

STATE OF VERMONT
STANDARD GRANT AGREEMENT

Agreement# CA0630

Part 2 – Grant Agreement

1. Parties: This is a Grant Agreement for the advancement of a transportation project between the State of Vermont, Agency of Transportation (hereinafter called “State”), and **Town of Windham**, a local government, with its principal place of business at **5976 Windham Hill Road, Windham, Vermont 05359**, (hereinafter called “Subrecipient”). It is the Subrecipient’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Subrecipient is required to have a Vermont Department of Taxes Business Account Number.
2. Subject Matter: The subject matter of this Grant is the advancement of a transportation project known as **Windham STP MM20(2)**. A detailed description of the project and the services to be provided by the Subrecipient are described in Attachment A.
3. Award Details: Amounts, dates and other award details are as shown in the attached Grant Agreement Part 1 – Grant Award Detail. A detailed scope of work covered by this award is described in Attachment A.
4. High Risk: If at any time the Subrecipient or Subaward are determined to be high risk as per the State of Vermont, Agency of Administration, Bulletin No. 5, Policy for Grant Issuance and Monitoring, or 2 CFR §200.331, additional monitoring measures will be imposed in accordance with 2 CFR §200.207.
5. Prior Approvals: If approval by the Attorney General’s Office is required by the granting agency, neither this Grant nor any amendment to it is binding until it has been approved by the Attorney General’s Office.
 - Approval by the Attorney General’s Office is required.
 - Approval by the Secretary of Administration is not required.
 - Approval by the CIO/Commissioner DII is not required.
6. Amendment: No changes, modifications, or amendments in the terms and conditions of this Grant shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Subrecipient.
7. Cancellation: This Grant may be cancelled by either party by giving written notice at least 30 days in advance.
8. Attachments: This Grant Agreement consists of **26** pages including the following attachments which are incorporated herein:

Attachment A –Description of Project and Scope of Work to be Performed by
Subrecipient

Attachment B –Payment Provisions

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

Attachment D –Other Grant Agreement Provisions

Attachment E –Special Conditions

Attachment F –Applicable Standards and Design Criteria

Attachment G –Personnel Requirements and Conditions

Attachment H -Required Submittals, State Liaison, Waiver of Standards and
Modifications of Design Steps, Plans, Documents and Estimates
Attachment I-DOT Standard Title VI Assurances and Non-Discrimination Provisions
(DOT 1050.2A) - Assurance Appendix A and Assurance Appendix E

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

STATE OF VERMONT
AGENCY OF TRANSPORTATION

SUBRECIPIENT:
TOWN OF WINDHAM

Signature:  E-SIGNED by Joe Flynn
on 2020-08-04 13:49:17 GMT

Signature:  E-SIGNED by Kord Scott
on 2020-08-03 23:23:13 GMT


Name: Joe Flynn

Name: Kord Scott

Title: Secretary of Transportation

Title: Selectboard Member

APPROVED AS TO FORM:

 E-SIGNED by Gordon Landrigan
on 2020-06-17 18:47:19 GMT
ASSISTANT ATTORNEY GENERAL

STATE OF VERMONT GRANT AGREEMENT

Part 1-Grant Award Detail

SECTION I - GENERAL GRANT INFORMATION

¹ Grant #: CA0630		² Original <input checked="" type="checkbox"/> Amendment #	
³ Grant Title: Windham STP MM20(2)			
⁴ Amount Previously Awarded: \$ 0.00		⁵ Amount Awarded This Action: \$ 400,000.00	
⁶ Total Award Amount: \$ 400,000.00			
⁷ Award Start Date: 07/08/2020		⁸ Award End Date: 12/1/2024	
⁹ Subrecipient Award: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
¹⁰ Vendor #: 0000040684		¹¹ Grantee Name: Town of Windham	
¹² Grantee Address: 5976 Windham Hill Road			
¹³ City: Windham		¹⁴ State: VT	
¹⁵ Zip Code: 05359			
¹⁶ State Granting Agency: Vermont Agency of Transportation			¹⁷ Business Unit: 08100
¹⁸ Performance Measures: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		¹⁹ Match/In-Kind: \$ 100,000 Description: Required matching funds	
²⁰ If this action is an amendment, the following is amended: Amount: <input type="text"/> Funding Allocation: <input type="text"/> Performance Period: <input type="text"/> Scope of Work: <input type="text"/> Other: <input type="text"/>			

SECTION II - SUBRECIPIENT AWARD INFORMATION

²¹ Grantee DUNS #: 618599955		²² Indirect Rate: 0 % (Approved rate or de minimis 10%)		²³ FFATA: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
²⁴ Grantee Fiscal Year End Month (MM format): 12				²⁵ R&D: <input type="text"/>	
²⁶ DUNS Registered Name (if different than VISION Vendor Name in Box 11):					

SECTION III - FUNDING ALLOCATION

STATE FUNDS

Fund Type	²⁷ Awarded Previously	²⁸ Award This Action	²⁹ Cumulative Award	³⁰ Special & Other Fund Descriptions
General Fund	\$	\$	\$	
Special Fund	\$	\$	\$	
Global Commitment (non-subrecipient funds)	\$	\$	\$	
Other State Funds	\$ 0.00	\$ 0.00	\$ 0.00	

FEDERAL FUNDS

(includes subrecipient Global Commitment funds)

Required Federal Award Information

³¹ CFDA #	³² Program Title	³³ Awarded Previously	³⁴ Award This Action	³⁵ Cumulative Award	³⁶ FAIN	³⁷ Federal Award Date	³⁸ Total Federal Award
20.205	Highway Planning & Construction	0.00	\$400,000.00	\$400,000.00	AFFF		\$
³⁹ Federal Awarding Agency: Federal Highway Administration		⁴⁰ Federal Award Project Descr:					
		\$	\$	\$			\$
Federal Awarding Agency:		Federal Award Project Descr:					
		\$	\$	\$			\$
Federal Awarding Agency:		Federal Award Project Descr:					
		\$	\$	\$			\$
Federal Awarding Agency:		Federal Award Project Descr:					
		\$	\$	\$			\$
Federal Awarding Agency:		Federal Award Project Descr:					
		\$	\$	\$			\$
Federal Awarding Agency:		Federal Award Project Descr:					
Total Awarded - All Funds		\$ 0.00	\$ 400,000.00	\$ 400,000.00			

SECTION IV - CONTACT INFORMATION

STATE GRANTING AGENCY	GRANTEE
NAME: Peter Pochop	NAME: Kord Scott
TITLE: Project Supervisor	TITLE: Selectboard Member
PHONE: 802-477-3123	PHONE: 802-875-3725
EMAIL: peter.pochop@vermont.gov	EMAIL: kordscott@vermontel.net

ATTACHMENT A
DESCRIPTION OF PROJECT AND
SCOPE OF WORK TO BE PERFORMED BY SUBRECIPIENT

1. Project Location and Description. The Project is described as follows:

Town	Windham
Location	VT Route 121. MM 0.17
Description	Culvert Replacement

2. Subrecipient Assumption of Full Responsibility for the Project. The Subrecipient assumes full and complete responsibility for any and all aspects relative to the development of the Project except for those items defined in this Grant Agreement for which the State retains responsibility.

3. Commencement of Work. Subrecipient shall not commence work on or incur expenses for the Project until receiving authorization to proceed from the State or upon execution of the Agreement, whichever occurs later.

4. Municipal Project Manager (MPM). All work for the Project will be performed by the Subrecipient or its duly authorized consultant in conformance with the latest update of the Municipal Assistance Bureau Guide document(s). The Subrecipient will designate a full-time employee, member of its legislative body, or other representative, as approved by the State to be the Municipal Project Manager (MPM) for the Project. The MPM will act on the authority granted by the Subrecipient.

5. Federal Environmental Documentation: Duties of MPM. As appropriate, the MPM will review the National Environmental Policy Act (NEPA) environmental document (Categorical Exclusion [CE], Environmental Assessment [EA], or Environmental Impact Statement [EIS]) prepared for/by the Subrecipient, and after ensuring that it is in order, will forward the environmental document to the State for processing through the Federal Highway Administration (FHWA).

6. Pre-Construction: Duties of MPM. Prior to advertising the Project for construction, the MPM will:

(a) The MPM will notify the State in writing 30 days prior to beginning the Right-of-Way phase in order to allow for the funding to be programmed. Review the right-of-way issues for the Project and, after ensuring compliance with all applicable federal and state laws and regulations, will forward the right-of-way documents to the State. The State will issue the Right-of-Way Clearance Certificate.

(b) Review the utility and/or railroad issues for the Project and, after ensuring compliance with all applicable federal and state laws and regulations, provide compliance certification to the State.

(c) Review the Project for compliance with all federal, state, and local laws, ordinances, regulations, and permit requirements and, upon completion of that review and finding that all requirements have been satisfied, send a compliance certification to the State.

(d) Secure documentation that the design meets all applicable standards, codes, and requirements for design and public safety standards.

(e) Secure documentation attesting to the attainment of required structural capacity requirements for all structures and adherence of all traffic control devices to the FHWA's *Manual on Uniform Traffic Control Devices* (MUTCD). This documentation shall be signed by an engineer registered under the laws of the State of Vermont to practice "structural or civil" engineering, and shall be attached to the certification required in Section 6(d), above.

(f) Provide certification to the State both as to those permits, agreements and clearances that have been secured for the Project and as to those which have been determined NOT to apply to the Project.

(g) Review and sign all project related invoices and ensure invoices are in the proper format before submittal to the State for approval.

(h) The MPM will notify the State in writing 30 days prior to beginning the Construction phase in order to allow for the funding to be programmed. No work shall commence unless authorized in writing.

7. Public Meeting. The Subrecipient will warn a public meeting on the Project if required by the State to do so, conduct the meeting in accordance with state and federal requirements, and coordinate the Project with the State and property owners in the Project area.

8. Project Design. Subrecipient agrees that the project development work for this Project shall include preparation of a purpose and need statement, conceptual design plans and estimate, environmental documentation, right-of-way plans, and contract plans, including all specifications, contract documents, and cost estimates. The Project design shall include plans, notes, references to specifications or standards, typical sections, cross sections and all project design computations. Project designs may be prepared in accordance with the standards and formats of the local community, provided those standards and formats meet or exceed State standards or are approved by the State. *Required submittals to the State are all of the above, unless otherwise noted in the Special Conditions.*

Submittals required for justification of payments (monthly for design, biweekly for construction) to the Subrecipient, or for review to assure conformance with the requirements of this Agreement, shall be in a format prescribed by the State's Project Manager.

9. Project Construction. Unless otherwise approved by the State, the Subrecipient will advertise the Project for receipt of bids in conformance with federal and state laws and regulations. The Subrecipient will award the construction contract to the lowest responsive, responsible bidder and will be fully responsible for administration of the contract through completion and acceptance of the Project.

10. Construction Engineering. Construction inspection and materials sampling/testing work for the Project shall include inspection of the construction in progress for conformance with the contract requirements.

11. Project Accounting. Subrecipient will establish and maintain a separate accounting for Project funds, payments, and receipts for the duration of this Grant Agreement.

12. Compliance with FHWA/USDOT Regulations. Subrecipient agrees that it will manage the Project to comply with all applicable provisions of Titles 23 (Highways) and 49 (Transportation) of the Code of Federal Regulations (C.F.R.).

13. Compliance with Federal, State and Local Requirements. Subrecipient will comply with the requirements of all federal, state, and local laws, ordinances and regulations applicable to the Project.

14. Compliance with Permits, Agreements and Clearances. Subrecipient will secure and honor all applicable and necessary local, state, and federal permits, agreements and clearances prior to completion of final construction plans, and will adhere to or make provision for attainment of all conditions set forth in those documents.

15. Utility and Railroad Relocation and Adjustments. Subrecipient agrees that any utility or railroad relocation costs deemed participating Project costs shall meet all applicable eligibility and financial requirements as stated in federal and state laws, regulations, and policies.

16. Acquisition of Lands or Rights for Construction. Should construction of the project require the acquisition of lands or rights outside of the existing State or municipal rights-of-way, the Subrecipient shall acquire such lands or rights either by agreement or through exercise of its eminent domain powers, when applicable, in conformance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. § 4601 et seq. (the Uniform Act) and its implementing regulations, 49 C.F.R. Part 24.

17. Expeditious Pursuit of Project. Subrecipient will pursue the Project in an expeditious manner in conformance with the Project schedule agreed upon by the Subrecipient and the State. Changes found necessary by either party to this Grant Agreement or to the schedule for the Project will be brought to the attention of the other party as soon as possible so that mutual agreement can be achieved.

18. Submission of “As-Built” Plans to the STATE. For any Project affecting State highway rights-of-way, and for all structure-related projects, the Subrecipient will develop the plans in a format acceptable to the State and provide the State with four sets of “as-built” plans and one copy of any electronically developed plan files.

19. Hazardous Material Contamination. Responsibility for any contaminated materials within the Project area shall remain unaffected by this Grant Agreement as they are generally non-participating. The Subrecipient shall notify the State of the presence of and design alternatives for potential contaminated and/or hazardous waste sites located during the development or construction stage. Once the Subrecipient determines that contamination exists, whether obvious or established through testing, the Subrecipient shall notify the appropriate regulatory agency.

20. Maintenance of the Completed Project. If the Project is constructed, the Subrecipient will maintain the completed Project in a manner satisfactory to the State or its authorized representative(s) at no cost to the State, and will make ample provisions each year for such maintenance.

21. Personnel Requirements. The Subrecipient will comply with the personnel requirements contained in Attachment G (Personnel Requirements and Conditions).

22. Assignment of State Representative. The State will assign a representative to act as its Project liaison with the Subrecipient.

23. Conformance with Standards. The parties agree that all work performed by the Subrecipient, or its duly authorized representative, shall conform to the applicable standards/design criteria set forth in Attachment F (Applicable Standards & Design Criteria), unless waived in whole or in part in writing by the State.

24. Reviews by the State. The parties agree that, at the discretion of the State's Program Director, the State may inspect or review any work or aspect of the Project for any reason during the development of the Project.

**Vermont Agency of Transportation
Municipal Assistance Bureau
Grant Recipient
Project Commitments Form (PCF)**

Grant Recipient (*Grantee*): Town of Windham

Project Name STP MM 20(2) – Route 121 culvert replacement

Name of full-time Municipal employee in *Responsible Charge* of this project regardless of any additional contracted management services: Kord Scott

By signing at the bottom of this document, the *Grantee* agrees to the following:

1. We acknowledge that we are responsible for providing the local share of the project funding and commit to doing so.
2. We are ready to move forward with this project and will sign the grant agreement within one month of receiving it from the State of Vermont Agency of Transportation (VTrans).
3. Within 2 months of receiving a fully executed grant agreement from VTrans, we will begin the procurement process for contracted services (i.e. project management and/or engineering.) If both of these services will be procured, the RFP/RFQ for design services must be advertised within one month of the selection of the Municipal Project Manager (MPM).
4. The *Grantee* shall obtain a detailed proposed schedule from the design consultant, which indicates the time duration for key steps which advance the project to contract plans and bid documents within 1 month of the design contract being executed. Municipal Assistance Bureau staff members will review and verify that adequate timeframes are included for VTrans reviews and required project milestones. We agree to work with VTrans to develop a mutually-agreeable initial baseline project schedule, against which project progress will be evaluated.
5. We will submit reports at least quarterly that detail project progress, as compared to the baseline schedule. We will notify the VTrans project supervisor of any proposed changes to the baseline schedule in a timely manner. These will be discussed and reviewed. Impacts to key milestones resulting from an approved schedule change will be identified and discussed.
6. Project invoices requesting reimbursement for eligible expenses will be submitted at least quarterly, but may be submitted monthly.
7. We understand that a copy of this PCF will be appended to the grant agreement.

Kord Scott

4 / 21 / 2020

Authorized municipal official (Name and Signature)

Date

ATTACHMENT B
PAYMENT PROVISIONS

1. Funding Ratio. Up to the maximum limiting amount (MLA) shown below, the State agrees to pay **80%** of the total Project costs eligible for federal participation, including, but not limited to, administration, engineering, right-of-way, utility, railroad relocation and construction costs, except for State's review costs, which will be borne 100% by the State. The State shall not be responsible for expenses incurred by the Subrecipient except as specified in this Agreement.

2. Non-Participating Costs. Work accomplished by the Subrecipient, and/or its consultant or contractor, which has been designated by the State as non-participating for purpose of financial reimbursement, shall be the sole responsibility of the Subrecipient. Examples of non-participating costs include elements outside the scope of work, utility work not related to the project scope, any work outside of the Project limits and approaches and that portion of right-of-way settlements which exceed "Fair Market Value", as determined by reviewing appraiser in accordance with 49 C.F.R. § 24.104 (Review of appraisals). Due to federal regulations that require all project costs to be reported within the federal financial system, the Subrecipient shall document and supply a summary of all non-participating costs. This shall include costs incurred by the Subrecipient above the maximum limiting amount of this Agreement.

3. Compliance with Vermont Prompt Payment Act. To the extent it is applicable, Subrecipient, with respect to work performed pursuant to this Grant Agreement, agrees to comply with the provisions of the Vermont Prompt Payment Act (9 V.S.A. Chapter 102).

4. Reimbursement if Project Not Constructed due to Subrecipient. If at any time the Subrecipient no longer desires the improvements as specified for the Project, or if the Subrecipient fails to meet its obligation to construct the Project, then the Subrecipient shall promptly notify the State. As provided by 19 V.S.A. § 309c(a), the State shall consult with the Subrecipient about the Subrecipient's obligation to repay project costs. The Secretary of Transportation shall then make the final determination of the amount and schedule for the repayment that shall be made to the State by the Subrecipient, considering applicable laws and regulations. Pursuant to 19 V.S.A. §§ 5(d)(13) and 309c(b), within 15 days of the Secretary's determination, the Subrecipient may petition the Vermont Transportation Board for a hearing to determine whether the amount of the Subrecipient's repayment obligation as determined by the Secretary may be reduced.

5. Project Costs and Phases. The parties agree that the Subrecipient will perform all tasks and duties incidental to accomplishing the following Project development phases, where an amount of funding is indicated, in conformance with the schedule or amended schedule agreed upon by the parties: and that the State will pay the state and federal share of all properly documented invoices from the Subrecipient for work incidental to the development of the Project up to the total available State/federal funds to the Subrecipient:

Phase	Federal \$	State \$	Local \$	Total \$
Total Available Funds to Subrecipient*	\$400,000	\$0	\$100,000	\$500,000

*The amounts noted may not reflect expenditures that were covered under prior agreements or contracts.

6. Excess Costs. The parties agree that costs incurred by, at the direction of, or for the Subrecipient, when such costs exceed the totals indicated in Section 5, above, will not be eligible for federal or state participation unless those costs have been incorporated into this Grant Agreement through a written amendment.

7. Allocation of Funds by STATE. On the basis of the Subrecipient's request for authorization to develop the Project, and subject to the availability of state and federal funds, the State agrees to make available to the Subrecipient a sum not to exceed **\$0** in State funds and **\$400,000** in federal-aid funds for engineering, right-of-way, utility and railroad relocation where applicable, construction, and construction engineering costs (as described in Section 5 above).

8. Payment of Invoices by the STATE. The State agrees to pay the Subrecipient the federal and state shares of properly documented bills invoiced by the Subrecipient.

Invoices, which shall clearly reference the Project name and number, shall be sent to:

Name: **Peter Pochop, Project Supervisor**
Division: Municipal Assistance Bureau
Address: Vermont Agency of Transportation
219 North Main Street
Barre, VT 05641

9. Payment of Amounts Found Due by Audit. In the event an audit or inspection by a certified or registered public accountant or an authorized agent of the State reveals that monies are due and owing to the State from the Subrecipient, for whatever reasons, then the Subrecipient shall pay such sums to the State within thirty (30) days of written notification of the findings of such audit or inspection.

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

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

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

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

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

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

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

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

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

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

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

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed

herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

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

\$1,000,000 Personal & Advertising Injury

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

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

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

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

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

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

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

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or

acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

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

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

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

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

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

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

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and

Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).

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

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

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

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

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

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

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

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

27. Termination:

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

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

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

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

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

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

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

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required. For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.
- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

ATTACHMENT D
OTHER GRANT AGREEMENT PROVISIONS

1. **Cost of Materials:** Subrecipient will not buy materials and resell to the State at a profit.
2. **Availability of Federal Funds:** This contract is funded in whole or in part by federal funds. In the event the federal funds supporting this contract become unavailable or are reduced, the State may cancel this contract immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
3. ~~**Identity of workers:** The Subrecipient will assign the following individuals to the services to be performed under the provisions of this agreement, 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 agreement.~~
4. ~~**Work Product Ownership:** Upon full payment by the State, all products of the Subrecipient's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, becomes the sole property of the State of Vermont and may not be copyrighted or resold by Subrecipient.~~
5. **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 Subrecipient under this grant agreement shall be approved/reviewed by the State prior to release.
6. ~~**Ownership of Equipment:** Any equipment purchased by or furnished to the Subrecipient by the State under this grant agreement is provided on a loan basis only and remains the property of the State.~~
7. **Subrecipient's Liens:** Subrecipient will discharge any and all contractors' or mechanics' liens imposed on property of the State through the actions of subcontractors.
8. ~~**Performance Bond:** The Subrecipient shall, prior to commencing work under this grant agreement, furnish to the State a payment and performance bond from a reputable insurance company licensed to do business in the State of Vermont, guaranteeing the satisfactory completion of the grant agreement by the Subrecipient and payment of all subcontractors, suppliers and employees.~~
9. ~~**Professional Liability Insurance:** Before commencing work on this grant agreement and throughout the term of this grant agreement, Subrecipient shall procure and maintain professional liability insurance for any and all services performed under this grant agreement, with minimum coverage of \$100,000.00 per occurrence.~~
10. **Federal-Aid Construction Work:** The subrecipient will comply with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a 7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction sub agreements.

11. ~~Health Insurance Privacy & Portability Act:~~ ~~The confidentiality of any health care information acquired by or provided to the independent subrecipient shall be maintained in compliance with any applicable State or federal laws or regulations.~~

12. Audit of Federal Subrecipient: Under current interpretations of federal law, the subrecipient will be subject to the federal Single Audit Act. Subrecipient will comply with audit requirements contained in Circular A-133/Circular A110 and/or other applicable circulars of the U.S. Office of Management and Budget. ~~The cost of such an audit will be borne by the Subrecipient is included in the payment provisions of this Grant.~~

13. Requirement to Have a Single Audit: If this subrecipient expends \$500,000 or more in federal assistance during its fiscal year, it 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 entity.

If the subrecipient should spend less than \$500,000 in aggregate federal funds in any single fiscal year, organization-wide financial statements and a schedule of federal financial assistance for VTrans funds only shall be submitted within nine (9) months of the end of the fiscal year. The federal financial assistance schedule will list the funds by title, Code of Federal Domestic Assistance (CFDA) number, pass-through Municipal's number, award amount, receipts, and expenditures. At the Program Director's discretion, agreed upon procedures, related to the VTrans schedule of federal financial assistance, may be required to be performed by a certified independent audit firm.

The State reserves the right to withhold reimbursement of project costs if the subrecipient does not comply with the requirements of this section or with Attachment C section 9.

14. Equal Opportunity Plan: If they are required by the Federal Office of Civil Rights to have a plan, the subrecipient must provide a copy of the approval of their Equal Opportunity Plan.

15. Supplanting: If required, the subrecipient will submit a Certification that funds will not be used to supplant local or other funding.

16. Grant Term: The Grant term is the period during which grant funds may be expended. Expiration of the Grant Term does not relieve the subrecipient from the duty to fulfill long term grant requirements, some of which may extend indefinitely. Such long-term requirements may include but are not limited to, maintenance of the completed project, applicable reporting requirements, and obtaining the State's approval before selling or transferring equipment or property acquired with grant proceeds.

17. Responsibility for Project Costs determined Ineligible for Reimbursement by FHWA: In the event that Project costs incurred are not reimbursed by the Federal Highway Administration due to the Subrecipient's failure to follow proper federal guidelines and/or the expenditures are found by the State or FHWA to be federally non-participating items, the Subrecipient shall be responsible for 100% of such Project costs.

- 18. Limits on Reimbursement:** The State will not reimburse the Subrecipient for premium rate overtime unless the State has given its prior written approval for such overtime. The State will reimburse the Subrecipient for reasonable and necessary expenses actually incurred in the performance of this Grant subject, however, to the reimbursement limitations for state employees. The State will not reimburse the Subrecipient for meals taken during travel not requiring an overnight stay away from home.
- 19. Compliance with Cost Principles:** Grantee shall comply with the requirements set forth in 2 CFR, Part 225 (superseding OMB Circular A-87 for State and Local Governments Including Schools), 2 CFR, Part 230 (superseding OMB Circular A-122 for Non Profit Organizations), or 2 CFR, Part 220 (formerly A-21 for Higher Education Institutions) as appropriate for the Grantee's type of organization.
- 20. Compliance with Administrative Regulations:** Grantee shall comply with the requirements of OMB Circular A-102 (State & Local Governments and Schools) or 2 CFR Part 215 (superseding OMB Circular A-110 for Institutions of Higher Education, Hospitals, and Non Profit organizations) as appropriate for the grantee's type of organization.
- 21. Resolution of Grant Disputes.** The parties shall attempt to resolve any disputes that may arise under this Grant by negotiation. Any dispute not resolved by negotiation shall be referred to the State's appropriate Director for determination. If the Grantee is aggrieved by the decision of the Director, the Grantee may appeal in writing to the Transportation Board, through the Director, within 30 calendar days of the Director's decision, but not thereafter. The notice of appeal shall completely outline the nature and extent of the issue(s) appealed and shall include copies of any and all supporting documentation. The decision of the Transportation Board may be appealed to Vermont Superior Court by either party as provided in 19 V.S.A. 5(d)(4).
- 22. Interpretation of Grant.** If an ambiguity or question of intent arises with respect to any provision of this Grant, the Grant will be construed as if drafted jointly between the parties and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of authorship of any of the provisions of this Grant.
- 23. Cargo preference act compliance (if applicable).** The contractor/recipient/subrecipient is hereby notified that the Contractor and Subcontractor(s)/recipients and subrecipients are required to follow the requirements of 46 CFR 381.7 (a)-(b), if applicable. For guidance on requirements of Part 381 – Cargo Preference – U.S. Flag Vessels please go to the following web link: <https://www.fhwa.dot.gov/construction/cqit/cargo.cfm>.

ATTACHMENT E
SPECIAL CONDITIONS

None

ATTACHMENT F
APPLICABLE STANDARDS & DESIGN CRITERIA

- A. Vermont State Standards for Design
- B. Latest Edition of the Manual for Uniform Traffic Control Devices (MUTCD)
- C. The most recent appropriate version of the VTrans Standard Specifications for Construction, as amended with its most recent General Special Provisions and Supplemental Specifications, but only to the extent not inconsistent with this Grant Agreement.
- D. VTrans Utilities Manual
- E. Vermont Pedestrian and Bicycle Facility Planning and Design Manual
- F. American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide
- G. AASHTO Guide for Design of Pavement Structures
- H. The most recent version of the Highway Capacity Manual
- I. VTrans Hydraulics Manual
- J. The Approved Project Environmental Document
- K. VTrans Structures Manual
- L. Code of Federal Regulations (CFR), Titles 23 (Highways), 48 (Federal Acquisition Regulations System) (FARS), and 49 (Transportation)
- M. VTrans Procedures for Selecting Contractors and Specifications for Contractor Services, Including Customary State Contract Provisions, but only to the extent not inconsistent with this Grant Agreement.
- N. AASHTO Specifications for Highway Bridges
- O. VTrans Design Exception Procedure
- P. VTrans Right-of-Way Manual
- Q. VTrans Policy for CADD standards
- R. U.S. Department of Justice rules implementing the Americans with Disabilities Act (ADA), 28 CFR Part 36)
- S. Municipal Assistance Bureau Guidebook
- T. Transportation Enhancement Operations Program Manual

If the Grantee believes that there is a discrepancy in the information contained herein or in the above-listed requirements, the Grantee shall notify the State. The State, after consultation with the Grantee, will, in its sole discretion, determine which requirement takes precedence.

ATTACHMENT G
PERSONNEL REQUIREMENTS AND CONDITIONS

A. Standards of Conduct

1) No employee, officer or agent of the Subrecipient shall participate in the selection, award or administration of a contract support by state or federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- the employee, officer or agent, or
- any member of his or her immediate family, or
- his or her partner, or
- an organization which employs, or is about to employ, any of the above,

has a financial or other interest in the consultant or contractor selected for award. Subrecipient's officers, employees or agents will neither solicit nor accept gratuities, favors or any gift of any kind or value from consultants, potential consultants, contractors, potential contractors, or parties to sub-agreements. Violation of this standard will result in penalties, sanctions, or other disciplinary actions to the extent permitted by State, Federal or local law.

2) Except where it conflicts with fairness toward competitors, Subrecipient shall avoid any appearance of a conflict of interest in the award of a contract. If there is such an appearance of a conflict of interest wherein a reasonable person might conclude that the contractor was selected for improper reasons, the Subrecipient shall disclose that fact and, regardless, should document its reasons for selection all contractors.

B. The Subrecipient shall employ only qualified personnel in responsible charge of the supervision of work.

C. Except with the approval of the State, during the life of this Agreement, the Subrecipient will not employ:

1) Personnel on the payroll of the State who are directly involved with the awarding, administration, monitoring, or performance of the contract or the Project(s) which are the subject(s) of this Grant Agreement, or

2) Any person so involved within one (1) year of termination of employment with the State.

ATTACHMENT G
PERSONNEL REQUIREMENTS AND CONDITIONS (CONTINUED)

D. The Subrecipient warrants that no company or person has been employed or retained other than a bona fide employee working solely for the Subrecipient to solicit or secure this Agreement and that no company or person has been paid or has an agreement with the Subrecipient to be paid other than a bona fide employee working solely for the Subrecipient any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of the warranty, the State shall have the right to annul this Agreement without liability to the State and to regain all costs incurred by the State in the performance of the Agreement.

E. The State reserves the right to require the removal from the Project any person employed by the Subrecipient for misconduct, incompetence or negligence, as determined by the Secretary of the Vermont Agency of Transportation, in the due and proper performance of his/her duties or who neglects or refuses to comply with the requirements of this Agreement.

ATTACHMENT H
REQUIRED SUBMITTALS, STATE LIAISON, WAIVER OF STANDARDS AND
MODIFICATIONS OF DESIGN STEPS, PLANS, DOCUMENTS AND ESTIMATES

Required Submittals: Conceptual Plans, Final Plans and Contract Plans, Specifications and Estimates

State Liaison: **Peter Pochop – Project Project**

Waivers of Standards: **None**

Modifications of Project Design Steps, Plans, Documents and Estimates: **None**

Assurance Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement

as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Assurance Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), (“...*which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 *et seq.*

VERMONT LEAGUE OF CITIES & TOWNS



Issue Date: 08/04/2020

Policy Number: P8502020

CERTIFICATE OF COVERAGE

Company Affording Coverage

Named Member

Town of Windham
Attn: Michael McLaine
5976 Windham Hill Road
Windham, VT 05359

VLCT Property & Casualty Intermunicipal Fund, Inc.
89 Main Street Suite 4
Montpelier, VT 05602

Type of Coverage

Term

Limits of Liability

Commercial General Liability

01/01/2020 - 01/01/2021

\$10,000,000 Per Occurrence

Coverage Includes:

Premises/Operations
Products/Completed Operations
Personal Injury
Contractual
Independent Contractors
Broad Form Property Damage

Automobile Liability

01/01/2020 - 01/01/2021

\$10,000,000 Per Occurrence

Any Auto
Hired Autos
Non-Owned Autos
Comprehensive/Collision

ACV

Workers Compensation

01/01/2020 - 01/01/2021

Statutory

And
Employers Liability

\$5,000,000 Per Occurrence and in the Aggregate

Property

01/01/2020 - 01/01/2021

\$10,000,000 Per Occurrence

Other: The State of Vermont and its agencies, departments, officers and employees are included as an additional covered party (additional insured) for General Liability, Automobile Liability and Property Damage, but only in respect to operations by or on behalf of the Named Member, as respects the grant. Coverage shall be primary and noncontributory with any other insurance, when required by contract.

Certificate Holder:

State of Vermont
Agency of Transportation-Contract Administration
219 North Main Street, Suite 105
Barre, VT 05641

This Certificate is issued as a matter of information only and confers no rights upon the Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded by the policies above.

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the Certificate Holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents, or representatives.

Authorized Representative: _____

Frederick J. Natoni