

From: Colleen Harrington <[REDACTED]>
Sent: Wednesday, July 8, 2020 3:05 PM
To: AGO - Info <AGO.Info@vermont.gov>; Harris, Gregg <Gregg.Harris@vermont.gov>;
mmorrissey@leg.state.vt.us; Chamber of Commerce <info@bennington.com>; Hurd, Stuart
<shurd@benningtonvt.org>; bcampion@leg.state.vt.us; Richard Sears <rsears@leg.state.vt.us>
Subject: Misappropriation of Funds

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear Mr. Donovan,

I have repeatedly under FOIA requested the breakdown of expenditures for the taxpayer funds which are being managed by Matt Harrington and the Bennington Chamber of Commerce. To this date, I have not received even the courtesy of a response from Matt Harrington other than a Facebook message stating that only chamber members were eligible to see these records. Basically, Matt Harrington did not think that I would join the chamber for \$250.00, which to me was akin to blackmail.

Of note, the contract has nothing to do with Chamber business other than they were picked to manage the contract.

The state (Gregg Harris) supplied me with their monthly totals immediately. I have also been told that they have reminded Matt Harrington to release the records and that FOIA does apply. I am looking for the breakdown of expenditures and what amounts have been approved to pay or have been paid already. There is a short list of what can be paid under this contract pertaining to the Welcome Center located in Bennington, Vermont.

I have also contacted Mary Morrissey several times as she is a Chamber member. She has assured me repeatedly that she has told them to release the records. To date, I have received nothing. I believe this is due to misappropriation of funds that needs to have an outside auditor, NOT Doug Hoffer, to look over the expenditures. I am also requesting that you please forward me the records that I am requesting Mr. Donovan.

Sincerely,

Colleen Harrington

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services (the "State") and Bennington Area Chamber of Commerce, with a principal place of business in Bennington, VT (the "Contractor") that the contract between them originally dated as of August 1, 2017, Contract # 34474, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$838,020.24 to \$841,787.28, representing an increase of \$3,767.04
- II. **Attachment B, Payment Provisions.** The payment provisions are amended as follows:

The payment amount for a period of twelve months is \$213,047.28 to be disseminated through fixed monthly payments of \$17,753.94 over the third year of the contract which represents an annual CPI increase of 1.8%.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor 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.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor'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.

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

Sole Source Contract for Services. This Contract results from a "sole source" procurement under State of Vermont Administrative Bulletin 3.5 process and Contractor hereby certifies that it is and will remain in compliance with the campaign contribution restrictions under 17 V.S.A. § 2950.

This document consists of 3 pages. Except as modified by this Amendment No. 2, all provisions of the Contract remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

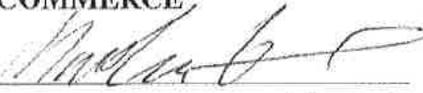
By: E-SIGNED by Christopher Cole
on 2019-08-26 13:47:05 GMT

Name: Christopher Cole

Title: BGS Commissioner

Date: _____

**BENNINGTON AREA CHAMBER
OF COMMERCE**

By: 

Name: Matthew Harrington

Title: Executive Director

Date: 8/2/19

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services (the "State") and Bennington Area Chamber of Commerce (BACC), with a principal place of business in Bennington, VT (the "Contractor") that the contract between them originally dated as of August 1, 2017, Contract # 34474, as amended to date, (the "Contract") is hereby amended as follows:

I. **Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$829,320.00 to \$838,020.24, representing an increase of \$8,700.24.

II. **Attachment B, Payment Provisions.** The payment provisions are amended as follows:

Section 3 of Attachment B is amended by the following:

- The payment amount for the period of August 1, 2018 through July 31, 2019 is \$209,280.24 to be disseminated through fixed monthly payments of \$17,440.02 over the second year of the contract which represents an annual CPI increase of 2.8%.

III. **Attachment C, Standard State Provisions for Contracts and Grants.** Attachment C is hereby deleted in its entirety and replaced by the Attachment C, December 15, 2017 attached to this Amendment.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor 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.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor'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.

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

This document consists of 8 pages. Except as modified by this Amendment No. 1, all provisions of the Contract remain in full force and effect.

Contract #34474
Amendment #1

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**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)

H
9/28

1. **Parties.** This is a contract for services between the State of Vermont, Department of Buildings and General Services (hereinafter called "State"), and Bennington Area Chamber of Commerce (BACC), with a principal place of business in Bennington, VT, (hereinafter called "Contractor"). Contractor's form of business organization is incorporated. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, 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 operation of the state-owned Bennington Welcome Center. Detailed services to be provided by 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 \$829,320.00.
4. **Contract Term.** The period of contractor's performance shall begin on August 1, 2017 and end on July 31, 2021 subject to a satisfactory annual evaluation and legislative approval and funding. In the event of reduction in legislative funding the parties agree to negotiate a reduction in contract payment and an equal reduction in service if necessary.
5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.
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. **Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.
8. **Attachments.** This contract consists of 24 pages including the following attachments which are incorporated herein:
 - Attachment A - Statement of Work
 - Attachment B - Payment Provisions
 - Attachment C - "Standard State Provisions for Contracts and Grants" a preprinted form (revision date 07/01/2016)
 - Attachment D - Other Provisions (if any)
 - Attachment E - Brochure Guidelines for Vermont Welcome Centers
 - Attachment F - Advertising Guidelines
9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment C (Standard Contract Provisions for Contracts and Grants)
- (3) Attachment D (if applicable)
- (4) Attachment A
- (5) Attachment B
- (6) Attachment E
- (7) Attachment F

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

Date: _____
 Signature: e-Signed by Chris Cole
on 2017-09-28 20:32:14 GMT
 Name: Christopher Cole
 Title: BGS Commissioner

By the Contractor:

Date: 9/28/17
 Signature: [Handwritten Signature]
 Name: Matthew Harrington
 Title: Executive Director

ATTACHMENT A – STATEMENT OF WORK*MS*
9/28

Contractor shall provide all labor necessary to satisfactorily operate the Bennington Welcome Center located at the 100 VT Route 279 in Bennington, Vermont.

The Contractor shall operate the facilities independently with employees hired by the Contractor, with full responsibility and authority subject to the operating conditions and requirements set forth in Attachments A, B, C, D, E, F, G, and Attachment H. The State shall retain title to the facility and perform all major repairs and capital improvements at the facilities as may be required from time to time, at its own cost.

DESCRIPTION OF SERVICES

The services consist of, but are not limited to, the operation of the Bennington Welcome Center. Including, but not limited to, the following major components:

1. Operating Conditions and Requirements - Contractor

The Contractor shall recruit and hire employees with demonstrated:

- Ability to read and interpret maps,
- Oral and written communication skills,
- Ability to work effectively with the public,
- Knowledge of Vermont attractions and events,
- Skills in the use of information technologies, including operation of facsimile machines, computers and the use of computerized travel information software.

The Contractor is responsible for ensuring that staff are professionally trained, take advantage of all training opportunities offered by the State, and attend all trainings required by the VICD.

All employees at a State-sanctioned visitor center shall wear VICD-approved clothing during work hours.

Employees must be presentable and clean at all times and shall:

- Open the facility promptly at 7:00 a.m. (Examples of opening and closing checklists will be provided by the State.)
- Display the US flag and Vermont State flag as directed by flag protocol.
- Maintain attractive, well organized information displays,
- Participate in the motorist refreshment program of providing complimentary coffee to travelers
- Take reasonable steps to assure traveler safety as required,
- Monitor restrooms a minimum of every hour or as needed depending on usage, and perform cleaning and minor maintenance as needed, (Cleaning checklist will be provided by the State.)

- Conduct hourly checks of trash receptacles, patrol grounds for litter, cigarette butts, dog refuse and spillage and take appropriate actions to maintain the cleanliness of the site in a professional manner (Routine sweeping of crease where sidewalk meets curb is required as needed)
- Water flower beds and plantings as needed. Weed flower beds and implement weed prevention for landscaped areas of the facility.
- Be responsible for snow removal of all walkways leading to the facility including the application of ice melt to ensure no ice formation takes place on the site
- Develop a comprehensive state-wide marketing and promotions program,
- Keep floors dry as needed,
- Maintain written daily records of traveler complaints, traveler compliments, the number of visitors each day, and a daily log of unusual incidents which may occur during a shift. These records will be submitted to the Manager of the Vermont Information Center Division with Daily Operations Reports as required in Item 5 of Attachment A,
- Close the facility no sooner than 9:00 p.m. assuring that the locking and security systems are operational, and
- Operate the facility every day of the year throughout the operating term of this Agreement.

The Chamber shall:

- Provide detailed quarterly financial reports.
- Provide an accounting on a quarterly basis. The quarterly accounting shall account for the State funds received during the quarter and shall show revenue received and what those funds were spent on relative to the actual Welcome Center staffing and operations.
- Provide detailed End of Year Financial Reports (EOY) within 60 days of the close of the State fiscal year. Failure to submit within 60 days will result in the withholding of payments to the Contractor until the EOY is submitted in satisfactory form.
- The EOY shall include all information specifically requested in this agreement as well as any additional information requested during the course of the contract. The EOY shall account for the State funds received during each fiscal year and shall show revenue received and what those funds were spent on relative to the actual Welcome Center staffing and operations.
- The EOY shall include a copy of the audited financial statement of the Chamber.
- In collaboration with the State, the Chamber will be responsible for assembling and maintaining an Operations Plan containing all necessary guidance including, but not limited to: opening and closing procedures, checklists, examples of reporting requirements, job descriptions, and all other necessary documentation of responsibilities of the Contractor for use as a reference tool and available for staff to ensure they understand the tasks that are delegated to the Chamber as part of this Agreement.
- Cooperate with the State liaison(s) who represent the State's interest and who are assigned to mentor and/or assist in the successful operation of the Welcome Center.

2. Measures of Success

To monitor the progress of this project, the management and employees of the Vermont Information Centers Division have developed a list of the measures of success they use to determine whether they have provided customer satisfaction. This list incorporates all the operating conditions and requirements noted above. This list shall be used by the State to measure and assess annually the quality of the service performed by the Contractor during the term of the contract.

- Provide accurate information to visitors.
- Sound, clean, safe buildings
- Trained/knowledgeable/polite employees
- Good communication with and between staff
- Professionalism in providing customer service
- Clean and presentable staff
- In uniform consistent with those used at other VICD locations
- Accurate data and reports
- Politeness and helpfulness of staff when serving the public
- On-time and on-the-job reliability of staff
- Customer satisfaction - provide what is asked for
- Attractive, well organized information displays
- Knowledgeable of resources available in communities off the interstate corridor
- Cleanliness of all interior surfaces including but not limited to glass, hardware, floors, and fixtures
- Appearance of grounds
- Safety of the facility and grounds – floors are dry, walk ways are free of ice or other hazards
- Quality and timeliness of required reports

3. General Requirements

a. Reports and Invoices.

The contractor will submit Daily Operations Reports, submit monthly invoices, detailed quarterly financial reports, and an end of year detailed financial report (as further described in Section 1) and such other information which the State may deem appropriate to measure the success of this project. Daily Operations Reports, Annual Reports, and Invoices shall be sent to:

State of Vermont
Vermont Information Center Division
Attention: Lisa Sanchez
134 State Street
Montpelier, VT 05633-2201
Email: lisa.sanchez@vermont.gov

b. Brochure Distribution and Advertising.

The contractor shall manage brochure rack space and distribution within the facility in compliance with the State Brochure Distribution Guidelines in Attachment E. The State will retain 80% of rack space within the facility for "State publications," and businesses/organizations that participate in the State brochure distribution program. The contractor will be allotted the remaining 20% of rack space within the facility for Chamber usage and may charge a fee for use of that space. The contractor may also sell advertising space, subject to the State Advertising Guidelines in Attachment F, in spots designated by the State and limited to businesses or attractions located in the geographic area represented by the Bennington Area Chamber of Commerce. Contractor must use an exhibit/graphic designer designated by the State and the advertising graphics shall not be visible from the highway. All sales for any advertising space require consultation with and approval of the Information Center Division and must also be in accordance with all applicable state and federal rules, regulations and statutes having jurisdiction over activities on the federal interstate system; including, but not limited to those listed in Attachment D and the Vermont Information Center Promotional Material Guidelines presented in Attachment F.

Any funds collected by the contractor must be itemized in its annual EOY report. While The Federal Highway Administration (FHWA) allows for revenue from advertising to be generated at federally-funded visitor centers, it restricts the use of those revenues to only be used for the cost of operating or maintaining the facility. As such, any revenue collected will be deducted from the following year's grant if not in accordance with this rule.

The State reserves the right to sell advertising space to all businesses and attractions with the exception of those that are members of the Bennington Area Chamber of Commerce and to promote messages to the traveling public that the State deems of interest, e.g., WIFI sponsorship, the promotion of other states or privately-operated visitor centers outside of the Greater Bennington Area.

c. Access to Public Records.

The contractor must abide by 1 VSA sections 315-320, Access to Public Records, with respect to the use of funds provided under this Agreement. The contractor shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to costs incurred under this Agreement and for three years thereafter for inspection by any authorized representative of the State. The State shall have the right to inspect or otherwise evaluate the work performed or being performed under this Agreement.

d. Compliance with State and Federal Law.

Contractor shall comply with all State and Federal Laws, including, but not limited to, the provisions incorporated into this Agreement in Attachment D such that Contractor shall: (1) provide advertising that is limited to matters relating to and of interest to the traveling public; (2) ensure equal access at reasonable rates to all advertisers considered qualified by the State; (3)

ensure forty percent or more of all display areas and audible communications are devoted free of charge to providing information to the traveling public and public services announcements; (5) not charge the public for goods and services except telephone and articles dispensed by vending machines; (6) comply with all nondiscrimination provisions in accordance with 42 U.S.C. §§ 2000d- 2000d-5, which are incorporated herein by reference as if those provisions were fully restated herein; (7) not permit advertising from advertisers who do not provide their services without regard to race, color, or national origin; and (8) ensure that the welcome center is adequately maintained and kept clean and sanitary.

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e. Contracting for Services

The Contractor is prohibited from contracting for any of the services contained in this contract without the written consent of the State.

f. Policies and Directives

The Contractor shall abide by all policies and directives issued by the State pertaining to the operation of the Bennington Welcome Center.

The commissioner of buildings and general services (BGS) is authorized to adjust the hours of operation and staffing patterns for rest areas. Those decisions could be considered based on budgetary considerations, numbers of visitors, and seasonal fluctuations.

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract.
2. Payment terms are Net 30 days from the date the State receives an error-free invoice with all necessary and complete supporting documentation. The State has 30 days from the date the State receives an invoice to exercise its right to bill or credit adjustments made necessary by internal audits and quality assurance checks.
3. The payment amount for the period August 1, 2017 through July 31, 2018 is \$227,580.00 (includes \$27,000.00 supplemental appropriation) to be disseminated through monthly payments of \$18,965.00 over the first year of the contract. Years 2, 3, & 4 will revert to the previous base amount of \$200,580.00 with monthly payments of \$16,965.00.

The State agrees to make payment for services in advance rather than arrears, in order to assist the Contractor in meeting its payroll obligations during the term of the agreement. Invoices shall be submitted, and payment shall be made, on a monthly basis in advance of rendering of services by Contractor. The advance payments shall begin on August 1, 2017, and shall end the month prior to the last month of the contract.

4. Recapture of funds: Both parties agree that the State will have the right to recapture funds provided under this contract if at any time it is determined that services are not being rendered as provided for in this contract.
5. Reliance by the State on Representations: All payments by the State under this contract will be made in reliance upon the accuracy of all prior representations by the Contractor, including but not limited to bills, invoices, requested reports and/or other proofs of work.
6. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing. Invoices and financial reports must disclose how contract funds were expended.
7. The State shall not pay for any unauthorized labor, services, materials, equipment or expenses incurred and/or performed by Contractor.
8. Monthly Reports and Invoices. Contractor shall submit daily Operations Reports, submit quarterly financial reporting that shall account for the State funds received during the quarter and

revenue received and what those funds were spent on relative to the actual Welcome Center staffing and operations. Contractor shall submit an end of year detailed financial report (as further described in Attachment A) and such other information which the State may deem appropriate to measure the success of this project. Financial reports must show how contract funds were expended. Quarterly financial reports and monthly invoices shall be sent to Lisa Sanchez of the Vermont Information Center Division, 134 State Street, Montpelier, VT 05633 for approval prior to reimbursement. Annual reports and reviews shall be sent to Lisa Sanchez via email to lisa.sanchez@vermont.gov.

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The following documentation is required in support of invoices.

- A numbered invoice.
- Time frame indicated of when work was performed;
- A detailed description of all work performed; and
- Contract number that the invoice is to be paid from.

9. [Reserved]

10. Reliance By the State on Representations. All payments by the State under this contract will be made in reliance upon the accuracy of all prior representations by Contractor, including but not limited to bills, invoices, requested reports and / or other proofs of work.
11. This contract is for fully operating and staffing the state-owned Bennington Welcome Center located at the 100 VT Route 279 in Bennington, VT. An annual cost adjustment based on the Consumer Price Index (CPI) will be factored into subsequent years. The CPI is not applicable to the first year of this contract. The Contractor will be eligible for a cost adjustment based on the CPI for a one year period after consideration of available revenues to support the underlying appropriation to the Visitor Centers. This adjustment shall be based upon the CPI for all Urban Consumers, U.S. City Average, All Items Expenditure Category as published by the U.S. Department of Labor, Bureau of Statistics.
12. Beginning with year two of this contract and using the contract amount that was in effect prior to the first year of this contract, the contract amount shall be increased by the unadjusted percentage change in the CPI figure from the last reporting date available next prior to the beginning month of the next fiscal year for which the adjustment is made. Should the percentage change be negative, the State reserves the right to adjust the yearly contract amount accordingly.

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED JULY 1, 2016**

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 the 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. In the event the State withholds approval to settle any such claim, then the Party shall proceed with the defense of the claim but under those circumstances, the Party's indemnification obligations shall be limited to the amount of the proposed settlement initially rejected by the State.

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 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 or an agent of the Party in connection with the performance of this Agreement.

The Party agrees that in no event shall the terms of this Agreement nor any document required by the Party in connection with its performance under this Agreement obligate the State to defend or indemnify the Party or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party except to the extent awarded by a court of competent jurisdiction.

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 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. 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 the Contract, 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. Federal Requirements Pertaining to Grants and Subrecipient Agreements:

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- A. 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, 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 the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, 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 the case that this Agreement is a Grant funded in whole or in part by Federal funds, in accordance with 2CFR 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.

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 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.

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 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.

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.

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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 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 23 ("Certification Regarding Use of State Funds"); Section 31 ("State Facilities"); and Section 32 ("Location of State Data").

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. 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.

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

25. 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.

26. 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.

27. 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.

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

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

29. 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.

30. 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.

31. 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.

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

(End of Standard Provisions)

ATTACHMENT DJH
9/28**Title 23, U.S.C. Highways Sec. 131. Control of Outdoor Advertising**

(i) In order to provide information in the specific interest of the traveling public, the State transportation departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

Title 23 C.F.R. Highways**Part 752. Landscape and Roadside Development****Sec. 752.7 Information centers and systems.**

- (a) The State may establish at existing or new safety rest areas information centers for the purpose of providing specific information to the motorist as to services, as to places of interest within the State and such other information as the State may consider desirable.
- (b) The State may construct and operate the facilities, may construct and lease the operation of information facilities, or may lease the construction and operation of information facilities.
- (c) Where the information center or system includes an enclosed building, the identification of the operator and all advertising must be restricted to the interior of the building. Where a facility is in the nature of a bulletin board or partial enclosure, none of the advertising, including the trade name, logo, or symbol of the operator shall be legible from the main traveled way.
- (d) Subject to FHWA approval, States may establish or permit information systems within the right-of-way of federally funded highways which provide information of specific interest to the traveling public which do not visually intrude upon the main-traveled way of the highway in a manner violating 23 U.S.C. 131 and other applicable local, State, and Federal laws, rules and regulations.

Sec. 752.8 privately operated information centers and systems.

- (a) Subject to the FHWA Regional Administrator's approval of the lease or agreement, the State may permit privately operated information centers and systems which conform with the standards of this directive.

(b) There shall be no violation of control of access and no adverse effect on traffic in the main traveled way.

(c) The agreement between the State and the private operator shall provide that:

(1) The State shall have title to the information center or system upon completion of construction or termination of the lease.

(2) Advertising must be limited to matters relating to and of interest to the traveling public.

(3) Equal access must be provided at reasonable rates to all advertisers considered qualified by the State.

(4) Forty percent or more of all display areas and audible communications shall be devoted free of charge to providing information to the traveling public and public service announcements.

(5) No charge to the public may be made for goods or services except telephone and articles dispensed by vending machines.

(6) Nondiscrimination provisions must be included in accordance with the State assurance with regard to 42 U.S.C. 2000d - 2000d-5 (Civil Rights Act of 1964). The private operator

may not permit advertising from advertisers who do not provide their services without regard to race, color, or national origin.

(7) The center or system shall be adequately maintained and kept clean and sanitary.

(8) The State may promulgate reasonable rules and regulations on the conduct of the information center or system in the interests of the public.

(9) The State may terminate the lease or agreement for violation of its terms or for other cause.

ATTACHMENT E
Brochure Guidelines for Vermont Welcome Centers

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The following criteria shall apply in selection of publications to be distributed:

- Printed materials must help promote Vermont tourism business and furnish pertinent information about destinations, attractions, activities, events or points of interest open to the general public. Multi-state publications must represent each state proportionally.
- Brochures shall be professionally type set, error free, and contain proper grammar. Brochures shall be printed on paper of sufficient weight to stand in the rack without bending or "wilting." Brochures shall be a standard size, rack card (3.5-4 " wide by 8.5- 9" high). The title should be at the top of the brochure, not below one inch. Business cards or post cards will not be accepted. Oversized brochures, magazines and tabloid-type publications can be approved, but may be subject to restrictions on display space. Brochures must be up-to-date with current information listing admission prices, dates and times open. Seasonal brochures should contain expiration dates.
- Use of the copyrighted Mountain/ Moon logo on publications must be approved in advance by the Vermont Department of Tourism and Marketing.
- All material must be provided free of charge to the Welcome Centers.
- The information must be generally beneficial and informative. No brochures containing offensive language or pictures that could be defined as being in bad taste or deemed inappropriate by the Vermont Information Center Division Director or his designee will be allowed. All determinations shall be deemed final.
- Religious brochures or brochures containing political advertisements will not be accepted. The only exception is a directory of the locations of religious organizations. These directories should list only the locations and/or times of services.
- Advertising in publications shall not be sold on the basis that it will be displayed or distributed through Welcome Centers and there should be no reference to Welcome Center display or distribution in the publication.
- Coupons or brochures that quote special rates must have a **PROFESSIONALLY PRINTED OR STAMPED EXPIRATION DATE** and a professionally printed or stamped rate. Coupons must state all restrictions that may apply, such as number of people per room, number of beds per room, etc.

Exceptions, if any, must also be noted (i.e. 2-night stay required, special rates not available weekends, etc.)

- Brochures will not be displayed if admission to the destination, attraction, event, activity or point of interest is based upon a membership fee or other means of exclusive admission, rather than general admission open to the public. Publications regarding properties that are not open to the general public, require purchases of land use, time or memberships to gain

entrance (time-shares, private special interest properties, country clubs, etc.) will not be accepted.

**ATTACHMENT F
ADVERTISING GUIDELINES**

**VERMONT INFORMATION CENTER
PROMOTIONAL MATERIAL GUIDELINES**

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Revision Effective October 11, 2016

Vermont Information Centers Division (VICD) oversees the operations and management of Vermont's Information and Welcome Centers. Part of the mission of VICD is to provide facilities for the comfort and safety of the traveling public and to promote tourist, cultural, and business activities. In an effort to promote tourist, cultural and business activities VICD has begun permitting the display of promotional materials within VICD sites throughout the State. This advertising opportunity is available for a fee according to the following guidelines.

VICD will make the final decision as to the promotional materials displayed and reserves the right to display any material deemed appropriate to fulfilling the needs of the traveling public.

The VICD also reserves the right to refuse to display any promotional material which is deemed inappropriate to fulfilling the needs of the traveling public, or material which contains inaccurate or invidious information.

Promotional materials that do not follow the prescribed guidelines may be displayed at the information centers if space allows. That decision will be made by VICD and is not subject to appeal or review.

Definitions:

- (1) "Promotional material" includes, but is not limited to, any panel, display, advertising panel, kiosk, brochure, Wi-Fi electronic banner and/or portal page, or other medium within a VICD site.
- (2) "Matters relating to and of interest to the traveling public" includes, but is not limited to, information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair.

**Approval Guidelines
for
Promotional Material Displays
at
Vermont Information Centers Division Sites**

Parties seeking to display promotional materials at VICD sites must comply with the following requirements:

- 1) **All promotional material must be limited to matters relating to and of interest to the traveling public.¹**

¹ FHWA requires any federally funded information center or rest area to limit advertising to "matters relating to and of interest to the traveling public. (CFR Title 23, § 752.8)

- 2) All promotional materials must be up-to-date with current information dealing with admission prices, dates and hours of operation.
- 3) Promotional materials relating to seasonal events or time-limited events must have an expiration date. By way of example, the Tunbridge World Fair runs for a limited time in the month of September and materials promoting the fair would need to indicate the dates of the fair.
- 4) Promotional materials must be professionally type set, error-free, and grammatically correct.
- 5) Promotional panels must conform to the display system currently available through the State of Vermont contract. (link "VICD Promotional Panel Size Requirements" section below)
- 6) All promotional panels must comply with VICD Display Panel sizing requirements. (link to Contract)
- 7) Promotional materials must not contain any prohibited material. (link to "Prohibited material" section below)

First-Come, First-Serve

All promotional material will be accepted on a first-come, first-serve basis.

VICD Promotional Panel Size Requirements

- **Frame:** Advertisement size must conform to the display system currently available through the State of Vermont (SOV) contract and may have a vertical or horizontal format in order to attach to available display frames. For information, see VICD web site at http://bgs.vermont.gov/information_centers/marketing
- **Skin:** Promotional panel advertisement must conform in both size and substance to the display system currently available through the State of Vermont contract and may have a vertical or horizontal format. After VICD approval of content, panels must be created in coordination with the current SOV contract.
- The Director of VICD may permit the display of Promotional materials that do not follow the prescribed format, if the Director, in his or her sole discretion, determines that the display is consistent with these guidelines and that the proposed display will physically fit in the available space.

Prohibited Material

Certain promotional materials are ineligible for display in VICD sites. Ineligible promotional materials are those materials that contain:

- Political or religious publications or materials

- Advertisements selling alcohol beverages, except ads for wineries or breweries which are places of interest to the traveling public and ads/brochures from the Vermont Department of Liquor Control.
- Out-of-date promotional material (i.e. properties that have changed names, locations, hours).
- Any material that promotes illegal activities, vulgarity, obscenity, or any material that contains nudity.
- Catalogs or order blanks for merchandise or items for sale, entry forms, registrations or membership forms, etc.
- Ads for firearms, tobacco, personal ads or sex-related products or services.
- Ads for casinos or lotteries, except State-run lotteries or one-time fund-raising events.
- Petitions from organizations or individuals
- Attacks against individuals or specific groups or organizations
- Headlines, text or graphics are designed to frighten, intimidate or harass.

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Display Cases

- All the display case space is free to craftsmen, artisans, and Vermont manufactures who want to display their product on a rotational and first-come, first-serve basis.

Special Event Posters

- Promotional materials regarding a specific event will be allowed at the Information Centers for two weeks prior to the event. If space permits, VICD may approve special event posters for more than two weeks.

Free Space

Forty (40) percent of all advertising space in any visitor center will be designated as free promotional space. This space will be made available on a rotational basis for the following entities.

- Municipalities
- State government agencies/departments (panels only; not brochures)
- Non-profit Organizations
 - Require Proof – Federal ID Number
- Public Service Announcements
- Chambers of Commerce -- state, regional, or local chambers

VICD will market the free space available at VICD sites through newsletter, outreach campaigns, presentations, and BGS' website.

The location of free promotional space will be designated by VICD staff.

The free promotional space is available in up to three month intervals. This free space will be reserved on rotational basis; a list will be maintained. Every 3 months the spaces will be available to the next eligible entity on the list whose advertisement conforms to these guidelines.

The assignment of free space will only be renewed if no other organization has expressed an interest in that space.

The cost of production of all promotional material will be born by the advertiser.

The following class of organizations will be given priority placement for free space promotional materials:

1. Official state and federal publications, which promote Vermont and vehicle safety (i.e., Vermont map, highway safety brochures, etc.)
2. State of Vermont promotional material from other departments
3. In-state, regional, organizational and historical association promotional materials, e.g., historical society,
4. Municipality and Chambers of Commerce publications/materials.
5. If space is available, trade organizations or affinity organizations (like VAST and VOGA),

Paid Advertising Space

Up to Sixty (60) percent of all advertising space in any visitor center will be designated as paid promotional space. Paid promotional space will be reserved for the following entities:

- Any for-profit business that meets all guideline criteria

While the paid promotional space can be reserved for shorter periods of time, the agreement relative to any reserved paid space must be renewed at least annually.

This paid space will be reserved on a first-come, first-serve basis.

Cost

Cost of production will be born by the advertiser and is not included in the advertising rate structure.

Current advertising rates and locations can be found on the VICD website (see VICD Rate Card) at http://informationcenter.vermont.gov/business_marketing