

CONTRACT AGREEMENT
CONTRACT NUMBER XX-XX-XXXX

Between Vermont Energy Investment Corporation and [name of organization]

This Contract dated [dd] day of [mmmm] 20[yy] is between Vermont Energy Investment Corporation (“VEIC”) of 20 Winooski Falls Way, 5th Floor, Winooski, Vermont 05404 and [full name and of mailing address of organization] hereafter referred to as the “Contractor”.

WHEREAS, VEIC desires to employ Contractor to provide certain services in connection with a Project; and

WHEREAS, Contractor offers unique services and desires to provide VEIC with such services in connection with a Project;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. SCOPE OF WORK

The Contractor shall provide all the labor, equipment and any and all other items required to perform the services set forth in Attachment A, “Services and Statement of Work for Work to be Performed by the Contractor for VEIC” (the “*Services*”). Changes to the Services may be made only by written agreement of both the *Contractor* and *VEIC*. Notwithstanding the foregoing, VEIC reserves the exclusive right, in its sole discretion, to temporarily or permanently reduce the level or scope of all or any elements of the *Contract Scope of Work* at any time; provided, that, *VEIC* must provide thirty (30) days’ advance written notice to *Contractor* of any such reduction (unless such notice would be impracticable under the circumstances).

All Services to be provided by the Contractor shall be under the direction of *VEIC*’s representative [name of VEIC project manager]. The following Contractor staff are authorized to provide services under this Contract:

[List of all authorized Contractor staff.]

Any additional Contractor staff shall be pre-approved by VEIC before beginning work on the Project.

Contractor will provide VEIC with intermediate work products as they are completed, including interim analyses, working drafts, and memoranda prepared for the Services. All work products shall be provided to VEIC using software and versions as specified by VEIC. For work document types including spreadsheets, word processors, and presentations, VEIC requires the use of Microsoft Office Version 2013 at minimum with Office 2016 or Office 365 recommended for use.

Contractor shall carry out the Services with due diligence and efficiency, in a practical manner designed to promote the purposes of the Project and with due regard to the obligations of the parties thereto.

2. PERIOD OF PERFORMANCE

The period of performance for this Contract shall be from [mm/dd/yyyy] through [mm/dd/yyyy].

The work and deliverable schedule detailed in Attachment A shall be strictly adhered to.

3. FEES AND PAYMENTS

The Contractor shall be paid according to the following schedule:

[Need to provide specific details on fees and payments as follows:

If time and materials should provide hourly rates (which should include Contractor's entire fringe, overhead and any other indirect costs) and type of expenses (travel, copying, postage/delivery, etc.) that will be reimbursed at actual out-of-pocket cost. Should also provide total not to exceed for all labor and reimbursable costs. Also need to provide basis for reimbursable costs, i.e. mileage reimbursement at the IRS-approved rate only for use of a personal motor vehicle; air travel via most direct route on coach class only, etc. I (David Bardaglio) can work with staff on defining the basis for reimbursable costs on a case-by-case basis.

If Fixed Price should detail total fixed price to be paid. Should also provide payment schedule that is tied to milestones or Tasks, i.e. at completion of Task Y will be paid \$X. If payments are not tied to milestones or tasks should provide some alternative basis for payments, i.e. for ABC services will be paid \$X per month.]

Notwithstanding the above, the total Labor Fees and Reimbursable Costs to be paid to the Contractor to perform all the Services under this Contract shall not exceed [\$xx,xxx]. It is understood that the above Fee and Reimbursable Costs include all of Contractor costs and expenses to perform the Services.

Contractor will invoice VEIC monthly for Labor, Fee and Reimbursable Costs. The monthly invoices will detail the name of staff, hours being billed, hourly rate, and line item detail of reimbursable expenses and receipts for all reimbursable expenses. Invoices shall be submitted within five business days after the end of each month.

If invoices are submitted by mail they should be sent to:

Accounts Payable
Vermont Energy Investment Corporation
20 Winooski Falls Way, 5th Floor
Winooski, VT 05404

If submitted via e-mail invoices should be sent to ap@veic.org.

No later than five (5) business days after its receipt of an invoice, VEIC shall review the invoice and either approve the invoice for payment or inform the Contractor in writing of any disputed amount and the basis for such dispute.

If an invoice is disputed by VEIC, the Contractor shall answer VEIC's concerns in writing within five (5) business days of the Contractor's receipt of the written notice from VEIC. If VEIC and the Contractor cannot resolve the dispute within ten (10) business days after VEIC's receipt of the Contractor's reply, each party agrees to submit the dispute to final and binding arbitration as provided in Section 7 below.

VEIC will pay the Contractor's approved monthly invoices within 30 days. However, payment will be withheld on open invoices if a Certificate of Insurance showing coverage of the required insurances stated in Section 5 of this Contract is not on file with VEIC. It is the sole responsibility of the Contractor to have its insurance agent provide current certificates at each insurance renewal period of each type of insurance to VEIC.

4. INDEPENDENT CONTRACTOR

For the purposes hereof, Contractor is an independent contractor, and shall not be deemed to be an employee or agent of VEIC. Contractor shall pay any and all taxes and fees on it imposed by any government under this Contract.

5. INSURANCE

Before commencing Work on this Contract, the Contractor shall provide Certificates of Insurance to show that the following minimum coverages are in effect. The Certificates of Insurance shall name VEIC as additionally insured party as its interests may appear. All policies shall be noncancellable without 30 days prior written notice from the insurance carrier to VEIC. It is the responsibility of the Contractor to maintain current Certificates of Insurance on file with VEIC through the term of this Contract.

Workers' Compensation: With respect to all operations performed under this Contract, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and any other state in which it is performing the Services.

General Liability Insurance: With respect to all operations performed under this Contract, the Contractor shall maintain commercial general liability written on an occurrence form with limits of not less than:

\$1,000,000 Each Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$50,000 Damages for Premises Rented to You

Commercial general liability insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract.

Employer's Liability: The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been set to protect the interests of VEIC.

None of VEIC's insurance coverage shall apply to the Contractor.

6. REPRESENTATIONS

Contractor represents that it is in the business of providing the Services and that it shall perform the Services:

- a. In accordance with all applicable federal, state and local laws and regulations; and
- b. In accordance with generally accepted industry principles and practices.

The Contractor further represents that there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Services or VEIC's rights hereunder.

7. SETTLEMENT OF DISPUTES

Any disputes or differences arising out of this Contract that cannot be amicably settled between the parties shall be finally settled under the Rules of Conciliation and Arbitration of the American Arbitration Association by one or more arbitrators appointed in accordance with said Rules. The arbitration shall take place in Burlington, Vermont. The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

8. INDEMNIFICATION

Contractor shall defend, indemnify and hold VEIC harmless against: any injury, death, loss, suit or claim, including expenses and attorneys' fees arising from (i) Contractor's violation of the representations contained in Section 6 hereof; (ii) any liability or loss resulting from Contractor's failure to pay any taxes or fees imposed upon it by any government under this Contract; and (iii) any other negligent action or omission on the sole part of Contractor in connection with this Contract.

VEIC shall defend, indemnify and hold the Contractor harmless against: any injury, death, loss, suit or claim, including expenses and attorneys' arising from any negligent action or omission on the sole part of VEIC in connection with this Contract.

9. GOVERNING LAW

The interpretation of the terms and conditions of this Contract shall be governed by the laws of the State of Vermont.

10. DEFAULT TERMINATION

Either party may terminate this Contract in whole or in part in the event that the other party fails to strictly adhere to any of the terms and conditions of this Contract or fails to maintain the progress of the work so as to jeopardize the successful and timely completion of the Project. In such event, Contractor shall cease such Services immediately upon VEIC's demand. In the event of termination, Contractor shall perform such additional work as is necessary for the orderly filing of documents and closing of the Services. Such work shall only pertain to the actual Services and does not include any administrative tasks, such as preparing final invoices, etc. The additional time for filing and closing shall not exceed 5 percent of the total time expended on the undisputed portion of the completed portion of the Services prior to the effective date of termination. Contractor shall only be compensated for all undisputed portions of the completed portion of the work actually performed prior to the effective date of termination, plus the work required for filing and closing. In the event of termination, Contractor shall turn over to VEIC all work completed to date; all related documents; and all other information gathered under this Contract.

11. TERMINATION FOR CONVENIENCE

Notwithstanding any other provision of this Contract, VEIC may terminate this Contract without cause by giving thirty (30) days advance written notice thereof to Contractor.

Upon termination of this Contract pursuant to this Section, Contractor shall have no further obligation to provide services to VEIC pursuant to this Contract and, except for payment of fees to Contractor for services rendered prior to the date of termination VEIC shall have no further obligation to pay Contractor.

Contractor shall render a final bill for services to VEIC within thirty (30) days from the date of termination and VEIC shall pay that bill in accordance with the payment provisions in Section 3 of this Contract.

12. CONFIDENTIALITY OF DATA, INFORMATION, AND DOCUMENTS

Contractor agrees that all information communicated to it with respect to services to be performed under this Contract, including any confidential information gained by Contractor by reason of association with VEIC, which is identified at the time of disclosure by an appropriate legend, marking, stamp, or other positive written identification in a prominent location to be confidential is confidential.

Contractor agrees that all conclusions, recommendations, reports, advice, or other documents generated by Contractor pursuant to this Contract are confidential. Further, Contractor:

- a. Shall not disclose any confidential information to any other person or entity unless specifically authorized in writing by VEIC to do so.
- b. Shall use its best efforts to prevent inadvertent disclosure of any confidential information to any third party by using the same care and discretion that it uses with similar data that Contractor designates as confidential.
- c. Agrees that copies of confidential information may not be made without the express written permission of VEIC and that all such copies shall be returned to VEIC along with the originals.
- d. Shall return to VEIC promptly at VEIC's request, all confidential materials. Any materials, the return of which is not specifically requested, shall be returned to VEIC promptly at the conclusion of the work on the project or activity to which the materials relate.

However, Contractor's obligation to hold any information confidential under this Contract shall not apply to any information if the same is:

- (1) In the public domain at the time of disclosure to Contractor by VEIC, or subsequent to the date of disclosure, without breach of this Contract by Contractor; or
- (2) Known to Contractor, as evidenced by written documentation, prior to disclosure of such information by VEIC; or
- (3) Disclosed without restriction to Contractor by a third party having a bona fide right to disclose the same to Contractor and without breach of this Contract by Contractor; or
- (4) Independently developed by representatives of Contractor who did not have access to said confidential information.

Notice of Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing. Federal law requires VEIC to notify Contractor that there are a few limited situations in which Contractor will not be liable for the confidential disclosure of a trade secret to the government or in a court filing. First, an individual shall not be criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Second, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

The provisions of this Section shall survive termination or expiration of this Contract.

13. OWNERSHIP OF DATA, RECORDS, AND INTELLECTUAL PROPERTY

a. Work Product

All documentation, reports, records, data, computer databases, software including object code and source code, models, materials, concepts, plans, specimens and other work product (collectively the "Work Product") originated, developed or prepared pursuant to this Contract by the Contractor or its subcontractor(s), or jointly by the Contractor, subcontractor(s), and/or VEIC, shall become the exclusive property of VEIC. Work Product shall constitute a work for hire for VEIC and, therefore, VEIC shall own all copyrights and other intellectual property arising from the Services under this Contract. Contractor and its subcontractor(s) may not copyright or resell the above Contract Work Product.

b. Equipment and Materials Provided by or for Use by VEIC

All property, equipment or materials, including customized computer software, purchased directly by VEIC or furnished to the Contractor by VEIC, under this Contract, is provided on a loan basis only and remains the sole property of VEIC. Property or equipment purchased by Contractor to perform this Contract shall be the sole property of the Contractor unless specified otherwise in this Contract.

c. Research Reports or Similar Publications

Prior written approval by VEIC is required in order for the Contractor to prepare or present any research report, conference presentation, journal paper or similar other publication that identifies VEIC or relies on data acquired from the Contractor's or its subcontractor(s)' performance of this Contract. If VEIC does provide its approval, VEIC must review and approve, prior to public release, any such research report or similar publication.

d. Use of VEIC Name

The Contractor shall not use VEIC's corporate name, logo, identity, any affiliation, or the service mark and any related logo, without VEIC's prior written consent.

e. This Section Survives Expiration or Termination of This Contract

The provisions of this Section shall survive termination or expiration of this Contract.

14. COMPETITIVE ACTIVITIES

During the term of this Contract, Contractor shall not, directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder, corporate officer, director, or in any other individual or representative capacity, engage or participate in any competitive activity relating to the Project or activity to which this Contract relates.

15. MAINTENANCE OF RECORDS

The Contractor shall keep, maintain, and preserve at its principal office throughout the term of the Contract and for a period of three years after the end of the Contract full and detailed books, accounts, and records pertaining to the performance of the Contract, including without limitation, all bills, invoices, payrolls, Contracting efforts and other data evidencing, or in any

material way related to, the direct and indirect costs and expenses incurred by the Contractor in the course of such performance.

However, 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 finding involving the records has been resolved.

16. AUDIT ADJUSTMENT

Any payment made under the Contract shall be subject to retroactive reduction for amounts included therein which are found on the basis of any audit of VEIC or the Contractor by an agency of the United States not to constitute an allowable charge or cost hereunder.

17. ASSIGNMENTS, SUBCONTRACTS AND PURCHASE ORDERS

The assignment, transfer, conveyance, subcontracting or other disposal of this Contract or any of the Contractor's rights, obligations, interests or responsibilities hereunder, in whole or in part, without the express consent in writing of VEIC shall be void and of no effect as to VEIC.

18. NON-DISCRIMINATION REQUIREMENTS

In accordance with all State and Federal statutory and constitutional non-discrimination provisions, the Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status.

19. NOTICES

- a. VEIC's primary contact is [name of VEIC project manager].
- b. Contractor's primary contact is [name of Contractor project manager].
- c. Any notice or request required or permitted to be given or made in this Contract shall be in writing to the appropriate primary contact. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, facsimile or electronic mail to the party to which it is required to be given or made, at such party's address specified below or at such other address as the party shall have specified in writing to the party giving such notice, or making such request.

FOR VEIC:

Rebecca Foster

Chief Executive Officer

Vermont Energy Investment Corporation

20 Winooski Falls Way, 5th Floor

Winooski, VT 05404

Telephone: (802) 658-6060

Fax: (802) 658-1643

FOR CONTRACTOR:

Counterparty Contact Person

Counterparty

Counterparty Street Address

Counterparty City State & Zip

Telephone: Counterparty Phone Number

Fax: Counterparty Fax Number

20. ATTACHMENTS

All attachments to this Contract are incorporated by reference and made a part of this Contract. In the event of a conflict between this Contract and any attachment hereto, this Contract shall control.

21. SEVERABILITY

If any term or provision of this Contract shall be held to be invalid or unenforceable, the remaining terms and provisions of this Contract shall be valid and enforceable to the fullest extent permitted by law.

22. NONWAIVER

The failure of VEIC to enforce any one or more of the provisions of this Contract shall not be construed to be a waiver thereof, nor shall such failure affect the validity of the Contract, Contractor's obligations hereunder or the right of VEIC to enforce any provision of the Contract.

23. COUNTERPARTS

The Contract may be executed in several counterparts by the parties and when so executed shall be considered fully executed to the same extent as if all parties had signed the original document. Facsimile execution is authorized.

24. ENTIRE AGREEMENT

This Contract, including any appendices, constitutes the entire agreement between VEIC and the Contractor and supersedes all prior communications, representations, agreements and understandings whether oral or written made by either of them concerning the subject hereof. This Contract may not be modified or amended except by written instrument duly executed by an authorized officer or employee of the party to be bound.

25. CONTRACT AMENDMENTS

Any changes to the Contractor's Scope of Work (Attachment A) and fees will be accomplished via written amendment to this Contract signed by an authorized officer or employee of the Contractor and VEIC.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

ACKNOWLEDGMENT OF ARBITRATION

Each of Contractor and VEIC understands that this Agreement contains an agreement to arbitrate. After signing this document, we understand that we will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, we agree to submit any such dispute to an impartial arbitrator.

IN WITNESS WHEREOF, CONTRACTOR and VEIC have caused this Contract to be executed.

FOR CONTRACTOR:

FOR VEIC:

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date