

State of Vermont Grant Agreement between
The Agency of Commerce and Community Development (ACCD)
And the **COMPANY/ORGANIZATION**
Agreement #07100-WCGP-16-####

1. **Parties:** This is a Grant Agreement between the State of Vermont, Agency of Commerce and Community Development (hereinafter called “ACCD” or “State”), and the **Company/Organization** (hereinafter called “**XXXX**” or “Grantee”) with principal place of business at **Address, City, State**, (hereinafter called collectively with State “Parties”).

Grantee is a **non-profit organization/Business**. It is the Grantee’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Grantee is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter:** The subject matter of this Grant Agreement is **Insert Information**. Detailed activities to be provided by the Grantee are described in Attachment A.
3. **Maximum Amount:** In consideration of the activities to be performed by Grantee, the State agrees to pay Grantee, in accordance with the payment provisions specified in Attachment B, a sum not to exceed **Spell out the amount Dollars (US \$????.00)**.
4. **Grant Term:** The period of Grantee’s performance shall begin on **Type out Date** (“Effective Date”) and end on **Type out Date**.
5. **Source of Funds:** 100% State Funds; 0 % Federal Funds
6. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Grant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Grantee.
7. **Cancellation:** This grant agreement may be suspended or cancelled by either party by giving written notice at least 30 days in advance.
8. **Contact person:** The Grantee’s contact person for this award is, **Name of Person, Title**; Telephone Number **(802) ###-####**; E-mail address **email address**.

The State’s contact person for this award is: **Kimberly Baker**; Telephone Number (802) 828-3230; E-mail address kimberly.baker@vermont.gov.

9. **Attachments:** This grant consists of **15** pages including the following attachments that are incorporated herein:
- Attachment A - Specifications of Work to be Performed
 - Attachment B - Payment Provisions
 - Attachment C - Standard State Provisions for Contracts and Grants (Revised 7/1/2016)
 - Attachment D - Other Grant Agreement Provisions
 - Appendix 1 - Performance Measures
10. **Order of Precedence:** Any ambiguity, conflict or inconsistency in the Grant Documents shall be resolved according to the following order of precedence:

Standard Grant

Attachment C - Standard State Provisions for Contracts and Grants (Revised 7/1/2016)

Attachment D - Other Grant Agreement Provisions

Attachment A - Specifications of Work to be Performed
Attachment B - Payment Provisions
Appendix 1 - Performance Measures

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

By the State of Vermont:

Date: _____

Signature: _____

Name: Michael Schirling

Title: Secretary

Agency of Commerce and
Community Development

By the Grantee:

Date: _____

Signature: _____

Name: **Name**

Title: **Title**

Organization/Business

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ATTACHMENT A SPECIFICATIONS OF WORK TO BE PERFORMED

1. **Grant Objective:** To.....carry out a community and economic development organizing and implementation process for.....
2. **Grant Issuance:** Grantor will issue the amount of \$0,000.00 as detailed in Attachment B Project Budget.
3. **Grantee Activities:** Grantee Goals, Actions and Activities to be performed under this grant:
 - a. Use this section to describe the activities, goals, and action items that will be achieved in the performance of the award. These items should be included in the approved grant application.
 - b. Etc....
4. **Representations:** By signing this Agreement, the duly authorized signatory of Grantee represents that Grantee is an entity to which the Funds may be made available, and that Grantee has and will comply with all relevant eligibility criteria related to Funds.
5. **Grantee Deliverables:** The Grantee will:
 - a. Sign and return this grant to acknowledge the terms and conditions of the grant. Funds are provided to Grantee to support the activities and completion of products specifically described in this Grant Agreement, and must be used in a manner that conforms to all relevant State standards, relevant rule, policy, procedure or practice hereto. Grantee will:
 - b. Maintain financial records in accordance with generally accepted accounting procedures (GAAP) and make available to the State upon request. Grantee will also provide further information to the State, upon request, at any time during this Grant, if the State determines that such information is necessary to better assess the effectiveness of this grant.
 - c. Provide the following reports to the State:
 - i. Submit written Progress Reports frequency (monthly, quarterly) to the State. The first **progress report shall be due on enter the date of first report due. Subsequent reports shall be due every three months** thereafter until the Final Report has been submitted and approved. The Final Report shall include **fill in any reports or other information needed at the end of the agreement.**

Each progress report shall include a narrative describing all work completed to date and all work remaining, and explicitly address the Goals, Actions, Activities and Performance Measures listed in the Agreement and whether they have been achieved. The Narrative will also include an evaluation of any and all subrecipient(s) performance to date, if applicable.

All Progress Reports shall be completed using the WCEDP Progress Report Template.
 - ii. Submit a **final written report within 60 days after completion of the Project.**
 - iii. Submit to the State all required reports as stated in this Agreement. Upon receipt of the report submissions, the State, in order to fully assess the effectiveness of this grant, may require additional information from Grantee.

- iv. Every twelve months for five years following the end date of this agreement, Grantee (or company that is beneficiary of grant) shall provide an annual written report to ACCD stating the number of full-time employees in Windham County.
- d. Immediately notify ACCD in writing of the occurrence of any of the circumstances or events provided in Sections 4 or 5 of Attachment B.

(End of Attachment A)

ATTACHMENT B PAYMENT PROVISIONS

The Grant Funds shall be used by Grantee to perform activities related to the Windham County Economic Development Program (WCEDP). The activities are detailed in Attachment A and the budget is detailed below.

The **maximum amount of spell out amount (US \$0,000.00)** was allocated to support this Grant Agreement.

1. The State, through the Agency of Commerce and Community Development, has the authority to grant in this context pursuant to 3 V.S.A. § 2471 and Administrative Bulletin 5, *Policy for Grant Issuance and Monitoring* (Effective December 26, 2014), and more specifically from Sec. 69 of Act 68 (2016).
2. The Grantee will submit requisitions to:

State of Vermont
Agency of Commerce and Community Development
Vermont Economic Progress Council
Kimberly Baker, Grants Management Specialist
1 National Life Drive,
Deane C. Davis Building, 6th Floor
Montpelier, VT 05620-0501

Or Email:

kimberly.baker@vermont.gov

3. **Disbursal of Grant Funds:** In consideration of the Grantee's satisfactory performance of the work required under this Agreement, including Appendix 1 and the Grantee's compliance with the terms and conditions of this Agreement, the State shall disburse funds on a **reimbursement only** basis to the Grantee.
 - a. The State reserves the right to retain 10% of the maximum amount awarded to be paid out upon satisfactory completion of the performance measures outlined in Appendix 1. Once the Grantee has submitted the final progress report, completed the performance measures outlined in Appendix 1 and submitted a WCEDP requisition form the 10% retained funds retained shall be reimbursed to the Grantee.
 - b. Grant funds will only be disbursed upon receipt by the State of a WCEDP Requisition Form with a general ledger that includes transaction details. Grantee may submit subsequent requisitions **monthly or quarterly**. Requisitions approved and signed by the Grantee may be submitted electronically. The State will review requisitions and supporting documentation, and if appropriate, process approved requisitions within 10 business days of receipt.
 - c. Grantee shall maintain detailed supporting documentation for all grant expenditures. Documentation maintained by the Grantee shall include personnel, time worked, rate being charged per each respective individual (which may include benefits), and a description of the work that was performed. For any other expenditures, Grantee shall maintain supporting documentation, (such as receipts or invoices) that identify the source of the expenditures, date of the expenditure, and to which line item the expenditure was charged. Grantee shall keep copies of all supporting invoices on site and available for monitoring purposes for the period of the Agreement and for three years thereafter or for any longer period required

by law for inspection by any authorized representative of the State.

- d. The State may withhold additional disbursement of grant funds until receipt of any overdue report(s) from Grantee.

e. The Project Budget is as follows:

Budget Item	WCEDP Funding Award	Applicant Contribution		Other Sources of Funding	Total Project Cost
		Cash	In-Kind		
Salary/Wages	25,000				\$25,000
Operating Costs	5,000				\$5,000
Consultant/Professional Fees			12,000		\$12,000
Other: Expenses & Travel					
Other: Training					
Other: Implementation Funds	10,000				\$10,000
Other:					
Other:					
Sub Total:	\$ 40,000	\$ -	\$12,000	\$ -	\$ 52,000
Admin:	\$0			Total Project:	\$ 52,000
Admin. Percentage:	0%			WCEDP Award:	\$ 40,000
				Applicant Total:	\$ 12,000
				Other Total:	
				Grant Total:	\$ 52,000

- f. Transfer of funds among line items in the Project Budget must be pre-approved in writing by the State when the cumulative amount of such cost transfers exceeds 10 percent of the Maximum Amount or a transfer will be made to a line item that did not include any WCEDP funding in the original Project Budget. Any transfer of funds among line items must be in compliance with all terms and conditions of the WCEDP funding, including but not limited to the cap on administrative costs.
- g. If by insert date 60 days from end, there are Funds the Grantee is not anticipating to be expended at the end of the scheduled term of this Agreement, then Grantee, by Insert date 30 days from end, will supply to the State a mutually agreeable plan detailing the anticipated expenditure of such remaining portion of Funds, before such expenditure occurs. In the event the State and the Grantee do not mutually agree to a plan on or before insert date 30 days from end, no further funds will be disbursed.

4. Breach/Recapture of Grant Funds/Termination of Agreement: If Grantee (or insert name of company if grant is to BDCC or other entity but benefits subject company) does not fulfill in a timely and proper manner its obligations under, or does violate any of the terms or conditions of this Agreement, then State shall notify Grantee of the breach, may establish a period not to exceed thirty (30) calendar days to correct such breach, and may cease payment of any portion of Grant Funds, or other funds due Grantee under any other agreement with State (including any department or division thereof), until the breach is cured. If Grantee does not cure the breach at the completion of the correction period, then State: (1) may require Grantee to immediately reimburse to State any portions of Funds that were not expended or were expended

in a manner inconsistent with, or for purposes other than those specifically described in, the terms and conditions of this Agreement; or, in the alternative, may forever retain any portion of Grant Funds, or other funds due Grantee under any other agreement with State (including any department or division thereof), equal to the amount of reimbursement that would have otherwise been required by operation of the preceding clause; and/or (2) may immediately terminate this Agreement by giving written notice to Grantee, specifying the effective date thereof.

5. Recapture of Grant Funds Due to Departure from Windham County, Closure, or Substantial

Reduction of Employment: If during the term of this agreement, or during the five-year period immediately following the end date of this grant agreement, the Grantee (or insert name of company if grant is to BDCC or other entity but benefits subject company) ceases to operate, ceases to operate in Windham County, Vermont or substantially reduces employment in Windham County, Vermont, the Grantee shall be considered in breach of this agreement and subject to the “Breach/Recapture of Grant Funds/Termination of Agreement” provision of this attachment. For the purposes of this agreement, “ceases to operate” means that the entity that is the recipient or beneficiary of this grant closes or no longer conducts business in Windham County, even if the business is moved to another county of Vermont. For the purposes of this agreement, a substantial reduction in employment means that the full-time employment on the date this agreement is signed by the entity that is the recipient or beneficiary of this grant is reduced by thirty percent (30%) or more. If this provision is triggered during the five-year period after the end date of this agreement, the recapture of grants funds shall be in accordance with the following schedule:

<u>Number of years from agreement, end date as may be amended:</u>	<u>Percent of maximum grant amount to be recaptured:</u>
Within one year	100%
More than one year, less than two years	80%
More than two years, less than three years	60%
More than three years, less than four years	40%
More than four years, less than five years	20%
More than five years	0%

6. Custodian of Executed Agreement: The State shall maintain the fully executed original of this Agreement.

7. Certificate of insurance: Grantee is required to submit to the State its certificate of insurance prior to commencement of work and/or any release of payment (s).

8. Loss of Good Standing with Department of Taxes/Suspension of Agreement: The State may withhold payment from the Grantee if the Grantee is not in good standing with taxes due the State and may condition payment upon receipt of a new signed certification under the pains and penalties of perjury that as of the date the new certification is signed, the Grantee 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. If the Grantee fails to make the updated certification of good standing before the expiration date of the Grant Agreement, the Grantee shall forfeit the amount requested and the State shall retain the same.

(End of Attachment B)

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

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

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

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under the Agreement.

Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

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

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

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

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits. In the event the State withholds approval to settle any such claim, then the Party shall proceed with the defense of the claim but under those circumstances, the Party’s indemnification obligations shall be limited to the amount of the proposed settlement initially rejected by the State.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon

a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

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

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

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

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

\$1,000,000 Personal & Advertising Injury

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

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

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

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

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

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

12. Federal Requirements Pertaining to Grants and Subrecipient Agreements:

A. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

C. Mandatory Disclosures: In the case that this Agreement is a Grant funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

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

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

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

16. Taxes Due to the State:

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

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

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

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

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 23 ("Certification Regarding Use of State Funds"); Section 31 ("State Facilities"); and Section 32 ("Location of State Data").

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

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

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

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

23. Certification Regarding Use of State Funds: In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

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

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

26. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly

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

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

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

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.
- C. No Implied Waiver of Remedies:** A party’s delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

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

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

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

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

ATTACHMENT D OTHER GRANT AGREEMENT PROVISIONS

1. **Cost of Materials:** Grantees will not buy materials and resell to the State at a profit.
2. **Prior Approval/Review of Releases:** Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the Grantee under this Grant Agreement shall be approved/reviewed by the State prior to release.
3. **Public Records:** Notwithstanding any provision contained herein, the records remaining solely in the possession of the Grantee or any client entity of Grantee shall not be subject to public inspection under the provisions of 1 V.S.A., chapter 5, subchapter 3.
4. **Grantee's Liens:** Grantee will discharge any and all grantors or mechanics' liens imposed on property of the State through the actions of subgrantors.
5. **Ownership of Equipment:** Any equipment purchased or furnished to the Grantee by the State under this Grant Agreements provided on a loan basis only and remains the property of the State.
6. **State Minimum Wage:** The Grantee 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 Grantee 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 Grantee must provide a copy of the approval of their Equal Opportunity Plan.
9. **Legal Services:** If the Grantee will be providing legal services under this Grant Agreement, Grantee agrees that during the term of the Grant Agreement he or she will not represent anyone in a matter, proceeding, or lawsuit against the State of Vermont or any of its agencies or instrumentalities. After termination of this Grant Agreement, Grantee also agrees that he or she will not represent anyone in a matter, proceeding, or lawsuit substantially related to this Grant Agreement.

(End of Attachment D)

APPENDIX 1 PERFORMANCE MEASURES

The Grantee will be evaluated by the State on its implementation of the following performance measures. This form will be utilized by the State during monitoring visits to report the Grantee’s performance. Low performance scores may result in no further grants with the State of Vermont Agency of Commerce and Community Development. Grantees may use this form as a tool to perform a self-assessment throughout the grant period.

Performance Measures
Grantee: <u>Organization/Business</u>
Grant Number: <u>07100-WCGP-16-####</u>
Grantee’s performance shall be measured against the following specific Performance Measures:

Benchmarks (Should be specific to the Scope of Work)	Failed Expectations	Met Expectations	Exceeded Expectations
<p>1. Action items to be completed in the performance of the award.</p> <p>Target: Ideal outcome (measure) of the action item listed above used as a benchmark to guide future monitoring to determine if the expectations have been met.</p>			
<p>2. Action items to be completed in the performance of the award.</p> <p>Target: Ideal outcome (measure) of the action item listed above used as a benchmark to guide future monitoring to determine if the expectations have been met.</p>			
<p>3. Action items to be completed in the performance of the award.</p> <p>Target: Ideal outcome (measure) of the action item listed above used as a benchmark to guide future monitoring to determine if the expectations have been met.</p>			
<p>4. Action items to be completed in the performance of the award.</p> <p>Target: Ideal outcome (measure) of the action item listed above used as a benchmark to guide future monitoring to determine if the expectations have been met.</p>			

Benchmarks (Should be specific to the Scope of Work)	Failed Expectations	Met Expectations	Exceeded Expectations
<p>5. Action items to be completed in the performance of the award.</p> <p>Target: Ideal outcome (measure) of the action item listed above used as a benchmark to guide future monitoring to determine if the expectations have been met.</p>			
<p>6. Action items to be completed in the performance of the award.</p> <p>Target: Ideal outcome (measure) of the action item listed above used as a benchmark to guide future monitoring to determine if the expectations have been met.</p>			

This section to be completed by State's grant monitor.

Name of person completing form (please print): _____

Title of person completing form: _____ Date form completed: _____

(End of Appendix 1)