

GUIDE TO USING MARKETING MASTER CONTRACTS

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For questions regarding this guide, contact the Chief Marketing Office
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Introduction to the Marketing Master Contracts

The Marketing Master Contracts are individual master contracts for marketing services between the State of Vermont (through the Agency of Commerce and Community Development, Office of the Chief Marketing Officer) and a select group of marketing firms. These individual firms were awarded a master contract following a full competitive bid and selection process. The Marketing Master Contracts allow state entities to **obtain marketing services from these firms without having to go through an additional full RFP process for each project**. In addition to saving administrative time, the contracts were negotiated at a state level and include a uniform set of established rates.

The Chief Marketing Office administers three sets of Marketing Master Contracts:

1. Creative Services
2. Photography
3. Media Buying

An explanation of each type of contract follows.

1. Creative Services

The master contracts for Creative Services cover services related to the creation of marketing materials. There are currently 5 firms under a Marketing Master Contract for creative work. Their contact information and hourly-rate pricing is provided in Appendix B.

The State contracts with multiple firms to provide state entities with a range of options, styles and capabilities to choose from to help find a firm that offers the best fit for individual marketing projects undertaken by agencies and departments across the state.

The scope of services in these contracts covers a full range of creative services work, and is the same for all 5 of these contracts. The complete scope of services language is included in Appendix A of this guide. Briefly, these services include:

- Creative direction and strategy/concept development
- Graphic design
- Copywriting
- Collateral development (brochures, fact sheets, posters, etc.)
- Video production
- Public relations
- Social media strategy/marketing and content development
- Website discovery, site-mapping, consultation on content organization/navigation
- Digital marketing
- Market research, focus groups, surveys
- Project management

2. Photography

The master contracts for Photography cover services related to the creation of photographic imagery. There are currently 2 firms under a Marketing Master Contract for photography. The scope of services for these photography contracts is provided in Appendix C, and the contact information and hourly-rate pricing for each contract are provided in Appendix D.

The State contracts with multiple firms for photography work in order to provide a range of options, styles and capabilities to match the wide range of photography needs of state entities.

3. Media Buying

The State maintains one single contract with a single marketing firm for Media Buying, which covers services related to the placement of marketing materials with paid media (television, radio, newspapers, digital, etc.). The firm under current contract for this service is HMC Advertising (through 8/31/21). Their contract scope is provided in Appendix E, and their contact information and pricing is provided in Appendix F.

The contracted media buyer will develop a plan and strategy for placement and distribution of marketing materials created by the state entity, either internally or with the help of a creative services marketing firm (one of the Marketing Master Contractors for Creative Services, or a firm selected by the state entity via full RFP).

The State contracts with just one firm for media buying in order to take advantage of 'bulk pricing' and discounted rates that benefit all state entities.

Note on Printing Projects

Past versions of this guide have included a section on purchasing guidelines for printing projects. In 2012, the Department of Buildings and General Services (BGS) implemented a statewide print procurement process. For more details on their process, see the BGS website:

<http://bgs.vermont.gov/purchasing-contractingprint-procurement>

How to access the Marketing Master Contracts

As noted in the last section, the Marketing Master Contracts include an umbrella scope of marketing services and the negotiated terms for provision and pricing of these services. To utilize one or more of the services covered under the Marketing Master Contracts, a Statement of Work (SOW) process was established. This process is slightly different, depending on whether you are contracting for Creative Services, Photography, or Media Buying work.

Creative Services Work

The SOW process includes three steps: (1) requesting proposals; (2) selecting a firm and determining a defined project scope; and (3) executing the Statement of Work Agreement.

The Chief Marketing Office has developed a Work Request Form (see Appendix G) that you can use to describe your project needs and request proposals from one or more of the Marketing Master Contractors. The Work Request Form will prompt you for information on your project objectives, budget, timeline, deliverables, etc. — all the elements you will need to define the scope of work for the project.

The proposal(s) received in response to the Work Request Form will become the project scope document that describes the services that will be performed, the timeline for when they will be performed, and the agreed-upon cost for those services.

A Statement of Work Agreement is required for all projects. The Statement of Work Agreement is the legal bridge that attaches the project scope (the agency proposal) to the actual Marketing Master Contract between the State (ACCD/CMO) and the selected Master Contractor, and to the specific state entity requesting and paying for the individual project.

A blank Statement of Work Agreement and Work Request Form are both provided here in Appendix G. These same forms (as Word documents that can be filled out electronically) can also be downloaded from the CMO's website (at cmo.vermont.gov).

Step-by-Step Instructions for Creative Services Work

1. Complete a Work Request Form and define objectives, required elements, target audience, timeline, and budget for your project.
2. Choose which marketing firm(s) you would like to work with and send the Work Request Form directly to the firm(s) electronically and cc: the Chief Marketing Office (contact information is provided in Appendix B).
 - a. **For Projects under \$50,000** you have the option of getting proposals from more than one of the master-contracted firms (or all of them, if desired or if required by your agency or departmental purchasing guidelines), but only one proposal is required. *While the CMO's office always encourages soliciting and comparing multiple proposals, this is not required for projects under \$50,000.*
 - b. **For Projects over \$50,000** you are required to issue a Work Request Form to all the Marketing Master Contractors for that service. The contractors will have the opportunity to bid on this work, but are not obligated to respond. It is the responsibility of the state entity to review each response and choose the marketing firm that can best provide the requested services. The CMO is available for consultation and assistance if needed.

3. The marketing firm(s) will, if they choose to submit a proposal, submit their response directly to the requesting state entity. (Total time from request to proposal may take 10 – 15 business days.)
4. State entity reviews and compares responses, asks follow-up questions if needed, and finalizes the project scope with the selected marketing firm.
5. Complete the Statement of Work Agreement to obtain necessary signatures (marketing firm and the appropriate individual with Signing Authority in your agency/department). The selected Contractor should sign first, followed by the state entity.
6. Provide your business office with the signed Statement of Work Agreement and project scope (agency proposal) and request they set up a vendor contract under the Marketing Master Contract for your project (see page 11 for instructions on setting up a vendor contract in VISION).
7. Provide the CMO with a copy of the signed Statement of Work Agreement and project scope for our records.
8. Provide marketing firm with the VISION vendor contract number to include on all invoices.
9. Complete work with contractor as per agreed upon estimate, timeline and deliverables.
10. Send the CMO a copy of all final “deliverables” (TV spot, brochure, website URL, etc.). For more details on file formats and where to send these copies, see the section titled “Project follow-up with CMO” on page 11.

Photography Work

The SOW process includes three steps: (1) requesting proposals; (2) selecting a firm and determining a defined project scope; and (3) executing the Statement of Work Agreement.

For photography work, the specific Photography Work Request Form (see Appendix G) can serve two purposes: (1) as the form you use to describe your project needs and request proposals from one or more of the Photography Master Contractors; and (2), once completed by the selected contractor, as the scope of work for the project. This project scope document (the Photography Work Request Form once completed by the contractor) will describe the services that will be performed, the timeline for when they will be performed, and the agreed-upon cost for those services.

A Statement of Work Agreement is required for all projects. The Statement of Work Agreement is the legal bridge that attaches the project scope (the completed Photography Work Request Form) to the actual Marketing Master Contract between the State (ACCD/CMO) and the selected Master Contractor, and to the specific state entity requesting and paying for the individual project.

A blank Statement of Work Agreement and Photography Work Request Form are both provided here in Appendix G. These same forms (as Word documents that can be filled out electronically) can also be downloaded from the CMO's website (at cmo.vermont.gov).

Step-by-Step Instructions for Photography Work

1. Complete a Photography Work Request Form and define objectives, required elements, timeline, and budget for your project.
2. Choose which photographer(s) you would like to work with and send the Photography Work Request Form directly to the firm(s) electronically and cc: the Chief Marketing Office (contact information is provided in Appendix D).
3. The photographer(s) will, if they choose to submit a proposal (by completing the Photography Work Request Form), submit their response directly to the requesting state entity.
4. State entity reviews and compares responses, asks follow-up questions if needed, and finalizes the project scope with the selected photographer.
5. Complete the Statement of Work Agreement to obtain necessary signatures (photographer and the appropriate individual with Signing Authority in your agency/department). The selected Contractor should sign first, followed by the state entity.
6. Provide your business office with the signed Statement of Work Agreement and project scope (completed Photography Work Request Form) and request they set up a vendor contract under the Marketing Master Contract for your project (see page 11 for instructions on setting up a vendor contract in VISION).
7. Provide the CMO with a copy of the signed Statement of Work Agreement and project scope for our records.
8. Provide photographer with the VISION vendor contract number to include on all invoices.
9. Complete work with contractor as per agreed upon estimate, timeline and deliverables.

Send the CMO a copy of all final "deliverables" (photo-shoot contact sheet, etc.). For more details on file formats and where to send these copies, see the section titled "Project follow-up with CMO" on page 11.

Media Buying Work

There are two steps in the SOW process for media buying: (1) defining the project scope, and (2) executing the Statement of Work Agreement.

A Statement of Work Agreement is required for all projects. The Statement of Work Agreement is the legal bridge that attaches the project scope (completed by the media buying Master Contractor) to the actual Marketing Master Contract between the State (ACCD/CMO)

and the Master Contractor, and to the specific state entity requesting and paying for the individual project.

The Media Planning and Buying Project Scope Form for a media buy is simpler than the Work Request Form used for creative services projects, and the process works more smoothly if it is completed by the media buying firm rather than the state entity. A sample of this form is provided in Appendix G.

Step-by-Step Instructions for Media Buying Work

1. Contact the media buying firm (contact information in Appendix F) to define objectives, target audience, timeline, and budget.
2. Media buying firm will complete the Media Planning and Buying Project Scope Form and will email that to the state entity for review and approval.

While you are not required to involve the CMO in this process, we are always here for consultation if needed. If you would like assistance, please contact the Chief Marketing Officer.

3. Complete the Statement of Work Agreement to obtain necessary signatures (media buyer and the appropriate individual with Signing Authority in your agency/department). The Media Buyer should sign first, followed by the state entity.
4. Provide your business office with the signed Statement of Work Agreement and project scope and request they set up a vendor contract under the Marketing Master Contract for your project (see page 11 for instructions on setting up a vendor contract in VISION).
5. Provide the CMO with a copy of the signed Statement of Work Agreement and project scope for our records.
6. Provide the media buying firm with the VISION vendor contract number to include on all invoices.
7. Complete work with contractor as per the agreed upon estimate and timeline.

Tips on writing your work request

Level of detail

The more detail you can include in your work request—on your target audience, project goals, background research or related past campaigns—the more targeted a response you can expect to receive from responding contractors. If you have metrics from previous efforts or anecdotal feedback on tactics that have or haven't worked the past, it will help contractors prepare a stronger and more specific proposal if you share that kind of information up front.

It is also helpful to keep in mind that the agency proposal (or completed Work Request/ Project Scope Form) referenced in your Statement of Work Agreement serves as the official record of your project and is used to document your and your contractor's understanding of project expectations – so again, it is good to be as detailed as possible. However, if you expect that there

may be some adjustments made to how the overall budget is allocated or which specific tactics will be used over the course of the project, it is also acceptable to keep the project scope more general, and use an attached marketing plan to document the finer details.

For example, if your project includes research that will be done early on that may inform later stages of the project, or if you want the ability to make adjustments along the way based on initial performance metrics, you may be better off documenting the finer details in a marketing plan that is attached to the project scope, and leaving your project scope rather broad (limited to overall budget, core deliverables and timeline/deadline).

Example 1: A work request might specify a total budget of \$40,000. The marketing plan might further specify that \$25,000 is allocated to development of an annual report and \$15,000 is allocated to social media support. Upon further discussion, the contractor and state entity may decide that \$35,000 should go toward printed materials (an annual report and a brochure) and only \$5,000 toward social media.

Example 2: A media buy might specify a total budget of \$50,000. The marketing plan might further specify that \$35,000 is allocated to television and \$15,000 is allocated to radio. Upon further discussion, the media buyer and state entity may decide that \$40,000 should go toward TV and \$10,000 toward radio.

This strategy will help you avoid having to make lots of changes to your project scope over the course of your project. Since the project scope documents are also used by your business office to double-check invoices before paying them, even relatively minor discrepancies could cause delays in payment processing.

Providing budget guidelines

The Work Request Form provides several fields for you to use in specifying your budget or budget range for your project. It's important to give contractors at least an approximate budget at the outset, so you can define realistic expectations for deliverables within that budget.

It can also be very useful to offer a budget range rather than just one maximum budget figure. A budget range can stimulate discussion about "good/better/best" scenarios, and you may well find out, through those discussions, that some deliverables under the "best case" scenario do not justify the additional cost to obtain them.

When you are inviting multiple marketing firms to respond to your Work Request, a budget range can also help you make comparisons among the proposals you receive, and can help you decide which proposal offers the best value. The Work Request form offers you the ability to request separate proposals for different budget amounts. This field is optional, but can be very helpful.

Making Changes

After execution of a Statement of Work Agreement, if any change in scope of a project affecting price, deliverables, or schedule is requested, the contractor and the relevant state entity shall mutually agree to the changes in writing. A Statement of Work Change Order form is included in Appendix G and available at cmo.vermont.gov.

A change in the deliverables should be interpreted as a major change to the project. Examples of a major change would be:

- A change to the project timeline or deadline.
- A change to the overall budget of the project.
- A change in the services provided to deliver the desired outcomes (*Example: the first project scope specified production of a TV ad; a revised project scope specifies production of a TV ad, YouTube videos, and radio ads*).

The Statement of Work Change Order form needs to be fully executed by obtaining signatures from both the Master Contractor and the appropriate individual with Signing Authority in your agency/department. The Master Contractor should sign first, followed by the state entity.

Because the project scope (in the form of an agency proposal or completed Work Request/ Project Scope Form) is used as the reference document for payment of invoices, this is the document that your business office will use to double-check invoices that come in on your project. For this reason, the prior section “Tips on Writing your Work Request” advises that, if you would like flexibility in your project, you use an attached marketing plan to outline specific details and leave your project scope rather broad (limited to overall budget, core deliverables and timeline/deadline). This strategy will help you avoid having to make lots of changes to your project scope during the course of your project, and thus the need to execute multiple Change Orders.

Revised project scope documents (agency proposal or completed Work Request/ Project Scope Forms) are negotiated between the marketing firm and the state entity. CMO or legal approval is not required per the terms of the Marketing Master Contract. Other specific Department or Agency rules may apply.

For questions regarding the need for written changes, or whether certain details should go in a Work Request, Change Order or an appended marketing plan, please contact the Chief Marketing Office.

Project Follow-up with CMO

As part of your project workflow, you should send copies of your final “deliverables” to the Chief Marketing Office. You can also ask your marketing firm to cc: the CMO on these items when they send them to you. The preferred file formats for each deliverable are as follows:

- Videos or TV spots: MP4
- Radio spots: MP3
- Printed pieces (brochures, ads, reports): PDF or JPG
- Online: Website URL(s)
- Media buys: Media plans in Excel or PDF
- Social media work: Please discuss possible "deliverables" with the CMO's office

Instructions for entering information into VISION

A Master Contract cannot receive charges against it directly. Invoices received must be billed to a specific department, which is tracked using a unique, department-created sub-contract number (known as a vendor contract in VISION). A vendor (sub-) contract needs to be set-up in VISION for your department to pay for services out of your budget.

It is vital when you set up that vendor (sub-) contract in VISION, that you reference the Master Contract number being used, and that you take care to reference the correct contract number (especially for creative services vs. media buys). This allows marketing expenditures to be easily tracked.

Please also share with your business office that vendor (sub-) contracts in VISION that reference a Master Contract should be created as Purchase Order contracts and not General contracts.

The Statement of Work Agreement and Work Request Form both include fields to enter the correct contract numbers to keep accurate records on all projects. These include:

- **ACCD Master Contract Number:** This is the number of the contract held by the Agency of Commerce and Community Development (ACCD) for the Chief Marketing Office between the State and each firm under Master Contract.

The current Master Contract numbers for Creative Services (effective 11/1/18 - 10/31/20) are:

- **Better World Advertising (Contract #37258)**
- **HMC Advertising (Contract #37261)**
- **Place Creative (Contract #37260)**
- **Spike Advertising (Contract #37262)**
- **Small Mammal (Contract #37259)**

The current Master Contract number for Media Buying (effective 3/1/19 - 8/31/21) is:

- **HMC Advertising: #37800**

The current Master Contract numbers for Photography (effective 7/1/16 - 12/31/19) are:

- **Karen Pike Photography: #32290**
- **Mike Worthington dba Worthington Images: #32315**

- **Vendor Contract Number:** This is the number your business office will create when a new contract is entered into VISION.
- **VISION Vendor Number:** This is the number that identifies the firm doing the work so they can get paid.

If your marketing project involves multiple Master Contracted services (such as creative services and a media buy), these contracted services must be entered **separately** in VISION, in order to reference the appropriate Master Contract numbers for the appropriate service.

Example: The Department of Health (VDH) has a grant totaling \$100,000 for a smoking-cessation marketing program. Of the total budget, the VDH spent \$30,000 on development of a TV ad, and spent \$70,000 on a media buy to run that ad on various TV stations.

While all of that work was done with HMC Advertising (which holds a Master Contract for creative services work as well as the single, statewide Master Contract for media buying), that \$100,000 must be entered and referenced separately in VISION (\$30,000 referencing the Creative Services Master Contract number, and \$70,000 referencing the Media Buying Master Contract number). This extra step is important because it allows the CMO to track marketing expenditures by type of service.

For complete step-by-step instructions on VISION, please refer to the VISION manuals issued by the Department of Finance & Management. The documents can be downloaded online at:

<http://finance.vermont.gov/training-and-support/vision-manuals>

Planning around contract expiration dates

Marketing Master Contracts are generally renewed or re-bid every two years via statewide RFP. If you have a project whose timeline is expected to straddle an upcoming contract expiration date, you're advised to plan ahead and reach out to the CMO's office for guidance on your specific situation. You may be best served doing your own RFP for your project if it's a sizeable and long-term one – in which case, you should build more lead time into your project than you would normally need if you used a Master Contract.

FAQs

1. Can I set up a vendor (sub-) contract with these marketing firms even if I don't have any specific work or project needs now?

Yes, up to a \$75,000 limit. Departments may execute a Statement of Work Agreement for general services with a marketing firm that does not reference a specific project or deliverables. In these cases, one or more marketing plans should be part of the project scope documents to specify anticipated projects, and agreed-upon details once particular projects are identified. The general services Statement of Work Agreement cannot exceed \$75,000 and must specify which services the marketing firm may provide.

2. Do I need multiple VISION vendor contracts for each marketing project?

If you are using the same marketing firm to complete different projects, you only need one VISION vendor contract per marketing firm, specific to their Master Contract. You can use the line numbers to separate projects within a vendor contract. Each project will need a line number specific to that project, as each will have a separate Statement of Work Agreement.

While multiple VISION vendor contracts are not required, some departments do prefer to set up separate vendor contracts for each project, to make tracking of grant funding easier. This is always an option. However, please make sure to reference the appropriate Master Contract(s) in every case.

3. What is a vendor contract, and why can't I use the Master Contract?

A vendor contract is like the "child" in a parent-child relationship where the Master Contract acts as the "parent." The vendor contract is used by VISION to track and make payments on invoices for departmental work (the "child") and to track transactions under the Master Contracts.

The vendor contract is like a sub-contract and is a signed agreement between the parties that specify the deliverables and timing of work. The CMO recommends the use of our Statement of Work Agreement as the signing document, but an AA-14 ("Contract Summary and Certification") form can also be used with the correct documentation.

4. Can I submit a Work Request Form to multiple marketing firms even if my project is below \$50,000?

Yes. In fact, the CMO's office always encourages departments to solicit multiple proposals for a project. You'll likely get a broader range of ideas and budget levels, and perhaps a fresh approach you didn't think to ask about, if you ask multiple firms to submit proposals for your project. And, due to the streamlined contracting process available to you under the Master Contract system, this level of "due diligence" needn't add much additional time to your project.

5. What if I don't know what the project budget or cost is, will be, or should be?

If you don't have a project budget or cost and can't provide a reasonable estimate, you are encouraged to discuss your project with the Chief Marketing Office or request time with one or

more of the marketing firms to discuss your needs. These discussions ahead of time will help you avoid spending more than you need to and avoid project delays due to underestimating the resources needed to accomplish your objectives. Be prepared to discuss the project's key objectives, requirements or anticipated obstacles, and timeline for completion. Be clear with the marketing firm that you are trying to define the project budget.

The Work Request Form also gives you the option of specifying various budget levels. This option can be a particularly helpful tool in comparing service value among the different marketing firms. It could also help you itemize the costs of various desired deliverables, and in some cases, can help you make the decision that the additional version of the brochure, for example, isn't worth the added cost.

The Chief Marketing Office is always available as a resource and sounding-board for project definition and budgeting.

6. What if I don't know what I need for specific marketing services? For example, I am not sure if I need print collateral or radio ads?

If you know you have a marketing need but are not sure how to execute a specific task or objective, you are encouraged to contact the Chief Marketing Office or request time with one or more of the marketing firms to discuss your project. It is best to have a clear scope or focus on your project before requesting proposals from the marketing firms. Be prepared to discuss the project's key objectives, requirements or anticipated obstacles, and timeline for completion. If you choose to meet with one or more of the contracted marketing firms, be clear what your intent for the meeting is. While this time may have a small cost associated with it, the time spent up front with the marketing professionals will mean less time spent later during the work and implementation phases.

The Chief Marketing Office is always available as a resource for project definition, planning, and budgeting.

7. Does the CMO need to sign, or approve, Statements of Work Agreements?

No. The CMO does not need to sign or approve Statement of Work Agreements under the Marketing Master Contracts. However, the CMO should receive copies of your SOWs and project scope documents (Work Requests or agency proposals) for general information and record-keeping.

8. But I thought that the CMO needed to sign off on all marketing contracts?

In accordance with Bulletin 3.5, only marketing contracts valued at more than \$25,000 **executed outside of the Marketing Master Contracts** must have prior approval from the CMO.

Appendix A

Master Contract for Creative-Services Marketing Firms

(Sample Contract; Language is the same for all contractors.

For specifics on pricing and contact information for each individual contractor, please see Appendix B.)

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 **Contractor Name**, hereafter called “Contractor” with principal place of business at **Contractor Address**. Contractor’s form of business organization is an **Contractor Form of Business**.
2. **Subject Matter:** The subject matter of this contract is services generally on the subject of **providing support for the marketing, promotional, informational and outreach activities of 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. Contractor will not be considered an agency of record and will not be guaranteed any level of business through this contract. 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 November 1, 2018 and end on October 31, 2020 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 **Contractor Contact Name**; Telephone **802-000-0000**; email address **Contractor Email Address**.
9. **Attachments:** This contract consists of 22 pages including the following attachments which are incorporated herein:
 - Attachment A – Specifications of Work to be Performed
 - Attachment B – Payment Provisions

- Attachment C – Standard State Provisions for Contracts and Grants (revision date 12/15/17)
- Attachment D – Other Contract Agreement Provisions
- Appendix I – Contractor Performance Measures
- Appendix II – Statement of Work Agreement and Marketing Firm Work Request Form (examples 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 and Marketing Firm Work Request Form (examples 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:

Date: _____
 Signature: _____
 Name: _____
 Title: _____
 Agency: _____

By the Contractor:

Date: _____
 Signature: _____
 Name: _____
 Title: _____

(Remainder of page intentionally left blank)

ATTACHMENT A SPECIFICATIONS OF WORK TO BE PERFORMED

The purpose of this contract is to provide support for the marketing, promotional, informational and outreach activities of the agencies, departments and divisions of Vermont state government ('Departments'), as well as quasi-governmental entities, on an as-needed, project-by-project basis. Any state government entity may utilize the provisions of this agreement. It should be understood, therefore, that the Contractor will be dealing with a very diverse group of entities that nonetheless comprise one client—the state of Vermont.

Each Department will manage its own projects with the Contractor, select their contractor consistent with state procedures and contract provisions, and individually administer their budgets and develop communication and marketing plans and creative assets in support of their separate and distinct missions in close coordination with the Chief Marketing Officer (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 is followed.

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. Description of work:** The nature of the work may include, but not be limited to, the following services.
 - 1.1. Strategy and Concept Development:** Under direction from the State, Contractor will develop strong concepts and strategies, articulated in the form of marketing plans and campaign proposals, to lay the foundation for effective and efficient creative work. Creative work should always have a strategy behind it, as well as anticipated outcomes that can be measured after creative materials are deployed, to gauge the success of the campaign. Services may include strategic positioning, goal development, brand planning, competitive market assessments, qualitative or quantitative market research, survey development and analysis, identification of target audiences, prioritization of tactics, budgeting, and development of performance metrics.
 - 1.2. Creative Services:** Under direction from the State, Contractor will develop and implement creative assets to bring promotional campaigns to life, including collateral and identity materials, broadcast/video production, print/out-of-home/digital advertising assets, etc., to maximize impact, efficiency, and protection of the state brand/reputation and rights in the use of promotional designs. Creative design work, in the form of copywriting, graphic design, video production, etc., must be developed with an eye toward coordination across marketing initiatives to help the State 'speak with one voice,' while at the same time, maintaining a focus on the specific messages, targets and objectives of the individual Department or project.
 - 1.3. Digital Marketing and Web Development:** Online communication channels are an integral part of the strategies and tactics needed to connect with today's citizens and consumers. Services may include, but are not limited to: competitive market analysis and strategy development; discovery and primary research involving stakeholders; user experience design and the development of user personas and experience mapping; content audits, content mapping and information architecture; content development, including data visualization and other interactive content; design of style and user guides; copywriting; social media integration; Americans with Disabilities Act compliance; keyword analysis and search engine optimization; search, email, display, video and social marketing; and analytics and campaign reporting.

Any website creative work must be coordinated with the State of Vermont's Agency of Digital Services (ADS) and/or IT vendors as applicable, as well as with the Chief Marketing Officer. Any work performed on state websites must comply with the [State of Vermont Web Look and Feel Standard](#), with designs approved in advance of buildout by the Chief Marketing Officer and the Director of Web Services. Vendors should also be aware that a (Drupal-based) state web template exists and should be utilized unless a strong business case can be made that a state agency needs to build its own custom solution outside the template. Such exceptions must be approved by ADS and the CMO in writing before work can start on a custom build.

- 1.4. **Social Media and Public Relations:** While Departments are each individually responsible for maintaining their own content on social media channels, there are occasionally calls for the Contractor to recommend ways to integrate social media outreach into an overall marketing campaign. The scope of this work may include strategic and content calendar planning; social media guidelines to include persona or voice, graphic elements, and key messages; content development; and/or training of Department staff on usage of social media channels and analysis of traffic reports and analytics.

Similarly, public relations is a service that tends to be handled by Department staff as needed. However, projects may arise in which public relations, outreach and earned media are critical components of overall marketing and communications success, and where the Contractor may play a role. Scope may include overall strategy, outreach to media to generate targeted publicity, writing social media content or press releases, coordinating special events and media visits, conducting communication audits, and monitoring of press coverage and story placements.

- 1.5. **Production Management:** Contractor must have demonstrated expertise in managing production schedules for a full range of multimedia projects. The Contractor must provide expertise in the vendor and product selection and production oversight of multiple forms of promotional creative (e.g. print runs; radio and broadcast/cable/video advertising; outdoor installations; vehicle wraps; banners; signs; tradeshow displays, etc.). Contractor must plan for coordination of bids and production runs to achieve the best pricing and track projects during production for quality and timeliness.

Finally, a key piece of production management across all media is the acquisition of images with usage rights and license agreements appropriate to the project and favorable to the State. The Contractor must negotiate image use rights on behalf of the State.

2. **Process:** Departments will follow a Statement of Work (SOW) process for all marketing and creative projects. Departments will develop a Work Request using the Marketing Firm Work Request Form and may solicit quotes from the Contractor and/or other contracted vendors for a specific project or task. (Please see Appendix II for an example of this form.) The requirement to solicit quotes from all Master Contractors for Marketing and Creative Services or just one contractor will be based on the project cost and guidelines as outlined in the CMO's [Guide to Working with Master Contractors](#). The Master Contractors may respond to the Work Request with a project proposal which will allow for the determination of which contractor or contractors will best fulfill the needs of a specific project or task in a streamlined and simplified procedure.
3. **Contract Oversight:** The services performed under this contract shall be reviewed by the State assigned Contract Manager and will include deliverables and performance expectations.
4. **Work Issuance:** Progress against the work to be performed, under this contract, will be reviewed by the State's assigned staff (hereafter called "Contract Manager"). 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 contract's scope of services, the additional work will be reduced to writing by the State and Contractor in the form of an amendment, and only as pre-approved by the State.

5. Work Required:

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

6. Other Requirements:

6.1. 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.

6.2. **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.

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

(End of Attachment A)

**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 will submit monthly invoicing on a work-completed basis 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.

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

4. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing. Invoicing must contain a detail of services 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 (parts, materials travel, etc.) stated below. The State shall not be responsible for any expenses of the Contractor unless specifically stated below.
5. **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:	Max. Hourly Rate:
Account Management/Coordination	Direct and coordinate the day-to-day agency efforts on behalf of the client’s product and/or service. May include tracking client budgets, moving projects through the agency from start to finish, coordinating schedules and meeting client deadlines. Work usually done by Account Executive or Account Supervisor.	See rates per Contractor in Appendix B
Broadcast/Video Development and Production	Coordinate, oversee and develop multimedia content based on creative platform. May include script development and storyboarding, planning shoots and scouting locations, scheduling, securing and directing crew or talent; and managing editing process. Work usually done by Producer or Multi-Media Designer.	See rates per Contractor in Appendix B
Copywriting	Implementing the creative concept into headlines, scripts and body copy. Work usually done by Copywriter.	See rates per Contractor in Appendix B
Creative/Concept Development	Develop the strategic platform for campaign concepts, including category, competitive and client research and analysis. Develop overall look/feel/tonality of overarching brand. Work usually done by Creative Director and/or Associate Creative Director.	See rates per Contractor in Appendix B

Service:	Definition:	Max. Hourly Rate:
Editing	Reviewing materials for accuracy (usually to a source document provided by client) and style (according to purpose and client industry norms, usually the current editions of Associated Press Stylebook or Chicago Manual of Style).	See rates per Contractor in Appendix B
Graphic Design	Implementing the creative concept into all visual materials through the use of color, type, imagery and format. Develop the overall layout and production design across print and electronic media. Work usually done by Art Director or Graphic Artist.	See rates per Contractor in Appendix B
Production/ Traffic Management	Overseeing the process of creating and delivering an end product. May include estimating, negotiating, distributing, scheduling, purchasing and proofing for quality control. Work usually done by Production Manager or Traffic Manager.	See rates per Contractor in Appendix B
Public Relations	Conceives and implements public relations strategies. Writes and edits press releases; pitches and places stories; develops media relationships; monitors media activities; and responds to media requests. Work usually done by Director of Communications or Public Relations Manager.	See rates per Contractor in Appendix B
Social Media	Attract and engage target audiences by creating, monitoring and managing all published content such as text, images and video. Usually performed by Social Media Manager.	See rates per Contractor in Appendix B
Strategic Planning	Brand planning, strategic planning and analytical activity. Provide deeper insights into the dynamics of client businesses through the development of disciplined and thorough sales, marketing, and consumer analyses. Work usually done by Brand Strategist, Director of Client Services, Director of Marketing and/or Account Supervisor.	See rates per Contractor in Appendix B
Website Design	Create and implement design for websites based on creative platform. May include development of information architecture, wireframes, graphic design, and content. Work usually done by Digital Strategist, UX Designer, Web Designer or Web Developer.	See rates per Contractor in Appendix B

The Contractor will not be compensated for any time spent in responding to a Work Request or developing a Statement of Work. Travel time for client meetings will also not be billable.

6. EXPENSES: Contractor shall not buy materials and resell to the State at a profit. The State shall be responsible for expenses of the Contractor, only if specifically provided for in an applicable Statement of Work or Change Order executed by the Contractor and the relevant state entity. Expenses associated with travel will be limited to mileage reimbursement at the current given rate set by the State of Vermont for its employees. Travel time for client meetings will not be billable. Expenses related to travel time associated with work assigned through a Statement of Work shall be specified within the Statement of Work. The State will not reimburse for the purchase of alcohol, all such purchases must be removed from all expense reimbursement requests.
7. 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)

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. [**Contractor 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 Agreement.
3. **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.
4. **Contractor's Liens:** Contractor will discharge any and all contractors or mechanics' liens imposed on property of the State through the actions of subcontractors.
5. **State Minimum Wage:** The Contractor will comply with state minimum wage laws and regulations, if applicable.
6. **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.
7. **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)

**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:			
Contract #			
Demonstrated expertise in development and execution of strategies to accomplish objectives and outcomes identified in the Statement of Work.			
Demonstrated knowledge and expertise in both traditional and new media, or earned media, that maximized reach and frequency goals for a media campaign or communications plan.			
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 B

Contact Information & Pricing for Creative-Services Marketing Firms

Master Contract #37258

Effective Dates: 11/1/18 - 10/31/20

Contractor: **Better World Advertising**

655 Commercial Street
San Francisco, CA 94111

802-862-2400

www.socialmarketing.com

Key Contacts:

Jennifer Hampton, jenniferh@socialmarketing.com

Pricing

Service	Maximum Hourly Rate
Account Management/Coordination	\$115/hour
Broadcast/Video Development and Production	\$115/hour
Copywriting	\$95/hour
Creative/Concept Development	\$150/hour
Editing	\$95/hour
Graphic Design	\$115/hour
Production/Traffic Management	\$95/hour
Public Relations	\$95/hour
Social Media	\$95/hour
Strategic Planning	\$150/hour
Website Design	\$125/hour

Master Contract #37261

Effective Dates: 11/1/18 - 10/31/20

Contractor: **HMC Advertising**

65 Millet Street, Suite 301
Richmond, VT 05477

802-434-7141

www.wearehmc.com

Key Contacts:

Tom Holmes, tom@wearehmc.com

Pricing

Service	Maximum Hourly Rate
Account Management/Coordination	\$122/hour
Broadcast/Video Development and Production	\$122/hour
Copywriting	\$122/hour
Creative/Concept Development	\$143/hour
Editing	\$122/hour
Graphic Design	\$122/hour
Production/Traffic Management	\$122/hour
Public Relations	\$143/hour
Social Media	\$122/hour
Strategic Planning	\$143/hour
Website Design	\$122/hour

Master Contract #37260

Effective Dates: 11/1/18 - 10/31/20

Contractor: **Place Creative**

187 South Winooski Avenue
Burlington, VT 05401

802-660-2051

www.placecreativecompany.com

Key Contacts:

David Speidel, dave@placecreativecompany.com

Pricing

Service	Maximum Hourly Rate
Account Management/Coordination	\$150/hour
Broadcast/Video Development and Production	\$150/hour
Copywriting	\$150/hour
Creative/Concept Development	\$150/hour
Editing	\$150/hour
Graphic Design	\$150/hour
Production/Traffic Management	\$150/hour
Public Relations	\$150/hour
Social Media	\$150/hour
Strategic Planning	\$150/hour
Website Design	\$150/hour

Master Contract #37262

Effective Dates: 11/1/18 - 10/31/20

Contractor: **Spike Advertising**

85 Fiske Road
Alburgh, VT 05440

802-660-2051

www.spikeadvertising.com

Key Contacts:

Ken Millman, ken@spikeadvertising.com

Pricing

Service	Maximum Hourly Rate
Account Management/Coordination	\$125/hour
Broadcast/Video Development and Production	\$125/hour
Copywriting	\$125/hour
Creative/Concept Development	\$125/hour
Editing	\$125/hour
Graphic Design	\$125/hour
Production/Traffic Management	\$125/hour
Public Relations	\$125/hour
Social Media	\$125/hour
Strategic Planning	\$125/hour
Website Design	\$125/hour

Master Contract #37259

Effective Dates: 11/1/18 - 10/31/20

Contractor: **Small Mammal, LLC**

480 Blue Hill Avenue
Milton, MA 02186

857-204-4025

www.smallmamm.al

Key Contacts:

Jason McCurry, jason@smallmamm.al

Leslie McCurry, leslie@smallmamm.al

Pricing

Service	Maximum Hourly Rate
Account Management/Coordination	\$150/hour
Broadcast/Video Development and Production	\$150/hour
Copywriting	\$150/hour
Creative/Concept Development	\$150/hour
Editing	\$150/hour
Graphic Design	\$150/hour
Production/Traffic Management	\$150/hour
Public Relations	\$150/hour
Social Media	\$150/hour
Strategic Planning	\$150/hour
Website Design	\$150/hour

Appendix C

Master Contract for Photographers

(Sample Contract; Language is the same for all contractors.

For specifics on pricing and contact information for each individual contractor, please see Appendix D.)

1. **Parties:** This is a contract for services between the State of Vermont, Agency of Commerce and Community Development, the Office of the Chief Marketing Officer (hereafter called “State”) and **Contractor Name**, hereafter called “Contractor” with principal place of business in **Contractor Location**, at **Contractor Address**. Contractor’s form of business organization is _____.
2. **Subject Matter:** The subject matter of this contract is services generally on the subject of photography and image processing services. 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 \$100,000.00.
4. **Contract Term:** The period of Contractor’s performance shall begin on July 1, 2016 and end on December 31, 2017 2018 (*note: contracts amended in 2017*) with the potential of two subsequent one-year extensions contingent upon mutual agreement of the Parties and receipt of all necessary prior State administrative approvals. 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. **Source of Funds: Master Contract, so various agencies and fund types**
8. **Cancellation:** This contract may be canceled by either party by giving written notice at least 30 days in advance.
9. **Contact persons:** The State’s contact person for this contract is **Chief Marketing Officer**; Telephone 802-000-0000; email address marketing@state.vt.us; The Contractor’s contact person for this contract is **Contractor Contact Name**; Telephone **802-000-0000**; email address **Contractor Email Address**.
10. **Attachments:** This contract consists of _____ pages including the following attachments which are incorporated herein:
 - Attachment A – Specifications of Work to be Performed
 - Attachment B – Payment Provisions
 - Attachment C – Standard State Provisions for Contracts and Grants (revision date 7/1/16)
 - Attachment D – Other Contract Agreement Provisions
 - Appendix I – Contractor Performance Measures
 - Appendix II – Photo/Videographer’s Authorization to Reproduce Photographic and/or Video Images and Release Form; Model Release Form Examples

- Appendix III – Statement of Work Agreement, Attachment A: Photography Request Form and Change Order Examples

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

- Standard Contract
- Attachment C – Standard State Provisions for Contracts and Grants (revision date 7/1/16)
- Attachment D – Other Contract Agreement Provisions
- Attachment A – Specifications of Work to be Performed
- Attachment B – Payment Provisions
- Appendix I – Contractor Performance Measures
- Appendix III – Statement of Work Agreement, Attachment A: Photography Request Form and Change Order Examples
- Appendix II – Photo/Videographer’s Authorization to Reproduce Photographic and/or Video Images and Release Form; Model Release Form Examples

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

By the State of Vermont:

Date: _____
Signature: _____
Name: _____
Title: _____
Agency: _____

By the Contractor:

Date: _____
Signature: _____
Name: _____
Title: _____

(Remainder of page intentionally left blank)

ATTACHMENT A SPECIFICATIONS OF WORK TO BE PERFORMED

The purpose of this contract is to provide **photography and image processing services to agencies, departments and divisions of Vermont state government, 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 this “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. Detailed description of work, including expectations and deadlines/timeline: Professional photography services and image processing to cover a state sponsored event, create head shots, fulfill desired image lists for stock library, or set-up and photograph persons, products, landscapes, etc. in specific environment and context.

1.1 Specific service requirements. Services provided in response to requests for work to fulfill photography needs defined by the State should include at a minimum:

- 1.1.1 Set-up, arrangement, lighting, and necessary preparation for scheduled photo shoots or events;
- 1.1.2 Post-production processing (e.g. raw file conversion, film processing, film to digital processing);
- 1.1.3 Delivery of all images to the requesting state entity, with a copy to the Chief Marketing Officer (CMO), within the timeframe defined in a Statement of Work (SOW). Images should be provided in electronic format (no less than 300 dpi) on CD/ DVD or flash drive, and should include the processed and raw files of all images taken for the assigned work as defined in the SOW.
- 1.1.4 Each CD/DVD or flash drive must include an accompanying color contact sheet, either in electronic format or hard copy.

1.2 Travel and location of work. Events and photo shoots may occur at various locations around the state. The Contractor will be responsible for arranging transportation of equipment and his/her own travel to and from location. Expenses associated with travel will be limited to mileage reimbursement. Travel time will not be billable.

1.3 Equipment requirements. The Contractor must provide their own camera, lenses, memory cards, lighting, tripods, and other related imaging equipment. If using digital equipment, it must operate at no less than 16 megapixels. The Contractor must come to all assignments prepared with both mobile and studio lighting and ample back up equipment. The Contractor must have post-production processing equipment readily available to include digital imaging software (e.g. Adobe Photoshop), and access to a CD/DVD burner, high resolution scanner, and a high quality color printer. The Contractor must also have access to film processing equipment and/or services (e.g. film lab) in the event that film is used to provide services requested by the State. The Contractor must have the capacity to store images/files up to two months. Long term and archival storage will be handled through the State’s image repository system.

- 1.4 Image requirements.** The Contractor must be able to provide images in any or all of the following formats: .psd (high resolution), .jpg, .tif, vector based (.eps). Images must be reproducible to poster or display sizes at 24" x 36" without pixilation. Contractor will process all images and all images will be toned, color corrected and at a minimum, saved for the client in a high resolution version (300 dpi at 14 inches wide) and a compressed web version (.jpg format). All work must also be backed up by the Contractor in both .jpg and RAW format. The Contractor must include a complete inventory of images provided to the State with adequate description of each image for purposes of identification.
- 1.5 Ownership of images.** All photographs taken while performing services for the State are considered property of the State and thus the Contractor relinquishes all future rights to said property. In certain circumstances, and only when written pre-approval is obtained from the State, the State may license the photographs (work) at no cost to the Contractor for the Contractor's exclusive use in promoting the Contractor's services by means including, but not limited to, a website or direct mail. Contractor will not be licensed to sell the images nor relicense images to any third party.
- 1.6 Model releases.** The Contractor will be responsible for obtaining appropriate signed model release forms when photographing people and minors. The State preferred model release forms can be found in Appendix II. If substitute model release forms are to be used, the forms must be reviewed and approved by the CMO prior to use. Signed model release forms must be filed with the requesting state entity and the CMO's office at the same time images are distributed. Detailed descriptions should be provided as to which model release is aligned with each image, ideally with photo title, date, number, and/or tag description.
- 1.7 Fulfillment of work requested.** The Contractor is responsible for fulfilling the photographic needs as they are specifically defined by the state consumer in a Statement of Work. If the state customer is not 100% satisfied with the final product, the Contractor is responsible for addressing the concerns and reaching a mutually agreeable arrangement that will meet the needs of the state customer. This may involve a full reproduction of the original shoot at no additional cost to the State.
- 1.8 Statement of Work Process.** The Parties agree to use the following process when the Contractor's above services are requested by the State:
- 1.8.1 The State entity desiring the above services shall contact Contractor with a detailed description of the project, including location, types of photos requested, schedule and budget.
 - 1.8.1.1 Contractor shall complete a Statement of Work (SOW) for each project. The State preferred SOW template form can be found in Appendix III.
 - 1.8.1.2 Contractor will provide a copy of all fully-executed SOWs to the Chief Marketing Officer for general information and record-keeping.
 - 1.8.2 SOWs will be consistent with the terms and conditions of this Contract and include a condition confirming to the same.
 - 1.8.3 SOWs will contain a description of the photography services needed (e.g. detailed descriptions of images needed, coverage of an event(s), head shot(s), deliverables, schedule or timing of work, period of work performance, not-to-exceed pricing, and payment provisions). Each SOW will contain a provision that, in the event that appropriations are insufficient to support the SOW, the relevant State entity may immediately cancel the SOW with notice to Contractor identifying the effective date

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

- 1.8.4 SOWs must be signed by the Contractor and the administrative head of the relevant State entity before work on the project begins.
- 1.8.5 Upon execution of an SOW by all parties, the Contractor may begin work, according to the agreed upon schedule, on the elements specified in such SOW.
- 1.8.6 After execution of an SOW, if any change in project scope affect the price, deliverables, or schedule, 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.

2. Contract Oversight: State agencies, departments and divisions of Vermont state government, as well as quasi-governmental entities, have the ability to work directly with the Contractor for photography and image processing 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").

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

2.2 Each state entity will manage its own projects and individually administer their budgets in support of their separate and distinct missions in close coordination with the Chief Marketing Officer. 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.

3. Work Issuance: Progress against the work to be performed, under this contract, will be reviewed by the Contract Manager. 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 contract's scope of services, the additional work will be reduced to writing by the State and Contractor in the form of an amendment, and only as pre-approved by the State.

4. Work Required:

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

5. Other Requirements:

5.1 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.

5.2 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, plans, photographs, specifications, estimates, computer programs, or similar documents, becomes the sole property of the State of Vermont and may not be copyrighted or resold by 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.

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

(End of Attachment A)

**ATTACHMENT B
PAYMENT PROVISIONS**

The State shall pay Contractor a sum **not to exceed \$100,000.00 as follows:**

1. A certificate of insurance must be submitted prior to commencement of work and release of payments (Attachment C, Section 8).
2. Copies of any subcontract agreements and tax certifications must be submitted (Attachment C, Section 19).
3. Contractor will submit monthly invoicing on a work completed basis directly to the State of Vermont agency, department, division or quasi-governmental entity that is identified in each Statement of Work under this contract. **Payment terms shall be Net 30.**
4. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing. Invoicing must contain a detail of services including dates, locations 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 (parts, materials travel, etc.) stated below. The State shall not be responsible for any expenses of the Contractor unless specifically stated below.
5. SERVICES - Contractor shall be paid for services based on the following rates or schedule:

Length of Assignment	Maximum Rate
Hourly	
Half-day (up to 4 hours)	
Full-day (up to 8 hours)	

Time is billed for all services provided on location for a shoot, including any set up, arrangement, model sourcing and administration, lighting and necessary preparation for scheduled shoots or events, actual shooting time and breakdown of equipment/lighting. **No additional time will be billed for any post production/computer work.**

6. EXPENSES: Contractor shall not buy materials and resell to the State at a profit. **All expenses must be pre-approved in advance by the Contract Manager and specifically included in an applicable Statement of Work or Change Order executed by the Contractor and the relevant state entity.** Contractor must submit detailed receipts to the State for reimbursement of all expenses, except mileage. **Travel time will not be billable.**

The State will not reimburse for the purchase of alcohol, and 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.

Expenses **Pre-Approved** by State of Vermont, if any:

•

Expense	Cost

7. 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.

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS

REVISED DECEMBER 15, 2017

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

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

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

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

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

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

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

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

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

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

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

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

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

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability

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

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

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

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

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

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

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State

under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

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

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

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

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

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

16. Taxes Due to the State:

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

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

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

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

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

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

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

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

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

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

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

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible

(excluding strikes or lock-outs) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

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

27. Termination:

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

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

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

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

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

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be

conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

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

(End of Standard Provisions)

ATTACHMENT D
OTHER 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. [**Key Contact Names Here**]. Should any of the individuals become unavailable during the period of performance, the State shall have the right to approve any proposed successors, or, at its option, to cancel the remainder of the Agreement.
3. **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.
4. **Contractor's Liens:** Contractor will discharge any and all contractors or mechanics' liens imposed on property of the State through the actions of subcontractors.
5. **State Minimum Wage:** The Contractor will comply with state minimum wage laws and regulations, if applicable.
6. **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)

**APPENDIX I
PERFORMANCE MEASURES**

The Contractor will be evaluated on its services performance on the following performance measures.
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: _____			
Contract # _____			
Met or exceeded delivery of project ‘shot list’ within assigned scope of budget and time frame.			
Overall quality of work completed.			
Demonstrated expertise in composition and execution to accomplish outcomes identified in Statement of Work.			
Statement of Work, project reporting, model releases and photography cataloging 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 completing form (please print): _____

Title of person completing form _____

Date form completed: _____

(End of Appendix I)

Appendix D

Contact Information & Pricing for Photographers

Master Contract #32290

Effective Dates: 7/1/16 - 12/31/18

Contractor: **Karen Pike Photography**

208 Flynn Avenue, Suite 3C
Burlington, VT 05401

802-482-3661

www.kpikephoto.com

Key Contacts:

Karen Pike, karen@kpikephoto.com

PAYMENT PROVISIONS:

The State shall pay Contractor a sum **not to exceed \$100,000.00** as follows:

1. A certificate of insurance must be submitted prior to commencement of work and release of payments (Attachment C, Section 8).
2. Copies of any subcontract agreements and tax certifications must be submitted (Attachment C, Section 19).
3. Contractor will submit monthly invoicing on a work completed basis directly to the State of Vermont agency, department, division or quasi-governmental entity that is identified in each Statement of Work under this contract. **Payment terms shall be Net 30.**
4. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing. Invoicing must contain a detail of services 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 (parts, materials travel, etc.) stated below. The State shall not be responsible for any expenses of the Contractor unless specifically stated below.
5. **SERVICES** - Contractor shall be paid for services based on the following rates or schedule:

Length of Assignment	Maximum Rate
Hourly	\$200.00/hour
Half-day (up to 4 hours)	\$700.00/half-day assignment
Full-day (up to 8 hours)	\$1300.00/full-day assignment
Multi-day (requiring 4 full-days or more)	\$1000.00/day

A two-hour minimum per assignment is required outside of Chittenden County.

Time is billed for all services provided on location for a shoot, including any set up, arrangement, model sourcing and administration, lighting and necessary preparation for scheduled shoots or events, actual shooting time and breakdown of equipment/lighting. No additional time will be billed for any post production/computer work.

6. **EXPENSES:** Contractor shall not buy materials and resell to the State at a profit. **All expenses must be pre-approved in advance by the Contract Manager and specifically included in an applicable Statement of Work or Change Order executed by the Contractor and the relevant state entity.** Contractor must submit detailed receipts to the State for reimbursement of all expenses, except mileage. **Travel time will not be billable.**

The State will not reimburse for the purchase of alcohol, and 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.

Expenses **Pre-Approved** by State of Vermont, if any:

Expense	Cost
Storage media (CD/DVD or flash drive) and color contact sheet(s) for final images	\$25.00 per assignment

7. 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.

Master Contract #32315

Effective Dates: 7/1/16 - 12/31/18

Contractor: **Mike Worthington dba Worthington Images**

241 Twin Oaks Terrace
South Burlington, VT 05403

802-578-8515

www.worthingtonimages.com

Key Contacts:

Mike Worthington,
mike@worthingtonimages.com

PAYMENT PROVISIONS:

The State shall pay Contractor a sum **not to exceed \$100,000.00** as follows:

1. A certificate of insurance must be submitted prior to commencement of work and release of payments (Attachment C, Section 8).
2. Copies of any subcontract agreements and tax certifications must be submitted (Attachment C, Section 19).
3. Contractor will submit monthly invoicing on a work completed basis directly to the State of Vermont agency, department, division or quasi-governmental entity that is identified in each Statement of Work under this contract. **Payment terms shall be Net 30.**
4. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing. Invoicing must contain a detail of services including dates, locations 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 (parts, materials travel, etc.) stated below. The State shall not be responsible for any expenses of the Contractor unless specifically stated below.
5. **SERVICES** - Contractor shall be paid for services based on the following rates or schedule:

Length of Assignment	Maximum Rate
Hourly	\$150.00/hour
Half-day (up to 4 hours)	\$850.00/half-day assignment
Full-day (up to 8 hours)	\$1500.00/full-day assignment

Time is billed for all services provided on location for a shoot, including any set up, arrangement, model sourcing and administration, lighting and necessary preparation for

scheduled shoots or events, actual shooting time and breakdown of equipment/lighting. **No additional time will be billed for any post production/computer work.**

6. EXPENSES: Contractor shall not buy materials and resell to the State at a profit. **All expenses must be pre-approved in advance by the Contract Manager and specifically included in an applicable Statement of Work or Change Order executed by the Contractor and the relevant state entity.** Contractor must submit detailed receipts to the State for reimbursement of all expenses, except mileage. **Travel time will not be billable.**

The State will not reimburse for the purchase of alcohol, and 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.

Expenses **Pre-Approved** by State of Vermont, if any:

Expense	Cost

7. 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.

Appendix E

Master Contract for Statewide Media Buyer

(Executed Original)

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:

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

- 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:

Date: 3/25/19
Signature: Ted Brady
Name: Ted Brady
Title: ACCD Deputy Secretary
Agency: Agency of Commerce & Community Development

By the Contractor:

Date: 3/21/19
Signature: Paula G. Bazluke
Name: PAULA G. BAZLUKE
Title: Media Director/Partner

(Remainder of page intentionally left blank)

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

MASTER CONTRACTOR – HMC Advertising

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").

MASTER CONTRACTOR – HMC Advertising

- 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

MASTER CONTRACTOR – HMC Advertising

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.

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

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



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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)

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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.

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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

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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.

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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

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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.

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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.

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- 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)

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**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)



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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.

Table with 4 columns: Measure, Failed Expectations, Met Expectations, Exceeded Expectations. Rows include: 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)



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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



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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: _____



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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

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Budget
A. Description of Response
B. Project Budget

<u>Itemize Agency Services & Fees</u>	<u>Max. Hourly Rate</u>	<u>Total</u>
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		
<u>Itemize Out-Of-Pocket Expenses</u>		
Other		
Media Dollars Available to be Placed		
TOTAL		

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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).



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

STATE OF VERMONT,

CONTRACTOR,

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Agency: _____

Vendor: _____

Appendix F

Contact Information & Pricing for Statewide Media Buyer

Master Contract #37800

Effective Dates: 3/1/19 - 8/31/21

Contractor: **HMC Advertising**

65 Millet Street, Suite 301
Richmond, VT 05477

802-434-7141

www.wearehmc.com

Key Contacts:

Paula Bazluke, paula@wearehmc.com

Pricing

Service	Maximum Hourly Rate
Account Management/Coordination (<i>Coordinate agency efforts on behalf of client</i>)	\$122/hour
Strategic and Media Planning (<i>Media planning and allocation</i>)	\$143/hour
Media Buying/Negotiating (<i>Buying and negotiating of all media</i>)	\$122/hour
Implementation Management (<i>Trafficking of media spots, invoice reconciliation, post buy detail reports to ensure accuracy of placement and negotiated rates</i>)	\$122/hour

Appendix G

**Sample Statement of Work Agreement, Work Request Form,
Media Planning and Buying Project Scope Form, and Change Order Form**

*Fillable versions of these forms are available for download
on the CMO's website (cmo.vermont.gov)*



Statement of Work Agreement

Page 1 of 2

Date: [Enter Contract]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Contract]

(optional) Agency or Department Generated SOW #: [Enter Contract]

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 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 ("[Enter Project Title from Project Scope of Work, Proposal, or 'Marketing Firm Work Request Form']").

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.



Statement of Work Agreement

Page 2 of 2

Date: [Enter Contract]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Contract]

(optional) Agency or Department Generated SOW #: [Enter Contract]

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: _____



Marketing Firm Work Request Form

For use with Marketing Master Contracts

Page 1 of 3

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

All responses to this Work Request Form must include "SOW Agreement Attachment A" in the title.

The State of Vermont Marketing Master Contracts are based on a Statement of Work (SOW) process which requires use of a [Statement of Work Agreement](#), together with a Contractor project proposal, to procure marketing and creative services. (For a detailed description of the process, please refer to the [Guide to Working with Master Contractors](#) issued by the Chief Marketing Office). A broad description of the types of services to be performed are included in the Master Contracts ('Master Agreement'). This Work Request Form is used to outline the details and scope of the work to be performed on a specific per project basis. **Proposals received in response to this Work Request must detail the workplan for services to be performed, deliverables, timeline and cost for the agreed-upon services.** Proposal responses to this Work Request (labelled as SOW Agreement Attachment A), together with the SOW Agreement, form the binding legal bridge to the actual Master Contracts.

PROJECT: [Enter Project or Campaign Title]

Agency/Dept: [Click here to enter text.](#)

Contact person: [Click here to enter text.](#)

Address: [Click here to enter text.](#)

Contact phone: [Click here to enter text.](#)

[Click here to enter text.](#)

Contact e-mail: [Click here to enter text.](#)

TERM:

Work Request release date: [Click here to enter a date.](#)

Anticipated SOW start date: [Click here to enter a date.](#)

Work Request response due: [Click here to enter a date.](#)

SOW end date: [Click here to enter a date.](#)

Is this project part of a previous or current marketing campaign? Yes No

If yes, please describe existing campaign assets and/or how this new scope of work will be integrated into campaign.

[Click here to enter text.](#)

BUDGET:

Total maximum campaign or project budget: [Click here to enter text.](#)

If a budget range is specified, is the agency/dept. requesting separate proposals for each amount? Yes No

Does the total budget include: Creative services Budget for creative: [Click here to enter text.](#)

Includes all services listed in 'Services Requested' section

Paid media Budget for media: [Click here to enter text.](#)

Media placements cannot be included in this scope of work (media buying services are procured under a different contract) but disclosing the budget for paid media is helpful context for creative development.

Production expenses Budget for production: [Click here to enter text.](#)

Any production expenses must be detailed in the expense section below.



Marketing Firm Work Request Form

For use with Marketing Master Contracts

Page 2 of 3

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

Expenses

As per the Payment Provisions in the Master Contracts, all expenses must be pre-approved and included in project proposals and the maximum amount identified in the Statement of Work. To that end, please state any anticipated production or other project expenses. If mileage or other incidental expenses are to be reimbursed, please include below.

Click here to enter text.

PROJECT DETAILS: [Enter Project or Campaign Title]

Background *[Describe why this work is needed. What is the big picture? Include situation analysis, competition, etc.]*

Click here to enter text.

Objective *[What should this particular project achieve / desired outcomes?]*

Click here to enter text.

Target Audience(s) *[Who are you talking to? What motivates them? Include demographic and psychographic info. Include primary vs. secondary and/or different segments]*

Click here to enter text.

Current Perception *[What does the target audience think now? Include perceived or real barriers.]*

Click here to enter text.

Desired Perception *[What would you like the target audience(s) to think? Include calls to action.]*

Click here to enter text.

Timeline *[What are the key project milestones and deadlines?]*

Click here to enter text.

Project Deliverables *[Describe the specific services to be performed and work products to be received.]*

Click here to enter text.

Performance Measures/Reporting Requirements? *[What metrics will define or be evidence of success?]*

Click here to enter text.



Marketing Firm Work Request Form

For use with Marketing Master Contracts

Page 3 of 3

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

SERVICES REQUESTED

The checklist of services below is intended to supplement, not replace the description of deliverables above, and can be used to indicate the relative priority of services requested if multiple budget proposals are needed.

	<u>Need</u>	<u>Want</u>	<u>Optional</u>	<u>Don't Need</u>
Strategy and Planning				
Market Research and/or Surveying	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marketing Plan (Strategy/Tactics)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Message Development/Positioning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Media/Paid Advertising Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[Other] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Creative Services / Concept Development				
Branding	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advertising/Collateral Design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Data Visualization/Infographics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tradeshaw/Event/Exhibit Design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copywriting and Editing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Multimedia Production (Video/Radio/PSAs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[Other] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital Marketing / Web Development				
Content Strategy (IA, content audits/mapping)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
User Experience Design (templates, style guide)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital Creative (interactive, display advertising)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital Marketing Plan (tactics, channels)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital Analytics/Monitoring/Reporting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Search Optimization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[Other] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Media / Public Relations				
Social Content Strategy (calendars, channels)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Content Development (copy, messaging)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Creative Development (video, interactive)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Analytics/Monitoring/Reporting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Earned Media Outreach (story pitching)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crisis Communications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Press Events/Media Visits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[Other] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Attachment A: Photography Work Request Form

Page 1 of 3

ACCD Master Contract #: _____

VISION Vendor #: _____

Agency or Department Generated SOW #: _____

Instructions to state agencies:

When it comes to hiring a photographer for a photo shoot, you have two options – and therefore two ways you can use this form.

Option 1 / Master-Contracted Photographers: Submit this form to one, several, or all of the photographers currently under Master Contract with the State of Vermont. The Chief Marketing Office holds “Master Contracts” with several photographers. You have the ability to use one of those Master Contracts, and the pre-negotiated rates and service terms that go with it, instead of crafting your own set of contracting documents just for your photo shoot. This time-saving process can allow you to go from “I need some photos” to a completed photo shoot in a matter of days, depending on photographer availability.

If you choose to use one of the Master-Contracted Photographers, please make sure to include the ‘ACCD Master Contract number’ for the photographer you choose in the header portion of this form. The ‘VISION Vendor number’ and ‘Agency or Department Generated SOW number’ are optional and can be provided by your business office.

For complete instructions on using Master Contracts (including Master Contract numbers), visit:

<http://cmo.vermont.gov/contracting-marketing-creative-services/marketing-master-contracts/photography>

Option 2 / Pre-Qualified Photographers: Submit this form to several photographers on the state’s list of pre-qualified marketing vendors. This pre-qualified vendor list, maintained by the Chief Marketing Office, gives you more options for photographers whose work has been reviewed and vetted for state marketing projects. However, these pre-qualified photographers are not under a current contract with the state. Therefore, you will have to draw up your own contract documents once you have selected the photographer you’d like to work with. Note that the contracting process can take up to 4-6 weeks.

For a list of pre-qualified marketing vendors and their contact information, visit: <http://cmo.vermont.gov/contracting-marketing-creative-services/pre-qualified-marketing-vendors>

The vast majority of state photo shoots will have budgets less than \$15,000, so you’ll be following the “simplified bid process” whether you choose Option 1 or Option 2. In other words, the Statement of Work form with this Attachment A: Photography Work Request Form is all you need to complete in order to solicit proposals from photographers (no need to go through a full, formal bid process). Once you have completed this form, you can distribute it via email to the master-contracted or pre-qualified photographers you would like to invite to work on your project.

In all cases, please email a copy of this completed form to the Chief Marketing Office at marketing@vermont.gov before you send it to any photographers so we have a chance to review and provide feedback and/or suggestions. (For example, the CMO may be aware of other state agencies needing similar photography and may suggest a shared photo shoot under a cost-sharing arrangement.)

If you have questions, please call Heather Pelham, Chief Marketing Officer at 477-2727.

Instructions to photographers:

Review the request on pages 2 and 3, then complete your response on the bottom of page 3.



Attachment A: Photography Work Request Form

ACCD Master Contract #: _____

VISION Vendor #: _____

Agency or Department Generated SOW #: _____

Project: [Enter Project Title]

Release Date: [Click here to enter a date.](#)

Response Due: [Click here to enter a date.](#)

Agency/Department

Name: [Click here to enter text.](#)

Contact: [Click here to enter text.](#)

Address: [Click here to enter text.](#)

Contact Phone: [Click here to enter text.](#)

[Click here to enter text.](#)

Contact E-mail: [Click here to enter text.](#)

Project Details

Event Date: [Click here to enter a date.](#)

Event Time: [Click here to enter text.](#)

If this shoot doesn't need to happen on a specific date or time, leave blank.

Shoot Location: [Click here to enter text.](#)

Is this shoot weather-dependent? Yes No

If yes, what if the weather doesn't cooperate on the event date?: [Click here to enter text.](#)

Deadline for processed images: [Click here to enter a date.](#)

Any Budget Comments/Restrictions/Incentives?

[Click here to enter text.](#)

Photo Types Requested

	<u>Need</u>	<u>Want</u>	<u>Optional</u>	<u>Don't Need</u>
Models*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Candids*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adults*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Action*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scenic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Architecture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Animals / Wildlife	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Studio Setting (Head Shots, Products)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Release forms are required for any people appearing in photos.



Attachment A: Photography Work Request Form

ACCD Master Contract #: _____

VISION Vendor #: _____

Agency or Department Generated SOW #: _____

Additional Notes

Detailed description of images needed: [Click here to enter text.](#)

How will these images be used? (Brochures, websites, videos, editorial requests, etc): [Click here to enter text.](#)

Any planned uses with specific resolution, layout or orientation constraints? For example:

Large trade-show displays Video cutaways Web banners

Other / Please specify: [Click here to enter text.](#)

Any sensitive themes, subjects or intended uses that require special treatment? [Click here to enter text.](#)

PHOTOGRAPHER RESPONSE

Firm Name: [Click here to enter text.](#)

Contact: [Click here to enter text.](#)

Address: [Click here to enter text.](#)

Contact Phone: [Click here to enter text.](#)

[Click here to enter text.](#)

Contact E-mail: [Click here to enter text.](#)

General response (questions/suggestions/comments/concerns): [Click here to enter text.](#)

Estimated Costs:

Shooting Time: [Click here to enter text.](#) Rate: [Click here to enter text.](#) Total: [Click here to enter text.](#)

Processing Time: [Click here to enter text.](#) Rate: [Click here to enter text.](#) Total: [Click here to enter text.](#)

Does this project, as described, qualify for a day rate or half-day rate?

If not, is it feasible that this project could qualify for day rate or half-day rate with minor adjustments?

If so, please elaborate: [Click here to enter text.](#)

Additional anticipated expenses (mileage, materials, etc): [Click here to enter text.](#)

Total Estimated Project Cost: [Click here to enter text.](#)



Attachment A: Media Planning and Buying Project Scope of Work

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

Page 1 of 3

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

Section One: To be completed by Agency or Department Requesting Media Services

The State of Vermont Marketing Master Contracts are based on a Statement of Work (SOW) process which requires use of a [Statement of Work Agreement](#), together with a Contractor project proposal, to procure media buying services. (For a detailed description of the process, please refer to the [Guide to Working with Master Contractors](#) issued by the Chief Marketing Office). A broad description of the types of services to be performed are included in the Master Contract ('Master Agreement'). This Project Scope of Work is used to outline the details of the work to be performed on a specific per project basis. Once complete, this Project Scope of Work (referred to in the Master Agreement as SOW Agreement Attachment A), together with the SOW Agreement, form the binding legal bridge to the actual Master Contract.

PROJECT: [Enter Project or Campaign Title]

Agency/Dept: [Click here to enter text.](#)

Contact person: [Click here to enter text.](#)

Address: [Click here to enter text.](#)

Contact phone: [Click here to enter text.](#)

[Click here to enter text.](#)

Contact e-mail: [Click here to enter text.](#)

TERM:

Date media buy request issued: [Click here to enter a date.](#)

Date media plan due: [Click here to enter a date.](#)

Anticipated Project SOW start date: [Click here to enter a date.](#)

Project SOW end date: [Click here to enter a date.](#)

Campaign flight start date: [Click here to enter a date.](#)

Campaign flight end date: [Click here to enter a date.](#)

BUDGET:

Total maximum project budget: [Click here to enter text.](#)

As per the Payment Provisions in the Master Contracts, all expenses must be pre-approved and included in project proposals and the maximum amount identified in the Statement of Work.

Project expenses (included within total maximum budget): [Click here to enter text.](#)

CREATIVE:

Is this project part of a previous or current marketing campaign? Yes No

Will previously-placed creative assets be used to support the campaign?

- | | | |
|-------------------|--|--|
| BROADCAST (TV) | <input type="checkbox"/> Yes, please pickup previously-used assets | <input type="checkbox"/> No, new creative will be provided |
| BROADCAST (RADIO) | <input type="checkbox"/> Yes, please pickup previously-used assets | <input type="checkbox"/> No, new creative will be provided |
| VIDEO (PRE-ROLL) | <input type="checkbox"/> Yes, please pickup previously-used assets | <input type="checkbox"/> No, new creative will be provided |
| DIGITAL (DISPLAY) | <input type="checkbox"/> Yes, please pickup previously-used assets | <input type="checkbox"/> No, new creative will be provided |
| DIGITAL (SOCIAL) | <input type="checkbox"/> Yes, please pickup previously-used assets | <input type="checkbox"/> No, new creative will be provided |
| PRINT | <input type="checkbox"/> Yes, please pickup previously-used assets | <input type="checkbox"/> No, new creative will be provided |



Attachment A: Media Planning and Buying Project Scope of Work

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

Page 2 of 3

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

PROJECT DETAILS: [Enter Project or Campaign Title]

Objective *[What should this particular campaign achieve / desired outcomes?]*

[Click here to enter text.](#)

Target Audience(s) *[Who are you talking to? Include demographic and psychographic info. Include primary vs. secondary and/or different segments]*

[Click here to enter text.](#)

Geographic Target(s) *[Where is your audience located? Include primary vs. secondary and/or different segments]*

[Click here to enter text.](#)

Key Performance Indicators? *[What metrics will define or be evidence of success? Are there specific actions your audience can take that can be measured as a result of this campaign?]*

[Click here to enter text.](#)

MEDIA PLACEMENTS REQUESTED

The checklist of services below is intended as a starting point for discussion with the media buyer and can be used to indicate the relative priority of channels or tactics to be utilized.

	<u>Want</u>	<u>Optional</u>	<u>Don't Need</u>
Broadcast (TV)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Broadcast (Cable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Broadcast (Radio)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital (Video Pre-roll)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital (Display)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital (Search)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital (Social)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Print	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[Other] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[Other] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional details on media strategy or placements requested? [Click here to enter text.](#)



Attachment A: Media Planning and Buying Project Scope of Work

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

Page 3 of 3

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

Section Two: To be completed by Media Buyer

PROJECT PLAN: [Enter Project or Campaign Title]

Campaign Strategy *[How will the campaign objectives be achieved?]* [Click here to enter text.](#)

CHANNELS TO BE UTILIZED

Notes

- Broadcast (TV)
- Broadcast (Cable)
- Broadcast (Radio)
- Digital (Video Pre-roll)
- Digital (Display)
- Digital (Search)
- Digital (Social)
- Print
- [Other] _____
- [Other] _____

BUDGET

	<u>Max. Hourly Rate</u>	<u>Total</u>
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 AGENCY COST	\$	\$
Expenses (as itemized in Section One)	\$	\$
Media Dollars to be Placed	\$	\$
TOTAL CAMPAIGN BUDGET		\$



Statement of Work Change Order

Page 1 of 2

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

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 ("[Enter Title of Scope of Work, Proposal, or 'Marketing Form Work Request Form']"), 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.



Statement of Work Change Order

Page 2 of 2

Date: [Enter Date]

Master Contract #: [Enter Contract]

VISION Vendor #: [Enter Number]

(optional) Agency or Department Generated SOW #: [Enter Number]

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).

STATE OF VERMONT,

Date: _____

Signature: _____

Name: _____

Title: _____

Agency: _____

CONTRACTOR,

Date: _____

Signature: _____

Name: _____

Title: _____

Vendor: _____