



Department of Buildings and General Services  
Office of Purchasing & Contracting  
109 State Street [phone] 802-828-2211  
Montpelier VT05609-3001 [fax] 802-828-2222  
<http://bgs.vermont.gov/purchasing>

*Agency of Administration*

**SEALED BID  
REQUEST FOR PROPOSAL**

**CLERK-OF-THE-WORKS  
EXTERIOR RENOVATIONS  
FRANKLIN COUNTY DISTRICT COURTHOUSE  
36 LAKE STREET  
ST. ALBANS, VERMONT**

**ISSUE DATE: August 11, 2020**

**BIDDERS' CONFERENCE: September 2, 2020 at 10:00 AM**

**QUESTIONS DUE BY: September 9, 2020 at 12:00 PM**

**RFP RESPONSES DUE BY: September 23, 2020 at 4:30 PM**

**PLEASE BE ADVISED THAT ALL NOTIFICATIONS, RELEASES, AND ADDENDUMS ASSOCIATED WITH THIS RFP WILL BE POSTED AT:**

<http://www.bgs.state.vt.us/pca/bids/bids.php>

**THE STATE WILL MAKE NO ATTEMPT TO CONTACT INTERESTED PARTIES WITH UPDATED INFORMATION. IT IS THE RESPONSIBILITY OF EACH BIDDER TO PERIODICALLY CHECK THE ABOVE WEBPAGE FOR ANY AND ALL NOTIFICATIONS, RELEASES AND ADDENDUMS ASSOCIATED WITH THIS RFP.**

**STATE CONTACT: James Meyers, State Senior Purchasing Agent**  
**TELEPHONE: (802) 828-2211**  
**E-MAIL: [BGS.OPCVendorDocs@vermont.gov](mailto:BGS.OPCVendorDocs@vermont.gov)**  
**FAX: (802) 828-2222**

## 1. OVERVIEW:

- 1.1. **SCOPE AND BACKGROUND:** The Office of Purchasing & Contracting is seeking to establish purchasing agreements with one or more companies that can provide Clerk-of-the Works Services (COTW) for the Exterior Renovations at the Franklin County District Courthouse, 36 Lake Street, St. Albans, Vermont.

This project will include the oversight of construction activity for exterior renovations for the addition of a new ADA compliant access ramp and stairs. The construction work will commence in the fall of 2020. The COTW will be required to attend a pre-construction meeting and follow-up site inspections after the actual period of construction.

Due to the type of construction being performed, the State cannot guarantee that the Clerk will need to be on-site for an eight (8) hour workday each day. The amount of time required to be on site will be determined by the work being performed. The State expects that the Clerk will be on site daily to observe the progress being made.

- 1.2. **CONTRACT PERIOD:** Contracts arising from this request for proposal will be for a period of **12 months** with an option to renew for an additional **12-month** period. The contract duration is not a guarantee for billable hours of work. Proposed start date will be in October 2020.
- 1.3. **SINGLE POINT OF CONTACT:** All communications concerning this RFP are to be addressed in writing to the State Contact listed on the front page of this RFP. Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.
- 1.4. **BIDDERS' CONFERENCE:** A **non-mandatory** bidders' conference will be held at **Franklin County District Courthouse, 36 Lake Street, St. Albans, Vermont** at the date and time indicated on the front page of this RFP.

**NOTE:** In response to the Governor's Stay Safe/Stay Home Executive Orders and Addendums regarding COVID-19 work practices, we will be implementing those guidelines for the Pre-Bid meeting. All consultants will be required to attest to their physical well-being prior to being allowed to attend the pre-bid to include taking their own temperature before the meeting and not having any of the following symptoms, fever at 100.4°F or above, cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, sore throat, or a new loss of taste or smell.

Any consultants from out-of-state must comply with the Agency of Commerce and Community Development (ACCD) website guidelines at [accd.vermont.gov](http://accd.vermont.gov), which may be more or less restrictive on the day of the pre-bid. Travel by firms attending the pre-bid meeting for this project is considered authorized travel and falls under the guidelines outlined under the Authorized Work Exemption on the ACCD website. For planning purposes, please respond to Brian Terhune at [brian.terhune@vermont.gov](mailto:brian.terhune@vermont.gov) with your intention to attend the meeting or not. At a minimum, we will require everyone to wear appropriate protective masks, disposable gloves, and to stay 6' apart when on-site and during the meeting. There will be no bathrooms available for our use.

- 1.5. **QUESTION AND ANSWER PERIOD:** Any vendor requiring clarification of any section of this RFP or wishing to comment or take exception to any requirements of the RFP must submit specific questions in writing no later than the deadline for question indicated on the first page of this RFP. Questions may be e-mailed to the point of contact on the front page of this RFP. Any comments, questions, or exceptions not raised in writing on or before the last day of the question period are waived. At the close of the question period a copy of all questions or comments and the State's responses will be posted on the State's web site <http://www.bgs.state.vt.us/pca/bids/bids.php> Every effort will be made to post this information as soon as possible after the question period ends, contingent on the number and complexity of the questions.

## 2. DETAILED REQUIREMENTS:

### 2.1. Role of the Clerk:

2.1.1. The Clerk-of-the-Works serves as the State's on-site representative on a day to day basis. The Clerk-of-the-Works shall be stationed at the work site and may have duties and responsibilities at other project sites as designated by the Project Manager and shall be responsible for assisting the Project Manager by overseeing the General Contractor's work. It is the primary role of the Clerk to observe the progress and quality of work as is reasonably necessary throughout all stages of construction to determine that it is proceeding in accordance with the construction documents. The Clerk provides protection for the State against defects and deficiencies in the Work of the General Contractor as well as any subcontractors working on the Project.

2.1.2. Communications by the Clerk-of-the-works shall, in general, be restricted to the Project Manager and General Contractor. It shall be the responsibility of the Project Manager to ensure that the project's Architect is made aware of all substantive communications between the Clerk-of-the-works, the General Contractor, and the Project Manager. The Clerk-of-the-works shall not communicate with Subcontractors or material suppliers except with the prior written consent of the Project Manager and the General Contractor.

2.2. **Definitions:** For the purpose of this Request for Proposal (RFP), the following terms shall be defined as:

2.2.1. "Work": "The Work" comprises the completed construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

2.3. **Duties and Responsibilities:** The Clerk-of-the-Works shall:

- 2.3.1. Provide all necessary office equipment and supplies to perform required duties and responsibilities. For example, computer, camera, pager/cell phone, etc.
- 2.3.2. Develop a thorough familiarity with the purpose of the Project to be constructed, with the State's requirements, with the design, and with the Contract Documents.
- 2.3.3. Perform on-site observations of the progress and quality of the Work as may be reasonably necessary to determine, in general, if the Work is being performed in a manner indicating that the Work when completed will be in conformance with the Contract Documents or whether the Work requires special inspection or testing to determine if the Work is being performed in conformance with the Contract Documents.
- 2.3.4. Monitor the General Contractor's construction schedule(s) on an ongoing basis and immediately alert the Project Manager to conditions that may lead to delays in completion of the work.
- 2.3.5. Receive and immediately transmit to the Project Manager any requests from the General Contractor for information. The Clerk-of-the-Works may, after consulting with the Project Manager and obtaining his or her prior written consent, provide interpretations of Contract Documents. The Clerk-of-the-Works may, after consulting with the Project Manager and obtaining his or her prior written consent, assist the General Contractor or the General Contractor's superintendent in understanding the intent of the Contract Documents.
- 2.3.6. Meet, verify identification, and accompany any inspectors from local, state, or federal agencies having jurisdiction over the Project. Immediately report the results of such inspections to the Project Manager. Monitor any corrective actions. Document with photographs, as necessary.
- 2.3.7. Review field reports from architects and engineers and transmit them to the Project Manager. Monitor any corrective actions.
- 2.3.8. Observe materials delivered to the site and used by the subcontractors to ensure that materials used are those specified or approved substitutes, and that materials are in good condition and free from defects. Report problems immediately to the Project Manager and the General Contractor. Document with photographs, as necessary. The Clerk-of-the-Works is authorized to receive samples, which are required to be furnished at the site. The Clerk-of-the-Works will record the date the sample was received, from whom it was received, and immediately notify the Project Manager to arrange examination and approval or rejection by the Project Manager.
- 2.3.9. Monitor the proper storage of materials, including any off-site storage. Report problems immediately to Project Manager and General Contractor. Include recommendations to Project Manager if, in the Clerk-of-the-Works opinion, any materials should be replaced due to improper storage. Document with photographs, as necessary.

- 2.3.10. Attend all project meetings as the State's on-site representative, unless Project Manager directs otherwise, and prepare and submit written report to Project Manager of all meetings attended.
- 2.3.11. Observe all tests required by the Contract Documents. Record and Report to Project Manager on test procedures and test results: verify testing invoices to be paid by the State.
- 2.3.12. Maintain records at the project site in an orderly manner. Records must include correspondence, Contract Documents, Change Orders, Construction Change Directives, reports of site meetings, Shop Drawings, Product Data, and similar submittals, supplementary drawings, color schedules, requests for payment, and names, addresses, telephone numbers, and email addresses (where applicable) of the General Contractor, any subcontractors and principal material suppliers. Utilize proficiently **Submittal Exchange® software system** ([www.submittalexchange.com](http://www.submittalexchange.com)) for record keeping system and paper file system at Central Plant plan room.
- 2.3.13. Maintain a daily logbook of all activities at the site, including progress reports, weather conditions, nature and location of Work being performed, written instructions and interpretations given to the General Contractor, subcontractors on-site, and any specific observations. Record any occurrence of Work that might result in a claim for a change in Contract Sum or Contract Time. Maintain a list of all visitors, their titles, and time and purpose of their visit.
- 2.3.14. Observe the Contractor's record copy of the Drawings, Specifications addenda, Change Orders, and other Modifications at intervals appropriate to the stage of construction and notify the Project Manager of any apparent failure by the General Contractor to maintain up-to-date records.
- 2.3.15. Receive and review all requests for payment from Contractor and forward to the Project Manger with recommendations for disposition.
- 2.3.16. If the Project involves an occupied facility, assist in the coordination of access to various parts of the facility by the Contractor, Architect, consultants, and occupants.
- 2.3.17. Carefully coordinate and monitor any occupation of the facility by the occupants prior to final completion of the work. Be especially alert to any conditions which may lead to claims for damages; immediately notify Project Manager of any such conditions.
- 2.3.18. Coordinate and direct the Work of any contractor hired directly by the State to work on the Project.
- 2.3.19. Review the list of items to be completed or corrected which is submitted by the General Contractor with a request for issuance of a Certificate of Substantial Completion. If the list is accurate, forward it to the Project Manger for final disposition; if the list is not accurate, so advise the Project manager and return the list to the General Contractor for correction.
- 2.3.20. Attend inspections conducted by the Architect to determine the date or dates of substantial completion and the date of final completion. Report to the project manager any observations or recommendations resulting from the Architect's inspections. Observe commissioning and make recommendations to Project Manager regarding compliance with the Contract Documents.
- 2.3.21. Assemble and ensure that Project Manager has all documentation required of the Contractor prior to completion of the Work including, but not limited to: technical manuals, operators' manuals, manufacturer's instructions, as-built drawings, and similar documents.
- 2.3.22. Coordinate training of the State's staff on equipment operations and maintenance as required by the Contract Documents.
- 2.3.23. Receive and inventory keys, special tools, filters, spare parts, and similar items for transfer to the Project Manager.
- 2.3.24. Any other duties or responsibilities identified by Project Manager and agreed to by Clerk-of-the-Works in writing.

#### **2.4. Limitations on Authority:**

- 2.4.1. In the event of a conflict or ambiguity in the terms of this Agreement and the Contract Documents, the Contract Documents shall control.
- 2.4.2. In the event of a conflict or ambiguity in the terms of this Agreement and the Agreement between the State of Vermont and the Architect hired by the State for this Project, the Agreement between the State of Vermont and the Architect shall control.

2.4.3. The Clerk-of-the-works, in acting on behalf of the State, shall not exceed the authority granted in this agreement. The Clerk-of-the-works shall not:

- (1) Authorize any deviation, change, or alteration from the Contract Documents.
- (2) Approve substitute materials or equipment.
- (3) Personally conduct or participate in tests or third party inspections.
- (4) Assume any of the responsibilities of the General Contractor's superintendent, or subcontractors, or of the Architect or the Architect's Project Representative.
- (5) Expedite the Work of the General Contractor.
- (6) Have control over the charge of or be responsible for construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.
- (7) Issue a Certificate for Payment, Certificate of Substantial Completion, or Certificate of Final Completion.
- (8) Prepare or certify to the preparation of a record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications.
- (9) Reject Work or require special inspection or testing.
- (10) Accept, distribute, or transmit submittals made by the General Contractor that are not required by the Contract Documents.
- (11) Order the General Contractor to stop the Work, or any portion thereof.

### 3. GENERAL REQUIREMENTS:

3.1. **PRICING:** Any and all costs that you wish the state to consider must be submitted for consideration as part of the hourly rate.

3.1.1. 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 allowable reimbursable expense (parts, travel, etc.). The State shall not be responsible for any unauthorized expenses of the Contractor.

3.1.2. For its part, in consideration of the clerk-of-the-works services performed by the Contractor, the State agrees to pay Contractor in accordance with the following schedule of rates:

- An hourly rate of pay while on the job site with straight time for any time over eight (8) hours, including weekends and holidays. Hours are on an as needed basis with a schedule developed with the project manager. It is anticipated that there will be minimal hours required at the start and end of the actual construction.
- Mileage reimbursement shall be paid from the work site, as established in the contract, to and from any other project or projects at the prevailing state rate as established by the U.S. General Services Administration (GSA).

3.1.3. Any services outside of agreement shall not be allowed.

3.2. **WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), Bidders must comply with the following provisions and requirements.

3.2.1. Self Reporting: For bid amounts exceeding \$250,000.00, Bidder shall complete the appropriate section in the attached Certificate of Compliance for purposes of self-reporting information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers. The State is requiring information on any violations that occurred in the previous 12 months.

3.2.2. Subcontractor Reporting: For bid amounts exceeding \$250,000.00, Bidders are hereby notified that upon award of contract, and prior to contract execution, the State shall be provided with 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). This requirement does not apply to subcontractors providing supplies only and no labor to the overall contract or project. This list MUST be updated and provided to the State as additional subcontractors are hired. A sample form is available online at

<http://bgs.vermont.gov/purchasing-contracting/forms> . **The subcontractor reporting form is not required to be submitted with the bid response.**

**3.3. EXECUTIVE ORDER 05-16: CLIMATE CHANGE CONSIDERATIONS IN STATE PROCUREMENTS:**

3.3.1. For bid amounts exceeding \$25,000.00 Bidders are requested to complete the Climate Change Considerations in State Procurements Certification, which is included in the Certificate of Compliance for this RFP.

3.3.2. After consideration of all relevant factors, a bidder that demonstrates business practices that promote clean energy and address climate change as identified in the Certification, shall be given favorable consideration in the competitive bidding process. Such favorable consideration shall be consistent with and not supersede any preference given to resident bidders of the State and/or products raised or manufactured in the State, as explained in the Method of Award section. But, such favorable consideration shall not be employed if prohibited by law or other relevant authority or agreement.

3.4. **METHOD OF AWARD:** Awards will be made under the provisions of 29 V.S.A. § 152. The State may award one or more contracts and reserves the right to make additional awards to other compliant bidders at any time if such award is deemed to be in the best interest of the State. All other considerations being equal, preference will be given first to resident bidders of the state and/or to products raised or manufactured in the state, and then to bidders who have practices that promote clean energy and address climate change, as identified in the applicable Certificate of Compliance.

3.4.1. **Evaluation Criteria:** The selection of a clerk-of-the-works for inclusion on the active and approved list will not be based on wage requirements alone; the selection is also “qualification” based and could differ based on the size and complexity of each project. As a guide for individuals submitting a proposal, the following information should be furnished to enable a thorough review and evaluation by the Selection Committee:

- Resume of education and experience, specifically construction related.
- Licenses or certifications.
- Personal references.
- Professional references – architects, engineers, contractors, etc.
- Wage requirements – dollars/hour or acceptable range.
- Work schedule restrictions (part-time, full-time, maximum days per week, maximum hours per week months per year, etc.)
- Presentation: Discussion of candidate’s experience, education, communication and organizational skills and other pertinent topics.

3.5. **STATEMENT OF RIGHTS:** The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Vendors may be asked to give a verbal presentation of their proposal after submission. Failure of vendor to respond to a request for additional information or clarification could result in rejection of that vendor’s proposal. To secure a project that is deemed to be in the best interest of the State, the State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions. The State also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the State.

3.6. **CONTRACT TERMS:** The selected bidder(s) will be expected to sign a contract with the State, including the Standard Contract Form and Attachment C as attached to this RFP for reference. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.

3.6.1. **PAYMENT TERMS:** All invoices are to be rendered by the Contractor on the vendor’s standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. Payment terms are Net 30 days from receipt of an error-free invoice with all applicable supporting documentation. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.

3.6.2. **INSURANCE REQUIREMENTS:** ATTACHMENT C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision dated 12/15/2017), except that the following numbered paragraphs are hereby modified solely for this proposal: Section 8. Insurance: Amend Section 8 of

Attachment C to reduce the Automotive Liability Insurance threshold from \$500,000.00 to \$300,000.00.

- (a) Worker's Compensation (WC) Insurance Coverage: Contractor is required to obtain and pay for worker's compensation (WC) insurance coverage for himself (herself) throughout the term of this Contract. Contractor shall provide proof of worker's compensation coverage at time of contract execution, in addition to all other applicable certificates of insurance required by Attachment C, Section 8.

**4. VENDOR RESPONSE CONTENT AND FORMAT:** The content and format requirements listed below are the minimum requirements for State evaluation. These requirements are not intended to limit the content of a Bidder's proposal. Bidders may include additional information or offer alternative solutions for the State's consideration. However, the State discourages overly lengthy and costly proposals, and Bidders are advised to include only such information in their response as may be relevant to the requirements of this RFP.

**4.1. NUMBER OF COPIES:** Submit one original bid via email to.

4.1.1. The bid should include a Cover Letter and Technical Response.

**4.2. COVER LETTER:**

4.2.1. Confidentiality. To the extent your bid contains information you consider to be proprietary and confidential, you must comply with the following requirements concerning the contents of your cover letter and the submission of a redacted copy of your bid (or affected portions thereof).

4.2.2. The successful response will become part of the contract file and will become a matter of public record, as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under the State's Public Records Act, 1 V.S.A. § 315 et seq., the bidder shall submit a cover letter that clearly identifies each page or section of the response that it believes is proprietary and confidential. The bidder shall also provide in their cover letter a written explanation **for each marked section** explaining why such material should be considered exempt from public disclosure in the event of a public records request, pursuant to 1 V.S.A. § 317(c), including the prospective harm to the competitive position of the bidder if the identified material were to be released. Additionally, the bidder must include a redacted copy of its response for portions that are considered proprietary and confidential. Redactions must be limited so that the reviewer may understand the nature of the information being withheld. It is typically inappropriate to redact entire pages, or to redact the titles/captions of tables and figures. Under no circumstances can the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.

4.2.3. Exceptions to Terms and Conditions. If the bidder wishes to propose an exception to any terms and conditions set forth in this RFP, including the Standard State Provisions for Contracts and Grants, such exceptions must be included in the cover letter to the RFP response. Failure to note exceptions when responding to the RFP will be deemed to be acceptance of the State terms and conditions. If exceptions are not noted in the response to this RFP but raised during contract negotiations, the State reserves the right to cancel the negotiation if deemed to be in the best interests of the State.

**4.3. BACKGROUND AND EXPERIENCE.** Provide details concerning the form of business organization, company size and resources; describe particular experience relevant to the proposed project and list all current or past State projects.

4.3.1. If a Bidder intends to use subcontractors, the Bidder must identify in the proposal the names of the subcontractors, the portions of the work the subcontractors will perform, and address the background and experience of the subcontractor(s), as above.

**4.4. REFERENCES.** Provide the names, addresses, and phone numbers of at least three companies with whom you have transacted similar business in the last 12 months. You must include contact names who can talk knowledgeably about performance.

**4.5. REPORTING REQUIREMENTS:** Provide a sample of any reporting documentation that may be applicable to the Detailed Requirements of this RFP.

**4.6. PRICING:** Bidders shall submit their pricing information in the Price Schedule attached to the RFP. Bidders may be required to submit pricing information separate from their bid package if specifically required above.

4.7. **CERTIFICATE OF COMPLIANCE:** This form must be completed and submitted as part of the response for the proposal to be considered valid.

**5. SUBMISSION INSTRUCTIONS:**

5.1. **CLOSING DATE:** Bids must be received by the due date and at the location specified on the front page of this RFP.

5.1.1. There will **not** a public bid opening. However, the State will record the name, city, and state for any and all bids received by the due date. This information will be posted as promptly as possible following the due date online at: <https://bgs.vermont.gov/content/opc-bid-tabulation-sheets-0>

**5.2. BID DELIVERY INSTRUCTIONS:**

5.2.1. ELECTRONIC:

(a) EMAIL BIDS: Emailed bids **will** be accepted. Bids will be accepted via email submission to [BGS.VTBids@vermont.gov](mailto:BGS.VTBids@vermont.gov). Bids must consist of a single email with a single, digitally searchable PDF attachment containing all components of the bid. Multiple emails and/or multiple attachments will not be accepted. There is an attachment size limit of 40 MB. It is the Bidder's responsibility to compress the PDF file containing its bid if necessary, in order to meet this size limitation.

(b) FAX BIDS: Faxed bids will **not** be accepted.

5.2.2. PAPER FORMAT BIDS: Paper format bids will **not** be accepted.

**6. ATTACHMENTS:**

6.1. ATTACHMENT C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision dated 12/15/2017), except that the following numbered paragraphs are hereby modified solely for this proposal: Section 8. Insurance: Amend Section 8 of Attachment C to reduce the Automotive Liability Insurance threshold from \$500,000.00 to \$300,000.00.

6.2. Certificate of Compliance

6.3. Bid Proposal



**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)

**CERTIFICATE OF COMPLIANCE**

**For a bid to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.**

- A. **NON COLLUSION:** Bidder hereby certifies that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, bidder understands that this paragraph might be used as a basis for litigation.
- B. **CONTRACT TERMS:** Bidder hereby acknowledges that is has read, understands and agrees to the terms of this RFP, including Attachment C: Standard State Contract Provisions, and any other contract attachments included with this RFP.
- C. **FORM OF PAYMENT:** Does Bidder accept the Visa Purchasing Card as a form of payment?  
  
\_\_\_\_ Yes \_\_\_\_ No

- D. **WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to Bidder when the amount of its bid exceeds \$250,000.00.

**Self-Reporting.** Bidder hereby self-reports the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers, that occurred in the previous 12 months.

Summary of Detailed Information	Date of Notification	Outcome

**Subcontractor Reporting.** Bidder hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this RFP, Bidder will 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), and Bidder will provide any update of such list to the State as additional subcontractors are hired. Bidder further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

**E. Executive Order 05 – 16: Climate Change Considerations in State Procurements Certification**

**Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims.):**

1. Bidder owns, leases or utilizes, for business purposes, space that has received:

- Energy Star® Certification
- LEED®, Green Globes®, or Living Buildings Challenge<sup>SM</sup> Certification
- Other internationally recognized building certification:

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2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder's place of business. Please explain:

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3. Please Check all that apply:

- Bidder can claim on-site renewable power or anaerobic-digester power ("cow-power"). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.
- Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.
- Bidder's heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.
- Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this? \_\_\_\_\_
- Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc.
- Bidder offers employees an option for a fossil fuel divestment retirement account.
- Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:

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4. Please list any additional practices that promote clean energy and take action to address climate change:

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DATE: \_\_\_\_\_

Bidder Name: \_\_\_\_\_ Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_

\_\_\_\_\_ Telephone: \_\_\_\_\_

\_\_\_\_\_ E-Mail: \_\_\_\_\_

By: \_\_\_\_\_ Name: \_\_\_\_\_

Signature of Bidder (or Representative)

(Type or Print)

**END OF CERTIFICATE OF COMPLIANCE**

**State of Vermont  
Department of Buildings and General Services**

**CLERK-OF-THE-WORKS  
BID PROPOSAL**

TO: STATE OF VERMONT  
Agency of Administration  
Department of Buildings and General Services  
109 State Street  
Montpelier, Vermont 05609-3001

DATE: \_\_\_\_\_

Ladies and Gentlemen:

The undersigned proposes to provide Clerk-of-the-Works Services for Exterior Renovations at the Franklin County District Courthouse in St. Albans, VT.

**A. The undersigned further agrees:**

1. To hold their bid open for sixty (60) days after this day of Bid Opening.
2. To enter into and execute a contract, if awarded on the basis of this proposal within ten (10) calendar days of notification of award.
3. To accomplish the work in accordance with the Bid Documents.

**B. Acknowledge receipt of the following Addenda:**

Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_

**C. It is the Bidder's responsibility to thoroughly read and comply with all instructions and requirements of this bid solicitation.**

**D. Self-Reporting: Worker Classification Compliance Requirement:**

The Department of Buildings and General Services in accordance with Act 54, Section 32 of the Acts of 2009 and for total project costs exceeding \$250,000.00, requires bidders to comply with the following provisions and requirements.

Bidder is required to self-report the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers. The State is requiring information on any violations that occurred in the previous 12 months.

Bidder hereby certifies that the company/individual is in compliance with the requirements as detailed in Act 54, Section 32 of the Acts of 2009.

Summary of Detailed Information	Date of Notification	Outcome

**E. Subcontractor Reporting: Worker Classification Compliance Requirement:**

**Prior to contract execution**, the successful bidder agrees to comply with Subcontractor Reporting requirements in accordance with Act 54, Section 32 of the Acts of 2009 and for total projects costs exceeding \$250,000.00 as follows:

1. Provide a list of subcontractors to be used on the job along with lists of subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. This is not a requirement for subcontractor's providing supplies only and no labor to the overall contract or project. This list **MUST** be updated and provided to the State as additional subcontractors are hired. A sample form is included in the bid package.
2. Failure to adhere to Act 54, Section 32 of the Acts of 2009 and submit Subcontractor Reporting: Worker Classification Compliance Requirement will constitute non-compliance and may result in cancellation of contract and/or forfeiture of future bidding privileges until resolved.

**F. Pricing:** Any and all costs that you wish the state to consider must be submitted for consideration as part of the hourly rate.

**Hourly Rate of Pay: \$ \_\_\_\_\_ per hour**

Contractor Name: \_\_\_\_\_ Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_

\_\_\_\_\_  
Telephone: \_\_\_\_\_

\_\_\_\_\_  
E-Mail: \_\_\_\_\_

By: \_\_\_\_\_ Name: \_\_\_\_\_  
Signature (Bid Not Valid Unless Signed) (Type or Print)

END OF PROPOSAL