide a minimum of FOUR (4) references. At least two should be for public sector clients with Affinity Card Programs or similar services. For each reference, the bidder must include the name, address, e-mail address, and telephone numbers of individuals qualified to provide information from both the management and technical viewpoints. For each reference, the bidder must specify:

- The length of time during which services were performed;
- A description of the specific services provided;
- Project statistics such as size of funds, number of investment types, number of indices, etc.

**4.6 Bidder’s Proposal PART V – Cost**

**A. Costs**

The bidder must provide detailed information on cost pricing structures available to the State of Vermont, if applicable. In addition, the bidder shall fully describe any assumptions used in deriving the pricing structure. Bidder cost proposals shall be presented in sufficient clarity and detail to enable the State to validate the costs. If the service is optional, non-routine or would otherwise be outside the scope of the full-retainer services, they may be stated separately either as **a flat fee or hourly rate**.

**Bidder costs shall be all-inclusive, reflecting all travel, administrative, labor and incidental costs.**

**B. Additional Fees:**

Please provide a fee quote for any services, if any, that would not be covered in the fees proposed in part A above. Please state as flat fees or hourly rates. Flat fees and/or hourly rates must be all inclusive of all administrative, travel, labor and incidental costs.

Service _____	\$ _____
Service _____	\$ _____
Service _____	\$ _____

**C. Additional Information:**

Please provide any additional information that may assist us in more clearly understanding your proposed fee. This might include any combination of discounts for award by more than one board.

## 5 BIDDER EVALUATION AND SELECTION CRITERIA

### 5.1 Bidder Evaluation

The Office of the State Treasurer will conduct a fair and impartial evaluation of the proposals received in response to this RFP.

Fees and compensation will be an important factor in the evaluation of responses. However, the Office of the State Treasurer is not required to select the low-cost bidder, but may select the bid that demonstrates the “best value” overall, including proposed alternatives, and that meets the objectives of this RFP. The Office of the State Treasurer reserves the right to negotiate a change in any element of contract performance or cost identified in the RFP.

Evaluation of Proposals
<b>A. RFP Understanding</b> Approach Clarity Creativity of proposal Responsiveness to Scope of Services and ability to provide requested services
<b>B. General Experience and Qualifications of Firm</b> Experience Assigned personnel Any other resources assigned to State
<b>D. Cost</b>

The Office of the State Treasurer reserves the right to seek clarification of any proposal submitted, request oral presentations and to select the proposal considered to best promote the public interest.

The State of Vermont is conscious of and concerned about collusion. It should therefore be understood by all that in signing the bid and contract documents they agree that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company.

## ATTACHMENT A – STANDARD CONTRACT PROVISIONS

### STATE OF VERMONT STANDARD CONTRACT FOR PERSONAL SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, \_\_\_\_\_ (hereafter called “State”), and \_\_\_\_\_, with \_\_\_\_ principal place of business in \_\_\_\_\_, (hereafter called Contractor”). Contractor’s form of business organization is \_\_\_\_\_. It is the contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of \_\_\_\_\_. Detailed services to be provided by the contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$\_\_\_\_\_.00.

4. **Contract Term.** The period of contractor’s performance shall begin on \_\_\_\_\_, 20\_\_ and end on \_\_\_\_\_, 20\_\_.

5. **Prior Approvals.** If approval by the Attorney General’s Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.

- Approval by the Attorney General’s Office /is/is not/ required.
- Approval by the Secretary of Administration /is/is not/ required.

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

7. **Cancellation.** This contract may be canceled by either party by giving written notice at least \_\_\_\_ days in advance.

8. **Attachments.** This contract consists of \_\_\_\_ pages including the following attachments which are incorporated herein:

- Attachment A – Specifications of Work to be Performed
- Attachment B – Payment Provisions
- Attachment C – “Standard State Contract Provisions,” a preprinted form (revision date 12/5/2008), except that the following numbered paragraphs are not included: \_\_\_\_\_.
- Attachment D – Other Contract Provisions

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS CONTRACT.

by the **STATE OF VERMONT:**

by the **CONTRACTOR:**

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

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

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

**STATE OF VERMONT  
CONTRACT FOR PERSONAL SERVICES**

**Attachment A:  
Specifications of Work to Be Performed**

To be entered by the State.

\*\*\*\*\*

**Attachment B:  
Payment Provisions**

To be entered by the State.

\*\*\*\*\*

**Attachment C:  
Standard State Contract Provisions  
FOR CONTRACTS AND GRANTS**

- 1. 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.
- 2. Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
- 3. 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.
- 4. Appropriations:** 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.

- 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, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. 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.

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.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

- 7. 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 the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, 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 Per Occurrence  
\$1,000,000 General Aggregate  
\$1,000,000 Products/Completed Operations Aggregate  
\$ 50,000 Fire/ Legal/Liability

**Errors and Omissions:** \$1,000,000.00 per occurrence. \* Subject to higher available maximums.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

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: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

- 8. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
- 9. Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: <http://finance.vermont.gov/forms>

- 10. Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter 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. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.
- 11. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.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 that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

**12. 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.

**13. 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.

**14. Child Support:** (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.

**15. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include all subcontract or subgrant agreements and a tax certification in accordance with paragraph 11 above.

**16. No Gifts or Gratuities:** Party shall not give title or possession of any thing 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.

**17. Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.

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

\*\*\*\*

**Attachment D:  
Other Provisions**

(Potential sample language for some contracts)

**Confidentiality:** Sometimes agencies have legitimate needs to protect confidential information. The RFP can require contractors to maintain confidentiality, although the contract ultimately should duplicate this requirement. Conversely, bidders sometimes want to know how the State will treat the bidder's proprietary information. The RFP should state whether such information will be returned or retained by the agency.

**Identity of workers:** The Contractor will assign the following individuals [list individuals] to the services to be performed under the provisions of this contract, and these individuals shall be considered essential to performance. Should any of the individuals become unavailable during the period of performance, the State shall have the right to approve any proposed successors, or, at its option, to cancel the remainder of the contract.

**Individually identifying information:** Contractor must not use or disclose any individually identifying information that pursuant to this contract is disclosed by the State to the contractor, created by the contractor on behalf of the State, or used by the contractor for any purpose other than to complete the work specifications of this contract unless such use or disclosure is required by law, or when contractor obtains permission in writing from the State to use or disclose the information and this written permission is in accordance with federal and state law.

**Prior approval/review of releases:** Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the contractor under this contract shall be approved/reviewed by the State prior to release. **Comment:** *All material published in connection with activities performed under State contract should be reviewed and approved by the appropriate official before release. When academic freedom becomes an issue, agency review but not agency approval may be appropriate.*

**Progress reports:** The contractor shall submit progress reports to the State according to the following schedule. [insert schedule] Each report shall describe the status of the contractor's performance since the preceding report and the progress expected to be made in the next successive period. Each report shall describe contractor activities by reference to the work specifications contained in Attachment A of this contract and shall include a statement of work hours expended, expenses incurred, bills submitted, and payments made. **Comment:** *This clause may be used either in Attachment A (Specifications of Work to be Performed) or here. It provides information for interim evaluation of the contractor's work and assists in detecting difficulties that may lead to necessary modification or cancellation of the contract. If payments are to be conditioned on receipt of progress reports, this should be clearly set forth in Attachment B: Payment Provisions.*

**Work product ownership:** Upon full payment by the State, all products of the contractor's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, become the sole property of the State of Vermont and may not be copyrighted or resold by contractor.

ATTACHMENT B – ACT NO. 1. (2009 SPECIAL SESSION.) SEC.  
H.18. 32 V.S.A. § 584.  
VERMONT STATE-SPONSORED AFFINITY CARD PROGRAM

Special Session 2009 Act 001

Sec. H.18. 32 V.S.A. § 584 is added to read:

§ 584. VERMONT STATE-SPONSORED AFFINITY CARD PROGRAM

(a) The state treasurer is hereby authorized to sponsor and participate in an affinity card program for the benefit of the residents of this state upon his or her determination that such a program is feasible and may be procured at rates and terms in the best interest of the cardholders. In selecting an affinity card issuer, the treasurer shall consider the issuer's record of investments in the state and shall take into consideration program features which will enhance the promotion of the state-sponsored affinity card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The treasurer shall consult with other state agencies about potential public purpose projects to be designated for the program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, state parks and forestland programs, or any combination of these. The net proceeds of the state fees or royalties generated by this program shall be transmitted to the state and shall be deposited in a state-sponsored affinity card fund and subsequently transferred to the designated state programs and purposes as selected by the cardholders. The funds received shall be held by the treasurer until transferred for the purposes directed by participating state-sponsored affinity cardholders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the program. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the state-sponsored affinity card program.

(d) The state shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The state treasurer is authorized to adopt such rules as may be necessary to implement the Vermont state-sponsored affinity card program.

- End RFP -