STATE OF VERMONT – Master Contract for Services available for use by the State of Vermont, its agencies and public bodies, through the Agency of Commerce & Community Development, Office of The Chief Marketing Officer

MASTER CONTRACTOR – **HMC Advertising**

1. **Parties:** This is a master contract for services between the State of Vermont, its agencies, departments, divisions and public bodies (hereafter called "State") and **HMC Advertising**, hereafter called "Contractor" with principal place of business at **65 Millet Street, Suite 301, Richmond, VT 05477**. Contractor's form of business organization is a **Limited Liability Company**.

2. **Subject Matter**: The subject matter of this contract is services generally on the subject of **providing media planning and buying services to the agencies, departments, divisions and public bodies of Vermont state government on an as-needed, project-by-project basis**. Detailed services to be provided by the Contractor are described in Attachment A.

3. **Maximum Amount**: In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, **a sum not-to-exceed $9,999,999.00**.

4. **Contract Term**: The period of Contractor's performance **shall begin on March 1, 2019 and end on August 31, 2021 with the option for two (2) additional one-year extensions, but only as agreed upon and reduced to writing and signed by both parties**. The State shall pay Contractor only for work performed during the contract term.

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

   - Approval by the Attorney General's Office ☒ is ☐ is not required.
   - Approval by the Secretary of Administration ☒ is ☐ is not required.
   - Approval by the CIO/Commissioner of DII ☐ is ☒ is not required.
   - Approval by the CMO/ Chief Marketing Officer ☒ is ☐ is not required.

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

7. **Termination for Convenience:** This contract may be canceled by the State at any time by giving written notice at least thirty (30) calendar 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. **Contact persons**: The State's contact person for this contract is **Heather Pelham**; Telephone (802) 477-2727; email address heather.pelham@vermont.gov; The Contractor's contact person for this contract is **Paula Bazluke**; Telephone (802) 434-7141; email address paula@wearehmc.com

9. **Attachments:** This contract consists of 24 pages including the following attachments which are incorporated herein:

A. Attachment A – Specifications of Work to be Performed
B. Attachment B – Payment Provisions
C. Attachment C – Standard State Provisions for Contracts and Grants (revision date 12/15/17)
D. Attachment D – Other Contract Agreement Provisions
E. Appendix I – Contractor Performance Measures
F. Appendix II – Statement of Work Agreement (example only, subject to change)
G. Appendix III – Statement of Work Change Order (example only, subject to change)

10. Order of Precedence: Any ambiguity, conflict or inconsistency in the Contract Documents shall be resolved according to the following order of precedence:

A. Standard Contract
B. Attachment C – Standard State Provisions for Contracts and Grants (revision date 12/15/17)
C. Attachment D – Other Contract Agreement Provisions
D. Attachment A – Specifications of Work to be Performed
E. Attachment B – Payment Provisions
F. Appendix I – Contractor Performance Measures
G. Appendix II –Statement of Work Agreement (example only, subject to change)
H. Appendix III – Statement of Work Change Order (example only, subject to change)

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT:

Please sign in Blue ink only

By the State of Vermont:		**By the Contractor:**	
Date:	3/25/19	Date:	3/21/19
Signature:	Ted Brady	Signature:	Paula G. Bazluke
Name:	Ted Brady	Name:	PAULA G. BAZLUKE
Title:	ACCD Deputy Secretary	Title:	Media Director/Partner
Agency:	Agency of Commerce & Community Development		

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MASTER CONTRACTOR – **HMC Advertising**

ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED

The purpose of this contract is to provide media planning and buying services to the agencies, departments and divisions of Vermont state government ('Departments'), as well as quasi-governmental entities, on an as-needed, project-by-project basis. The Contractor understands that during the term of this contract the State may or may not request from the Contractor some or all of the services described in the "Work to be Performed' section of this contract. In its sole discretion, the State may select any other contractors to perform these or similar services pursuant to any other State of Vermont contract bid process, as applicable. If in its sole discretion the State elects to request any such services from the Contractor, Contractor will provide such services as follows:

1. **Background:**

   1.1 The Chief Marketing Officer (CMO) has identified an opportunity for savings by consolidating media dollars under one contract and coordinating multiple in-state media campaigns through a single media buyer to increase purchasing power and buying efficiencies. This consolidation provides the media buyer more negotiating power with media vendors resulting in lower rates on behalf of the state as a whole. The lower cost per spot affords the ability to purchase more spots and the negotiation of more value-added benefits resulting in greater impact on both small and large in-state initiatives. This is particularly true for broadcast media such as television and radio.

   1.2 During the term of this contract, Departments will have the ability to work directly with the Contractor for media planning and buying services. Any state government entity may utilize the provisions of this agreement. It should be understood, therefore, that the Contractor is dealing with a very diverse group of entities that nonetheless comprise one client—the state of Vermont.

   1.3 Each Department will manage its own projects and individually administer their budgets and develop media campaigns in support of their separate and distinct missions in close coordination with the CMO. It is always the overriding objective of the State to identify where synergies and savings can be realized through collaboration and coordination. To that end, the CMO will exercise his/her authority to ensure that fundamental precept.

2. **Description of Work:** The nature of the work may include, but not be limited to, the following services:

   2.1 Develop media campaign strategies that leverage the buying power of the many campaigns placed annually by various State of Vermont entities, and maximize opportunities to integrate multiple media channels within each campaign where appropriate.

   2.2 Negotiate the most efficient buys and cost-effective rates with the media on behalf of the State including the lowest possible nonprofit rates and any bonus spots due to nonprofit status.

   2.3 Work directly with individual state agencies, departments and programs to develop, manage, execute, service and reconcile each campaign as requested.

   2.4 Prepare a media plan for each campaign that contains clear strategies, tactics, timeline, budget and measurable goals. Contractor will work with the specific Department to understand the target

audience and desired outcomes to make sure the media plan will meet each campaign's goals and objectives.

2.5 Develop media campaign strategies to:

2.5.1 Utilize appropriate mediums including traditional and new media channels that support the campaign objectives;

2.5.2 Examine the most appropriate time periods and flighting schedules for optimum exposure of the message toward the target audience in the most cost-effective manner;

2.5.3 Develop value-added opportunities with all media including, but not limited to, sponsorship mentions, additional no-charge spots, and on-air interviews if appropriate;

2.5.4 Investigate and explore the use of other non-broadcast media that might be pertinent for each campaign, the integration of digital promotions and advertising, or other media avenues as agreed upon by the State and Contractor which are deemed suitable.

2.6 Traffic the placement and delivery of creative to the media outlets. Communicate with Department staff, media representatives, creative team and partners as necessary to make sure all creative material is provided on time, to the correct media outlet, at the correct specifications.

2.7 Monitor all campaigns to ensure insertion orders are properly executed and any make goods or credits are dealt with in an expeditious manner to the benefit of the State.

2.8 Reconcile all media invoices to ensure the State received the full value of the media buys, including proper placement and correct charges.

2.8.1 Conduct a post-buy analysis to assess whether guaranteed rating point goals for television were achieved. Negotiate the future use of any under-delivered rating points;

2.8.2 Provide a detailed post-campaign summary report to determine maximum reach and frequency achieved and assess if the goals and objectives of the campaign were met.

3. Process: Departments will follow a Statement of Work (SOW) process for all media planning and buying projects.

3.1 The State entity desiring the above services shall contact Contractor with a detailed description of the project, including campaign goals, target demographics, schedule and budget.

3.2 Using the information provided by the State, the Contractor shall prepare Project Scope of Work ('Project Scope') for each campaign. The Project Scope will contain a description of the campaign (e.g. target audiences, campaign objectives, performance metrics, timeframe, and budget) and a breakdown of the costs for services, any expenses and the total media dollars to be placed. The State preferred template form can be found in Appendix II ("Attachment A: Media Planning and Buying Project Scope of Work").

3.2.1 The documentation for each campaign shall, at a minimum, consist of the Statement of Work Agreement (SOW) and Attachment A: Media Planning and Buying Project Scope of Work. Other documentation may include detailed media plans.

3.2.2 SOWs must be signed by the Contractor and the administrative head of the relevant State entity before work on the project begins.

3.2.3 Upon execution of a SOW by all parties, the Contractor may begin work, according to the agreed schedule, on the elements specified in such SOW.

3.2.4 After execution of a SOW, if any change in the Project Scope of a campaign affecting budget, deliverables, or schedule is requested, the Contractor and the relevant State entity shall mutually agree to the changes in writing via Change Order. The State preferred Change Order template form can be found in Appendix III.

3.2.5 Contractor will provide a copy of all SOWs and Change Orders to the CMO for general information and record-keeping.

4. **Contract Oversight:**

4.1 State agencies, departments and divisions of Vermont state government, as well as quasi-governmental entities, have the ability to work directly with the Contractor under this contract for media planning and buying services on an as-needed, project-by-project basis. Each state entity will manage and administer its own projects individually by the State's assigned staff (hereafter called "Contract Manager").

4.2 The services performed under this contract shall be reviewed by the State assigned Contract Manager and will include deliverables and performance expectations.

5. **Work Issuance:** Progress against the work to be performed, under this contract, will be reviewed by the Contract Manager. The Contract Manager may assign some or all oversight responsibilities to another staff designee, and Contract Manager will notify Contractor prior to such occurrence. Changes to time, scope, and/or resources shall be discussed in advance and the impacts to the project will be determined. If the scope of work is changed causing work outside the master contract's scope of services, the additional work will be reduced to writing by the CMO's State Contract Administrator and Contractor in the form of an amendment, and only as pre-approved by the State.

6. **Work Required:**

6.1 Other similar work as agreed upon between the State and Contractor.

7. **Other Requirements**:

7.1 Any notices, information pamphlets, press releases, research reports or similar other publications prepared and released in written or oral form by the Contractor under this contract shall be approved/reviewed by the State prior to release.

7.2 **Copyright:** Upon full payment by the State, all products of the Contractor's work, including but not limited to outlines, reports, charts, sketches, drawings, artwork, designs, plans, photographs, videos, specifications, estimates, computer programs, or similar documents, becomes the sole property of the State of Vermont and may not be copyrighted or resold by Contractor. The

Contractor will exercise due care in creating or selecting material for publication to ensure that such material does not violate the copyright, trademark, or similar rights of others. To the extent the Contractor uses copyrighted materials in performance of work under this Contract, the Contractor shall document and provide the state with the precise terms of the licensed use granted to the State by the owner of the copyright for future use of the copyrighted material. The Contractor shall not use any copyright protected material in the performance of the work under this contract that would require the payment of any fee for present or future use of the same by the State.

7.3 Contractor will be evaluated on work performance under this contract, see Appendix I.

(End of Attachment A)

MASTER CONTRACTOR – **HMC Advertising**

ATTACHMENT B
PAYMENT PROVISIONS

The State shall pay Contractor a sum not to exceed **$9,999,999.00** as follows:

1. A certificate of insurance must be submitted prior to commencement of work and release of payments.

2. Copies of any subcontract agreements and tax certifications must be submitted and fully complied with.

3. **Invoicing:** Contractor shall be paid for services performed and media buys based on documentation and itemization included in invoicing. Separate invoices will be required for services and media buys. Invoices must be submitted by the Contractor directly to the State of Vermont agency, department, division or public body that is identified in each Statement of Work under this contract. **Payment terms shall be Net 30** from date of receipt of an error free invoice with all supporting documentation.

   3.1 **Important: All invoices must include "State of Vermont Master Contract Number 37800" that is assigned to this contract, as a reference.** Invoices received that do not include the Master Contract number will not be processed.

   3.2 **Ninety Percent (90%) of Media costs shall be billed to the State at the time of placement. Media shall be billed at net rates.** The State does not pay a commission for media or media-buying services. Supporting documentation for invoices submitted to the State by Contractor for media buys at the time of placement must include insertion orders detailing exact placements and costs, as confirmed by the media outlets with signature and date. Invoices received without acceptable supporting documents will not be processed.

   3.3 **Contractor will reconcile media billing at the end of the campaign and will invoice for any differences between prepaid amounts of media costs and actual media costs.** Documentation for final invoices submitted to the State by Contractor at the end of the campaign must include copies of all invoices from media outlets that detail all charges to the Contractor. Invoices received without acceptable media supporting documents will not be processed.

   3.4 For any services provided under this contract, Contractor will submit invoicing a minimum of monthly on a work-completed basis. Invoicing for services must contain a description of the service performed including dates and hours of work performed and rates of pay. Invoicing must also contain a detail of items and cost for any State pre-approved reimbursable expenses specified in the Statement of Work or Change Order for each campaign. The State shall not be responsible for any expenses of the Contractor unless specifically stated in the Statement of Work or Change Order.

   3.5 **Credits to the State will not be allowed under this contract.** Exact amounts owed by the State must be invoiced by Contractor. In the event of an error by either party that results in a credit, payment to reconcile will be in the form of a check.

4. **Services:** Contractor shall be paid for services based on the following maximum hourly rates or at lower rates included in the applicable Statement of Work or Change Order executed by the Contractor and relevant State entity:

Service:	**Definition:**	**Maximum Hourly Rate for the Period 3/1/19 - 8/31/21**	**Maximum Hourly Rate for the Period 9/1/21 - 8/31/23**
Account Management/ Coordination	Coordinate the agency's efforts on behalf of the client. May include tracking client budgets, moving projects through the agency from start to finish, coordinating schedules and meeting client deadlines.	$122	$134
Strategic and Media Planning	Strategize, plan and execute direct paid media campaigns. Guide the media buying process based on provided budgets, analysis of results, profitability and recommendations for next steps.	$143	$157
Media Buying	Negotiating with media for favorable rates and placements	$122	$134
Implementation Management	Trafficking of media spots, invoice reconciliation, and preparation of post-buy reports to ensure accuracy of placement and negotiated rates	$122	$134

5. **Expenses**: Contractor shall not buy materials and resell to the State at a profit. The State also does not pay a commission for services. Specifically, subcontract work and/or any media expenses shall be billed to the State at net.

   5.1 All expenses must be pre-approved in advance by the Contract Manager and also included in the terms and maximum amount identified in each Statement of Work or Change Order under this contract. Expenses may include lodging, meals, incidentals, and any other expenses deemed necessary in advance by the State. Contractor must submit detailed receipts to the State for reimbursement of all such expenses, except mileage.

   5.2 The State will not reimburse for the purchase of alcohol, all such purchases must be removed from all expense reimbursement requests. Mileage, for the use of Contractor's personal or company vehicle, will be reimbursed at the State of Vermont's current given rate at the time the expense is incurred, **only if mileage expenses have been pre-approved in advance by the Contract Manager** and also included in the terms and maximum amount identified in each Statement of Work or Change Order under this contract.

6. In the event federal or state funds appropriated to the State of Vermont become unavailable, reduced, or reallocated to a purpose other than the work described in this Agreement, the State may immediately

suspend or cancel this Agreement, and the State shall have no obligation to pay the Contractor for work performed after the Contractor's receipt of written notice calling for suspension of the work or cancellation of the Agreement.

(End of Attachment B)

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)

MASTER CONTRACTOR – **HMC Advertising**

ATTACHMENT D
OTHER CONTRACT AGREEMENT PROVISIONS

1. **Cost of Materials:** Contractor will not buy materials and resell to the State at a profit.

2. **Identity of workers:** The Contractor 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. [**Tom Holmes, Paula Bazluke**]. Should either 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.

3. **Insurance:** Along with required insurance as specified in the Attachment C: Standard State Provisions for Contracts and Grants, #8, this contract will require Media Liability Coverage in the amount of $1,000,000 per claim/$1,000,000 aggregate. The policy must name the State of Vermont as additional insured

4. **Ownership of Equipment:** Any equipment purchased or furnished to the Contractor by the State under this Contract Agreements provided on a loan basis only and remains the property of the State.

5. **Contractor's Liens:** Contractor will discharge any and all contractors or mechanics' liens imposed on property of the State through the actions of subcontractors.

6. **State Minimum Wage:** The Contractor will comply with state minimum wage laws and regulations, if applicable.

7. **Health Insurance Portability and Accountability Act (HIPAA)**: The confidentiality of any health care information acquired by or provided to the Contractor shall be maintained in compliance with any applicable State or federal laws or regulations.

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

(End of Attachment D)

MASTER CONTRACTOR – **HMC Advertising**

APPENDIX I
CONTRACTOR PERFORMANCE MEASURES

The Contractor will be evaluated on its services performance on this Contract, which may be subject to more detailed evaluation criteria. Low performance scores may result in no further contracts with the State of Vermont.

Performance Measures

Contractor will be evaluated on the following performance during and at the completion of this Contract.

	Failed Expectations	Met Expectations	Exceeded Expectations
Contractor Name: HMC Advertising Contract #37800			
Demonstrated expertise in development and execution of strategies to accomplish objectives and outcomes identified in the specifications of work to be performed.			
Demonstrated knowledge and expertise in both traditional and new media, that maximized reach and frequency goals for each media campaign.			
Successfully negotiated media purchases with a clear understanding of media benefits and campaign objectives.			
Developed clear post-campaign reporting showing outcomes of media investments.			
Met or exceeded project estimates and timelines.			
Overall quality of work completed.			
Statement of Work, project reporting and documentation submitted with billing as required in contract.			

What did the contractor do well (**in detail**)? _____

_____

What **specific** areas of contractor performance could be improved? _____

If problems or areas of concern, please explain (or enter n/a)_____

_____

Name of person submitting form (Print) _____ Date _____

(End of Appendix I)

APPENDIX II: STATEMENT OF WORK AGREEMENT

(Example only, subject to change)

Statement of Work Agreement

Date: _____
Master Contract #: _____
Master Contract ID #: _____
VISION Vendor #: _____
(optional) Agency or Department Generated SOW #: _____

Project: [Enter Project Title]

This is a Statement of Work Agreement ("SOW Agreement") between the State of Vermont, [Enter Agency and/or Department] (hereafter called "State") and [Enter Vendor Name], with principal mailing address of [Enter Vendor Full Mailing Address], (hereafter called "Contractor"). This SOW Agreement is entered into in accordance with Master Contract #[Enter Master Contract ID Number] ("Master Agreement"), and all of the terms and conditions of the Master Agreement are herein incorporated and made a part hereto.

Period of Performance

The term of this SOW Agreement shall begin on [Enter Start Date] and end on [Enter End Date] (the "Initial Term"). The Initial Term may be extended as the parties may agree. Separate from the Master Agreement, the State may cancel the SOW Agreement at any time by giving written notice at least thirty (30) calendar days in advance. In such event, Contractor shall be paid under the terms of the Master Agreement for all services provided to and accepted by the State under this SOW Agreement prior to the effective date of cancellation. This SOW Agreement shall terminate upon the termination of the Master Agreement.

Scope of Work

The Contractor shall, in full satisfaction of the specific requirements of this SOW Agreement, provide the services set forth in Master Agreement Attachment A and this SOW Agreement Attachment A.

Maximum Amount

The maximum amount payable under this SOW Agreement shall be [Enter Amount].

Order of Precedence

The parties agree that, to the extent there is a real or perceived conflict between the Master Agreement and the SOW Agreement, the order of precedence of the documents, as expressed in the Master Agreement shall control. The terms and conditions of the Master Agreement remain in full force and effect and are not superseded by the SOW Agreement.

Payment

The Contractor and the State shall comply with the payment provisions set forth in Master Agreement Attachment B. All expenses must be included in the Maximum Amount specified in this SOW Agreement and detailed in this SOW Agreement Attachment A.

In the event that appropriations are insufficient to support the services set forth in Master Agreement Attachment A and this SOW Agreement Attachment A, the relevant State entity may immediately cancel this SOW Agreement with notice to Contractor

identifying the effective date thereof. Any work provided prior to the cancellation of the SOW Agreement completed by the Contractor and reviewed and approved by the State will be paid in full.

The source of funds for this SOW Agreement are as follows, by percentage: [Enter Percentage] Federal Funds; [Enter Percentage] General Funds; [Enter Percentage] Other Funds.

Standard Contract Provisions

The Contractor and the State shall comply with the provisions set forth in Master Agreement Attachment C.

Identity of Workers

The Contractor will assign the following individuals to the services to be performed under the provisions of this SOW Agreement, and these individuals shall be considered essential to performance. [Enter Names of Key Personnel]. 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 SOW Agreement.

Copyright

Upon full payment by the State, all products of the Contractor's work, including but not limited to outlines, reports, charts, sketches, drawings, artwork, designs, plans, photographs, videos, specifications, estimates, computer programs, or similar documents, becomes the sole property of the State and may not be copyrighted or resold by Contractor. The Contractor will exercise due care in creating or selecting material for publication to ensure that such material does not violate the copyright, trademark, or similar rights of others. To the extent the Contractor uses copyrighted materials in performance of work under this SOW Agreement, the Contractor shall document and provide the state with the precise terms of the licensed use granted to the State by the owner of the copyright for future use of the copyrighted material. The Contractor shall not use any copyright protected material in the performance of the work under this SOW Agreement that would require the payment of any fee for present or future use of the same by the State.

Waivers

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such right, power or remedy nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

WE THE UNDERSIGNED parties have read, understand, and agree to be bound by all of the terms and conditions of this SOW Agreement and the Master Agreement.

STATE OF VERMONT,	CONTRACTOR,
Date: _____	Date: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Agency: _____	Vendor: _____

MASTER CONTRACTOR – **HMC Advertising**

Attachment A: Media Planning and Buying Project Scope of Work

HMC Advertising, LLC, 65 Millet Street, Richmond, VT 05477

(Example only, subject to change)

Date: _____
Master Contract #: _____
Master Contract ID #: _____
VISION Vendor #: _____
(optional) Agency or Department Generated SOW #: _____

State of Vermont Agency/Department	Date Issued	Response Due

Contact Name	Phone	E-Mail

Project/Job Title

Description/Specifications

Demo Target:

Geo Target:

Media:

Creative:

Performance Metrics:

Timeframe of Project

MASTER CONTRACTOR – **HMC Advertising**

Budget

A. Description of Response

B. Project Budget

Itemize Agency Services & Fees	Max. Hourly Rate	Total
Account Management/Coordination Coordinate agency efforts on behalf of client	$122	
Strategic and Media Planning Media planning and allocation	$143	
Media Buying/Negotiating Buying and negotiating of all media	$122	
Implementation Management Trafficking of creative, invoice reconciliation and post buy detail reports to ensure accuracy of placement and negotiated rates	$122	

Total Proposed Agency Cost

Itemize Out-Of-Pocket Expenses

Other

Media Dollars Available to be Placed

TOTAL

APPENDIX III: STATEMENT OF WORK CHANGE ORDER

(Example only, subject to change)

Statement of Work Change Order

Date: _____
Master Contract #: _____
Master Contract ID #: _____
VISION Vendor #: _____
(optional) Agency or Department Generated SOW #: _____

Contractor Name: [Enter Vendor Name]

Project: [Enter Project Title]

Change Order #: [Enter Number]

The Statement of Work Agreement ("SOW Agreement") between the State of Vermont, [Enter Agency and/or Department] (hereafter called "State") and [Enter Vendor Name], identified with the Project Title of [Enter Project Title] and dated on [Enter execution date of SOW Agreement] is amended as follows:

☐ **Maximum Amount**

The maximum amount payable under this SOW Agreement, wheresoever such references to the maximum amount appear in said SOW Agreement, is changed from $_____ to $_____.

☐ **Term**

The end date wheresoever such references appear in said SOW Agreement and its attachments, is changed from _____ to _____.

☐ **Scope of Work**

The services to be provided, as set forth in this SOW Agreement Attachment A are amended as follows: [Enter detailed text explaining changes to the scope of work or enter reference to an attachment if changes are outlined in a separate document].

Services to be performed must not be outside of the specifications of work to be performed as set forth in Attachment A of the Master Agreement.

☐ **Taxes Due to the State**

Contractor further certifies under the pains and penalties of perjury that, as of the date this SOW Agreement Change Order 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.

All other terms and conditions of the SOW Agreement not hereby amended shall remain in full force and effect.

WE THE UNDERSIGNED parties have read, understand, and agree to be bound by all of the terms and conditions of this SOW Agreement Change Order, the SOW Agreement and the Master Agreement. (Specific corresponding Agreement numbers included on the Signature page to this amendment).

MASTER CONTRACTOR – **HMC Advertising**

STATE OF VERMONT,	CONTRACTOR,
Date: _____	Date: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Agency: _____	Vendor: _____