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STATE OF VERMONT
OFFICE OF THE STATE TREASURER

**REQUEST FOR PROPOSALS
TO PROVIDE
PROXY VOTING SERVICES**

VERMONT PENSION INVESTMENT COMMITTEE
OFFICE OF THE VERMONT STATE TREASURER

Issued Friday, November 2, 2012

Submission Deadline: Thursday, November 20, by 4:00 p.m. Eastern Time

TABLE OF CONTENTS

I. BACKGROUND and PURPOSE	3
Retirement Operations Information:	3
Investment and Proxy Volume Data:	3
II. SCOPE OF WORK.....	4
General Scope and Business Specifications:	4
Minimum Qualifications:	5
Additional Requirements:	5
Travel, Shipping and Delivery Fee Exemption:.....	6
Confidential Information:	6
Schedule and Pricing:.....	6
Staffing:.....	6
III. Terms and Conditions for Submission of Proposals	6
Proposal Inquiries:	6
Calendar:	7
No Respondent Conference:	7
Financial Responsibility:.....	8
Number of Response Copies:.....	8
Oral Questions (Telephonic):.....	8
Effective Period of Responses:	8
Disqualification of Proposals:	9
Right of Rejection by the State:	9
Contract Negotiations:	9
Award of Contract(s):	9
Contract Duration:.....	10
Terms and Conditions Agreement:	10
IV. ESSENTIAL ELEMENTS OF PROPOSAL.....	10
V. EVALUATION CRITERIA.....	10
ATTACHMENT A.....	12
Essential Elements of Proposal	12
Part I - Cover Letter	12
Part II - Services to be Provided by Selected Bidder	13
Part III - Narrative Outline	14
Part IV - Description of Firm	14
PART V – FEE SCHEDULE.....	16
 ATTACHMENT B - STANDARD CONTRACT PROVISIONS	 17

I. BACKGROUND and PURPOSE

The Vermont Pension Investment Committee (VPIC) and the Office of the Vermont State Treasurer are seeking proposals from qualified firms to provide specified proxy voting services for VPIC investment accounts and the Vermont Trust Investment Account (TIA).

Currently the VPIC receives proxy voting services from a single vendor which receives proxies from the VPIC custodian and votes them according to a custom VPIC policy. For international issues, proxy voting is done based on a policy used by many public pension plans. TIA managers vote proxies themselves according to the same policies adopted by the VPIC.

Services requested include receipt and administration of domestic and international VPIC proxies, voting of these proxies according to VPIC policy, recording and reporting of all votes cast, assistance in international issuer proxy policy development, and advice in other proxy related matters.

Retirement Operations Information:

The VPIC invests assets of the Vermont State Employees' Retirement System (VSERS), the Vermont State Teachers' Retirement System (VSTRS), the Vermont Municipal Employees' Retirement System (VMERS) and the Burlington Employees' Retirement System (BERS). Other Vermont municipalities in addition to BERS are eligible to participate in VPIC, although no others have approached the VPIC as of the date of this RFP.

The VPIC is a seven (7) person committee. Three of its members are selected by the boards of the VSERS, VSTRS, and VMERS (one member selected by each board). Two members are appointed by the Governor, the Vermont State Treasurer serves on the VPIC ex-officio, and the chair is elected by the other six members. There is one alternate member for each of VSERS, VSTRS and VMERS, and one alternate member selected by the Governor, for a total of four alternates.

Administration of actions taken by VPIC is conducted by the Office of the State Treasurer under the supervision of the Treasurer. The Vermont State Treasurer administers the TIA.

The Director of Investments provides advice, administration, and oversight to the VPIC and the Office of the State Treasurer.

NEPC, LLC is retained as Pension Investment Consultant for the VPIC.

JP Morgan Chase bank is Custodian of VPIC assets.

Investment and Proxy Volume Data:

As of June 30, 2012 the VPIC had assets of approximately \$3.4 billion, including domestic equities of \$0.6 billion and international equities of \$0.4 billion. As of the September 30, 2012,

the VPIC portfolios had investments in approximately 1,662 domestic stock issues and approximately 489 international stock issues. There are approximately 2,466 total stock positions. Domestic equity separately managed accounts are managed by Champlain (1 account), T. Rowe Price (1 account), State Street Global Advisors (3 accounts), and Wellington Management Co. (1 account). International equity separately managed accounts are managed by Acadian Asset Management and State Street Global Advisors.

In addition, there is a Trust Investment Account, administered by the State Treasurer, for the purposes of investing trust endowment funds. The balance as of June 30, 2012 is \$69 million with approximately 30% in domestic and international equities. As discussed above, these equity positions are voted by the TIA investment managers.

The above volume data are approximations only. The Office of the State Treasurer and VPIC make **no guarantee that any products or services will be purchased** from any contract resulting from this RFP. Any approximations and/or past or current procurement volumes referenced in this RFP are included only for the convenience of bidders, and are not to be relied upon as an indication of future levels.

II. SCOPE OF WORK

General Scope and Business Specifications:

The scope of the assignment is to assist the VPIC and Office of the Treasurer in carrying out proxy voting responsibilities and related activities. The objective is to select a firm to help the Treasurer's Office and the VPIC 1) maintain and modify as needed current domestic proxy voting guidelines; 2) maintain and modify as needed current international proxy guidelines; 3) receive, administer and vote domestic and international equity proxies according to VPIC adopted guidelines, 4) periodically report on proxy votes cast on behalf of the VPIC and 5) have availability of service provider staff to the State Treasurer's staff for inquiries relating to proxy voting and on a limited basis for recommendations on equity securities that may be held outside of the VPIC and the TIA. Specific requirements are as follow:

1. Maintenance and modification of existing customized domestic and international proxy voting guidelines based on telephonic or in-person meetings with representatives of the VPIC and of the Office of the State Treasurer. The domestic and international voting policies may be found at www.vermonttreasurer.gov/pension-funds/proxy-voting.
2. Receive, administer and vote domestic and international equity proxies according to VPIC adopted guidelines. Proxies will be received directly from the VPIC custodian, JP Morgan Chase Bank. It is expected that the service provider will conduct a research process based on the proxy requirements juxtaposed to VPIC proxy voting guidelines, formulate vote recommendations for each item on each issuer's proxy, apply the recommendations to each item on each proxy, and transmit a compliant voting proxy on behalf of the VPIC as instructed in each proxy.

3. Periodically report on proxy votes cast on behalf of the VPIC. At least annually and more often if and when requested, reports of proxy votes cast by various sorting criteria including but not limited to issuer, type of proxy issue (e.g., director votes, labor standards, cumulative versus staggered boards, executive compensation, major environmental issues, etc.) and other sorting criteria as requested by the VPIC.
4. Availability of service provider staff to the State Treasurer's staff for inquiries relating to proxy voting and on a limited basis for recommendations on equity securities that may be held outside of the VPIC. From time to time the Office of the Treasurer considers participating in communications to corporations that the VPIC or the TIA have investments in, or for other reasons may have need for clarification about the substance of certain proxy issues. The Treasurer's Office requires access to service provider staff for discussion of such issues as they relate to proxy item voting. Also, the State has a limited number of equity holdings of managed accounts external to VPIC of which only some may also be held on VPIC accounts. In these limited instances, Treasurer's Office Staff require access to service provider staff to either receive an existing VPIC proxy voting recommendation or to have one developed according to the VPIC guidelines and communicated back to the Treasurer's office.

The Office of the State Treasurer and VPIC reserve the right to review the range of services provided and add or delete specific items from the referenced proxy service configuration.

Minimum Qualifications:

A firm must satisfy each of the following minimum qualifications in order to be considered for the contract award:

- A. Demonstration by the firm of at least three existing pension fund clients with a minimum of \$1 billion assets each.
- B. At least one of these clients in A., above, must be a public pension plan.

Additional Requirements:

The selected bidder must assert or agree to the following:

- A. The selected bidder shall agree to provide proxy voting and related services in a manner acceptable to the Treasurer's Office and the VPIC and as stipulated in this RFP and the contract.
- B. The selected bidder will attest that its firm and key professionals do not have or anticipate a potential conflict of interest with the Office of the State Treasurer, the VPIC, relevant investment managers, or publicly traded corporations subject to proxy votes by the VPIC and Office of the Treasurer.

Travel, Shipping and Delivery Fee Exemption:

All items covered under this contract are exempt from out of pocket travel, duplicating, shipping, and related administrative charges. The bidder must not include shipping charges on any invoice.

Confidential Information:

The bidder agrees that all discussions or information gained during an engagement shall be considered confidential and that no information gathered by the bidder shall be released without prior consent of the Treasurer's Office.

Schedule and Pricing:

The contractor will state a fee rate for services by unit of service or product, with a stated maximum contract obligation.

Staffing:

Using all information contained in or referenced in this RFP and its prior experience, the selected bidder must provide a staffing plan identifying key personnel and their qualifications.

III. Terms and Conditions for Submission of Proposals

The purpose of this section is to state the terms and conditions that will govern the submission of responses to the State in response to this Request for Proposals.

Proposal Inquiries:

All inquiries concerning this RFP shall be made in writing, citing the RFP Title, Page, Section, and Paragraph, and shall be submitted to:

Mr. JP Isabelle
Executive Assistant
Office of the State Treasurer
109 State Street, 4th Floor
Montpelier, VT 05609-6200
E-mail: jp.isabelle@state.vt.us

Vendors are encouraged to submit questions via email.

Any individuals and/or firms that intend to submit a response are prohibited from contacting any employees of the Office of the State Treasurer and the VPIC other than the contact person. An exception to this rule applies to individuals or firms that currently do business with the Office of

the State Treasurer and the VPIC, but shall be limited to that business and should not relate to this RFP. **Failure to observe this rule may result in disqualification.** Furthermore, no other individual employee or representative of the State of Vermont is authorized to provide any information or respond to any question or inquiry concerning this RFP other than as described herein.

All inquiries must be received no later than the date specified in this section. Inquiries received after this date and time will be addressed only if they are deemed by the Office of the Treasurer to be critical to the competitive selection process. An official written answer will be provided to all questions meeting these requirements.

In an effort to provide a fair process and complete information, all written questions and the response will be summarized in a fact sheet that will be available to any potential respondent and posted on the Treasurer's website (<http://www.vermonttreasurer.gov>). Similar inquiries will be consolidated into one question. The name(s) of the firms submitting the questions will not be listed.

Any proposal determined to be non-responsive to the specifications or other requirements of this RFP, including instructions governing format, may be disqualified without evaluation. The Office of the State Treasurer and VPIC shall reserve the right to clarify and seek supplemental information to any proposal submitted.

Any change to or interpretation of the RFP by the Office of the State Treasurer and VPIC will be posted on the website for the State Treasurer (<http://www.vermonttreasurer.gov>). Potential bidders are encouraged to check this site frequently for any additions, clarifications, or revisions to the document.

Calendar:

The following is the tentative time schedule for the selection of a vendor to provide the services described herein. All dates are subject to modification by the Office of the State Treasurer and VPIC with notice.

Issuance of RFP	November 2, 2012
Question Deadline	November 8, 2012
Question Responses posted by	November 12, 2012
RFP Response Deadline	November 20, 2012

No Respondent Conference:

No formal Bidders' Conference will be held. Questions may be directed to Mr. JP Isabelle as indicated above.

Financial Responsibility:

The respondent understands and agrees that the State shall have no financial responsibility for any costs incurred by the respondent in responding to this RFP.

The successful bidder shall be solely responsible for meeting all terms and conditions specified in the RFP, its proposal, and any resulting contract. The Office of the State Treasurer and the VPIC shall approve any subcontractor in advance.

The vendor's signature on a proposal submitted in response to this RFP guarantees that the prices quoted have been established without collusion with other eligible vendors and without effort to preclude the Treasurer's Office and VPIC from obtaining the best possible competitive proposal.

Number of Response Copies:

Please submit five (5) copies of your response to:

Mr. JP Isabelle
Executive Assistant
Office of the State Treasurer
109 State Street, 4th Floor
Montpelier, VT 05609-6200
E-mail: jp.isabelle@state.vt.us

All responses must be delivered to the above office on or before **November 20, 2012, by 4:00 p.m., Eastern Standard Time.** Responses received after the above date and time will not be considered.

All material received in response to this RFP shall become the property of the Office of the State Treasurer and VPIC, and will not be returned to the vendor. Regardless of the bidder selected, the VPIC reserves the right to use any information presented in a proposal. The content of each vendor's proposal shall become public information once a contract has been awarded.

Oral Questions (Telephonic):

The Office of the State Treasurer and the VPIC shall have the option of clarifying or further investigating written materials submitted by bidders in telephonically prior to making an award.

Effective Period of Responses:

Responses must remain in effect for at least 120 days from the submission deadline and thereafter until either the bidder withdraws the response in writing, a contract is executed, or the RFP is canceled, whichever occurs first.

Disqualification of Proposals:

- A. Late Proposals: Proposals that are received after the deadline date and time shall be automatically disqualified.
- B. Non-responsive Proposals: Proposals that are not responsive or that fail to comply with mandatory requirements of the RFP shall be deemed non responsive and shall be disqualified. Non-responsive proposals shall include, but not be limited to, those that fail to address or meet any mandatory item, and those submitted in insufficient number or in incorrect format.
- C. Collusion: Collusion by two or more bidders agreeing to act in a manner intended to avoid or frustrate fair and open competition is prohibited, and shall be grounds for rejection or disqualification of a proposal or termination of a contract.
- D. Debarred Bidders or Subcontractors: A bidder who is currently subject to any Vermont or federal debarment order or determination shall not be considered for evaluation. If a bidder's proposal is dependent upon the services of a named subcontractor and the disqualification of this named subcontractor would materially alter the proposal, then that proposal shall be deemed unresponsive if the named subcontractor is found to be debarred.

Right of Rejection by the State:

Notwithstanding any other provisions of this RFP, the State reserves the right to reject all responses, to waive any irregularity or informality in a response, and to accept or reject any item or combination of items, when to do so would be to the advantage of the VPIC or the State of Vermont. It is further within the right of the State to reject responses that do not contain all elements and information requested in this document.

Contract Negotiations:

After a review of the responses and possible oral questions, the VPIC and the Office of the Treasurer intend to enter into contract negotiations with one firm. A standard State contract is included in this RFP as Attachment B. ***Comments or requested changes to this contract must be included in your firm's response.*** The State reserves the right to negotiate the terms and conditions of the contract in the context of the overall prospective engagement.

If a contract is not finalized in a reasonable period of time, the VPIC and Office of the Treasurer will open negotiations with the next ranked firm.

Award of Contract(s):

The respondent to whom the contract(s) is/are awarded shall be required to enter into a written contract in a form similar to Attachment B and approved by the Vermont Attorney General. This RFP and the response, or any part thereof, may be incorporated into and made a part of the final

contract. A current version of the Customary State contract provisions including anticipated terms of engagement with the winning bidder are contained in Appendix B.

Contract Duration:

The VPIC and the Office of the Treasurer intend to enter into a contract agreement for a two-year period, with the option to extend the contract agreement for up to two additional one-year periods, based on mutually acceptable terms.

Terms and Conditions Agreement:

In addition to any other requirements defined in this RFP, should a contract be awarded, the selected bidder is required to comply with the State of Vermont Standard Contract Terms and Conditions.

IV. ESSENTIAL ELEMENTS OF PROPOSAL

The bidder must explicitly respond to all sections of Appendix A, Essential Elements of Proposal. All responses should be concise and well organized, and provide sufficient detail to allow the evaluators to clearly determine the benefit of the vendor's offering.

If company product literature or other publications are attached and intended to be used in direct response to an RFP requirement, the response must include reference to the document name and page number.

V. EVALUATION CRITERIA

The factors to be used in evaluating the responses will include, but are not limited to, the following:

1. Experience (quantity, quality, and timeliness) of the firm and its staff with providing services to other states or public entities with similar pension programs.
2. Qualifications of staff to be assigned to the State of Vermont account. Particular attention will be paid to relevant experience with public entities.
3. Proposed fees and compensation.
4. Quality and conciseness of responses.
5. The ability to provide the requested services.
6. Quality of references.
7. The value of any new product, service suggestions, or other new ideas and enhancements.

8. Financial stability and ability to provide long-term service.

Fees and compensation will be an important factor in the evaluation of responses. However, the Office of the State Treasurer and the VPIC are 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 and the VPIC reserve the right to negotiate a change in any element of contract performance or cost identified in the RFP.

ATTACHMENT A

Essential Elements of Proposal

The purpose of the following section is to identify the information that should be submitted in response to this RFP and the order in which it should appear in the response. The purpose of the bidder's response is to demonstrate capacity, qualifications, and competence to provide the services outlined in this RFP.

Part I - Cover Letter

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

“We have read the State’s *Request for Proposals (RFP) to Provide Proxy Voting Services* 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 and the Vermont Pension Investment Committee.”

In addition, the cover letter must certify that:

1. The response is genuine, and is not a sham or collusive.
2. The response is not made in the interest of or on the behalf of any person not named therein.
3. 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.
4. The bidder has not in any manner sought by collusion to secure an advantage over any other respondent.
5. The bidder has thoroughly examined the RFP requirements and proposed fees cover all the services that we have indicated
6. The bidder acknowledges and accepts all terms and conditions included in the RFP.
7. The bidder provides proxy services to at least three pension fund clients with a minimum of \$1 billion in assets each. Please identify those clients.

8. At least one of the firm's proxy service clients is a public pension plan. Please identify the client.
9. The bidder agrees to provide proxy voting and other related services in a manner acceptable to the Treasurer's Office and the VPIC and as stipulated in the RFP and subsequent contract.
10. The bidder and key professionals do not have or anticipate a potential conflict of interest with the Office of the State Treasurer, the VPIC, relevant investment managers, or publicly traded corporations subject to proxy votes by the VPIC and the Office of the Treasurer.

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

Part II - Services to be Provided by Selected Bidder

Indicate whether your firm can provide the services indicated below and submit these pages with your response. Additional explanation should be included in Part III below.

DEVELOPMENT AND MAINTENANCE OF PROXY VOTING GUIDELINES

- | | | | | |
|--|-----|--|----|--|
| 1. Assist the VPIC and Office of the Treasurer in maintaining and modifying proxy vote guidelines. | Yes | | No | |
| 2. Provide assistance with annual updates of proxy vote guidelines. | Yes | | No | |

DEVELOPMENT OF INTERNATIONAL PROXY GUIDELINES

- | | | | | |
|--|-----|--|----|--|
| 1. Present a sample international guidelines policy appropriate for the VPIC/State | Yes | | No | |
| 2. Conduct one or more meetings with representatives of the State and VPIC to consider and make amendments to the sample policy. One meeting may be in-person as requested by State. | Yes | | No | |
| 3. Record amendments and recirculate drafts to State one or more times. | Yes | | No | |
| 4. Prepare and circulate final policy guidelines. | Yes | | No | |

RESEARCH AND VOTE PROXIES

- | | | | | |
|---|-----|--|----|--|
| 1. Receive domestic and international proxies from custodian, file, and prepare for research. | Yes | | No | |
| 2. Research proxy policy relative to guidelines and create vote recommendations. | Yes | | No | |

3. Apply vote recommendations to proxies and transmit proxies as directed to issuer.

Yes		No	

PERIODIC REPORTS

1. Provide reports on proxy votes cast on behalf of the treasurer as discussed in this RFP.

Yes		No	

AVAILABILITY OF STAFF

1. Staff is available to Treasurer’s office for additional voting recommendations and for discussion of specific proxy issues.

Yes		No	

Part III - Narrative Outline

Describe the proxy voting services your firm is prepared to provide to the Office of the State Treasurer and VPIC. Also, briefly describe any other related services your firm can provide that have not been otherwise fully described in your response.

Part IV - Description of Firm

1. HISTORY

- a. What is your firm’s complete name, address, voice telephone, email, and fax numbers? Include the name and title of your proposed primary consultant and the location from which the consulting work will be done.
- b. Briefly, what is your firm’s corporate history? Within the past three years, have there been any significant developments in your organization, such as changes in ownership, restructuring, or personnel reorganizations? Do you anticipate future significant changes in your organization? If yes, please describe.

2. OWNERSHIP

- a. Describe the ownership structure of your firm, giving specific details with regard to any parent or affiliates.
- b. Include an ownership organizational chart. Show and describe, if any, the distinct lines of business of your firm that are in addition to your proxy service business.

3. ORGANIZATION

- a. Describe the line(s) of business of your firm, any parent organization, and any affiliated companies.
- b. Within the last five years, has your firm or any officer or principal been involved in any business litigation or other legal proceedings relating to your consulting activities? If so, provide an explanation and indicate the current status or disposition.
- c. Please describe the level of coverage for errors and omissions insurance and any fiduciary or professional liability insurance your firm carries. List the insurance carrier(s) supplying the coverage.

4. ORGANIZATION RELATIONSHIPS

- a. Does your firm, its parent, or affiliate sell information or any other services to corporate clients? If so, describe the nature of these services (by class of client), in detail.
- b. Describe your procedures regarding the avoidance of conflicts of interest between corporate and institutional clients.

5. EMPLOYEES

- a. Provide biographies or résumés of the key individuals who would be assigned to our account.
- b. List senior staff hires and departures over the last three years.
- c. Provide data relating to turnover ratios of your research and technical staff over the last three years.
- d. List employees who would be assigned to this engagement and the extent of their proxy voting and/or plan sponsor experience. Please give details.

6. CURRENT CLIENTS

- a. Please provide the names, portfolio sizes, and length of engagements for the client base using your services for: (a) proxy voting services only; (b) research services only; and (c) both types of services. Based on this list, the VPIC may request contact information for purposes of a reference.
- b. Disclose how many public clients your firm provides voting services to. List three public clients as references, including contact names, addresses, and phone numbers. The VPIC shall assume that any of these three contacts may be called as a reference without further request.

7. FORMER CLIENTS

Please provide the names of all clients who have terminated your firm's services in the last three years. In each case, detail the reason for termination.

8. NEW CLIENTS

Please provide the names of all new client relationships gained in the last three years.

PART V – FEE SCHEDULE

Please provide a quote of your annual proposed fees for the full range of services specified in this RFP. These fee quotes must be all-inclusive and including but not be limited to all services, out-of-pocket travel expenses, office supplies and communications expenses, etc. Please also provide quotes for any additional services. If there are one-time services in the first year, please itemize those separately.

Development of the international proxy voting policy is expected in the first year of this contract.

The bidder should use the following format to submit cost proposal:

Services:	Year 1 Maximum Fee	Year 2 Maximum Fee	Optional Renewal Period (up to two 1- year renewals)
All services described herein: policy development and maintenance; proxy voting; reports and contractor staff availability			

ATTACHMENT B STANDARD CONTRACT PROVISIONS

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 7/1/2012), except that the following numbered paragraphs are not included: _____.

Attachment D – Standards of Conduct

[CONTRACTOR DOCUMENTS (if any) WILL BE ATTACHED]

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

by the **STATE OF VERMONT:**

by the **CONTRACTOR:**

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Agency: _____

Title: _____

**STATE OF VERMONT
CONTRACT FOR PERSONAL SERVICES**

**ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED**

(Attachment A will be inserted by the State)

**STATE OF VERMONT
CONTRACT FOR PERSONAL SERVICES**

**ATTACHMENT B
PAYMENT PROVISIONS**

(Attachment B will be inserted by the State)

ATTACHMENT C: STANDARD STATE 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

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 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. 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 in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 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.

19. Certification Regarding Use of State Funds: In the case that 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.

(End of Standard Provisions)

- End RFP-