DVHA Routing Form

Revision Date 5/1/12

Type of Agreement: **Contract** Agreement #: **18211** Form of Agreement: **New** Amendment #: **1**

Name of Recipient: **Burns & Associates** Vendor #: **250203**

Program Manager : **Catherine West** Phone #: **879-5937**

Agreement Manager: **Sawyer Joecks** Phone #: **879-2612**

Brief Explanation of Agreement: **Analysis of medicaid payment methodologies and other fiscal evaluations**

Start Date: **9/24/2012** End Date: **6/30/2013** Maximum Amount: **$885,870.00**

Amendments Only: Maximum Prior Amount: **$647,720.00** Percentage of Change: **36.77%**

Bid Process (Contracts Only): ☒ Standard ☐ Simplified ☐ Sole Source ☐ Statutory ☐ Master Contract SOW

Funding Source

Global Commitment 93.778	**$841,620.00**		

Contents of Attached Packet

☒ AA-14
☐ Sole Source Memo
☒ Qualitative/Justification Memo
☐ Attachments A, B, C & F
☐ Attachment D - Modifications to C & F
☐ Attachment E - Business Associate Agreement
☐ Attachment G - Academic Research
☐ MOU
☒ Other: **Amendment #1**

Reviewer		Reviewer Initials	Date In	Date Out
DVHA Grant & Contract Administrator	**Kate Jones**		K.J.	
DVHA BO	**Jill Gould**		J.G.	
DVHA Commissioner or Designee	**Lori Collins, Dpty Commissioner**		L.C.	
AHS Attorney General	**Seth Steinzor, AAG**		S.S.	
Following Approvals for Contracts Only:				
AHS CIO				
AHS Central Office	**Martha Giglio**		M.G.	
AHS Secretary	**Doug Racine, Sec**		C.O.	

Vision Account Codes: **Account: 507600, Fund: 20405, Department: 341001000, Program: 41487**

☐ FFATA Entry ☐ Grant Tracking Module Vision PO #: **3510** Initials & Date: Approval & B/C:

STATE OF VERMONT CONTRACT SUMMARY AND CERTIFICATION - - - - - - - - - - - Form AA-14 (8/22/11)

Note: All sections are required. Incomplete forms will be returned to department.

I. CONTRACT INFORMATION:

Agency/Department: AHS/ DVHA **Contract #:** 18211 **Amendment #:** 1

Vendor Name: Burns & Associates VISION Vendor No: 250203

Vendor Address: 3030 North Third Street, Suite 200, Phoenix, AZ 85012

Starting Date: 9/24/2010 **Ending Date:** 6/30/2013 **Amendment Date:** 7/1/2012

Summary of agreement or amendment: Analysis of medicaid payment methodologies and other fiscal evaluations

II. FINANCIAL INFORMATION

Maximum Payable: $885,870.00 Prior Maximum: $ 647,720.00 Prior Contract # (If Renewal):

Current Amendment: $238,150.00 Cumulative amendments: $ 238,150.00 % Cumulative Change: 36.77 %

Business Unit(s): 3410; ; - [notes:] **VISION Account(s): 507600;**

II. PERFORMANCE INFORMATION

Does this Agreement include Performance Measures tied to Outcomes and/or financial reward/penalties? ☒ Yes ☐ No

Estimated Funding Split:	G-Fund %	S-Fund %	F-Fund %	GC-Fund 100.00 %	Other %

III. PUBLIC COMPETITION

The agency has taken reasonable steps to control the price of the contract or procurement grant and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:

☒ Standard bid or RFP ☐ Simplified Bid ☐ Sole Sourced ☐ Qualification Based Selection ☐ Statutory

IV. TYPE OF AGREEMENT & PERFORMANCE INFORMATION

Check all that apply: ☐ Service ☒ Personal Service ☐ Architect/Engineer ☐ Construction ☐ Marketing ☐ Information Technology ☐ Other, describe:

V. SUITABILITY FOR CONTRACT FOR SERVICE

☒ Yes ☐ No ☐ n/a If this is a Personal Service contract, does this agreement meet all 3 parts of the "ABC" definition of independent contractor? (See Bulletin 3.5) If NO, then contractor must be paid through Payroll

VI. CONTRACTING PLAN APPLICABLE:

Are one or more contract or terms & conditions provisions waived under a pre-approved Contracting Plan? ☐ Yes ☒ No

VII. CONFLICT OF INTEREST

By signing below, I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

☐ Yes ☒ No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VIII. PRIOR APPROVALS REQUIRED OR REQUESTED

☒ Yes ☐ No Agreement must be approved by the Attorney General under 3 VSA §311(a)(10) (personal service)

☒ Yes ☐ No I request the Attorney General review this agreement as to form

No, already performed by in-house AAG or counsel: _____ (initial)

☐ Yes ☒ No Agreement must be approved by the Comm. of DII; for IT hardware, software or services and Telecommunications over $100,000

☐ Yes ☒ No Agreement must be approved by the CMO; for Marketing services over $15,000

☐ Yes ☒ No Agreement must be approved by Comm. Human Resources (privatization and retiree contracts)

☒ Yes ☐ No Agreement must be approved by the Secretary of Administration M.G.

IX. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

I have made reasonable inquiry as to the accuracy of the above information:

Date	Agency / Department Head	Date	Agency Secretary or Other Department Head (if required)
	E-SIGNed by Lori Collins on 2012-Jun-26		E-SIGNed by Christine Oliver on 2012-Jun-27

Date	Approval by Attorney General	Date	Approved by Commissioner of Human Resources
	E-SIGNed by Seth Steinzor on 2012-Jun-26		E-SIGNed by Jeb Spaulding on 2012-Jun-28

Date	CIO	Date	CMO	Date	Secretary of Administration

A.R. E.B.

VERMONT

Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495
www.dvha.vermont.gov

Agency of Human Services
[phone] 802-879-5900

MEMORANDUM

TO: Jeb Spaulding, Secretary, (Agency of Administration)

THROUGH: Doug Racine, Secretary (Agency of Human Services) C.O.

FROM: Lori Collins, Deputy Commissioner (Department of Vermont Health Access) L.C.

DATE: June 1, 2012

SUBJECT: Request to amend contract: Burns & Associates, #18211
Current Duration: September 24, 2010 –June 30, 2012
Proposed Duration: September 24, 2010 – June 30, 2013
Current Value of Contract: $647,720 Proposed Amended Amount: $885,870.00

DVHA is requesting to extend our contract with Burns & Associates out of Phoenix, Arizona. Burns & Associates provides analysis of Medicaid payment methodologies and other fiscal evaluations that are integral to Vermont's Medicaid program.

The DVHA Reimbursement Unit is responsible for managing all facets of Vermont Medicaid reimbursement methodologies, including development, updates, corrections, adjustments, program specific initiatives, rate implementations, impact analysis, compliance, and many other activities. These methodologies require very complex rate setting work activities. The services provided by Burns & Associate have provided the State with rate setting process support with added attributes of extensive expertise and historical knowledge. Due to the complexity of payment methodologies and the Reimbursement Unit's current small staff size, the services provided by Burn's & Associate is pivotal to achieving effective and accurate rate setting for inpatient, outpatient, all levels of physician services, dental, vision, medication, equipment rates, and other. In addition, Burns & Associate's specialized skills have provided the State with analytical support which has allowed the Unit to accurately and effectively institute several very complex programs, such as the Direct Graduate Medical Education (DGME), Disproportionate Share (DSH), and Provider Tax.

Due to a work issuance required under DMH for the development of a new reimbursement structure for state hospital patients, our submission for this amendment was delayed. We needed to include this work to be conducted so the institution of the new payment method for these patients can be completed soon.

Performance measures have been added to the agreement to ensure that the Contractor submits needed data to the State in order to be compliant with federal deadlines. The funding for this amendment will be covered by the Global Commitment to Health Appropriations and complies with all mandatory provisions of AOA Bulletin 3.5.

DVHA looks forward to approval of this amendment.

APPROVAL: _____ DATE: _____
JEB SPAULDING, AGENCY OF ADMINISTRATION

AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Burns & Associates, Inc. (hereafter called the "Contractor") that the contract on the subject of Medicaid payment systems consulting, effective September 24, 2010, is hereby amended effective June 30, 2012, as follows:

By deleting on page 1 of 12, Section 3 (Maximum Amount) and substituting in lieu thereof the following Section 3:

3. Maximum Amount. In consideration of the services to be performed by Contract, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed **$885,870.00**

By deleting on page 1 of 12, Section 4 (Contract Term) and substituting in lieu thereof the following Section 4:

4. Contract Term. The period of the Contractor's performance shall begin on September 24, 2010 and end on June 30, 2013.

By adding the following language to the bottom of Attachment A on page 3 of 12:

Performance Measures:

The Contractor will be required to deliver specific fee schedules to the State in preparation for VT's Medicaid annual update changes that are effective January 1st (RBRVS & OPPS) and October 1st (DRG rebase), to be updated into the VT Medicaid Management Information Systems (MMIS). The Contractor must provide these fee schedule updates to the State as specified prior to the VT annual effective date or as prior approved by the State due to unforeseen difficulties:

Inpatient hospital Diagnosis-related group (DRG) Rebase fee schedules are due to the State 4 weeks prior to VT's annual effective date of October 1st . The Contractor may submit the fee schedules in a shorter period of time due to unforeseen difficulties, with prior written approval by the State.

Outpatient patient services under the Outpatient Prospective Payment System (OPPS) and Resource Based Relative Value Scale (RBRVS) fee schedules are due to the state 2 weeks prior VT's annual effective date of January 1st. The Contractor may submit the fee schedules in a shorter period of time due to unforeseen difficulties, with prior written approval by the State.

By deleting on page 3 of 12 of Attachment A, the following reference:

Mary Andes, Director of Data Management Analysis & Reimbursement

And substituting in lieu thereof the following reference:

Reimbursement Director

By deleting on page 4 of 12 of Attachment B, the following reference:

Mary Andes
Director of Data Management Analysis and Reimbursement
Office of Vermont Health Access

And substituting in lieu thereof the following reference:

Business Office, Contracting Unit
Department of Vermont Health Access

By deleting on page 4 of 12 of Attachment B, Section 3, and substituting in lieu thereof the following Section 3:

The total maximum amount payable under this contract shall not exceed $885,870.00

By adding the following table beneath the existing table in Attachment B on page 5 of 12, "Contract Budget":

Proposed Budget for Burns & Associates, Inc. Tasks for Period 2: July 1, 2012 - June 30, 2013

		Hours			Costs		
					$200.00/hr	$180.00/hr	
ɔn		Project Manager	Programmer/ Analyst	Total Hours	Project Manager	Programmer/ Analyst	Total Costs
DRG Rebase update October 1, 2012		**100**	**72**	**172**	**$20,000**	**$12,960**	**$40,960**
1	Modeling payment scenarios	32	48	80	$6,400	$8,640	$15,040
2	Prep and attend meetings with providers	28	0	28	$5,600	$0	$5,600
3	SPA submission, CMS questions, UPL test	16	16	32	$3,200	$2,880	$6,080
4	Write methodology document	24	8	32	$4,800	$1,440	$6,240
5	Work with the State to educate one staff person on aspects of the complete rate setting and verification process	40 hours (8 hrs onsite one time 8 hours prep for this 2 hrs ad hoc questions each month (2 x 12 months).					$8,000
ɔ Setting		**116**	**76**	**192**	**$23,200**	**$13,680**	**$36,880**
1	Collect and analyze claims, cost information, hospital budgets	12	24	36	$2,400	$4,320	$6,720
2	Modeling payment scenarios for SFY13	24	16	40	$4,800	$2,880	$7,680
3	Prep and attend meetings with providers	16	0	16	$3,200	$0	$3,200
4	SPA submission, CMS questions, UPL test	12	4	16	$2,400	$720	$3,120
5	Write methodology document	8	0	8	$1,600	$0	$1,600
6	Prepare reconciliation through 6/30/12	16	8	24	$3,200	$1,440	$4,640
7	Collect mid-year cost information and validate reasonableness of SFY13 interim rates	16	16	32	$3,200	$2,880	$6,080
8	Assist with developing SFY14 rates	12	8	20	$2,400	$1,440	$3,840
te update Jan 1, 2013		**34**	**40**	**74**	**$6,800**	**$7,200**	**$22,000**
1	Read and summarize Medicare Final Rule for CY2013	8	0	8	$1,600	$0	$1,600
2	Collect and analyze claims information	2	8	10	$400	$1,440	$1,840
3	Modeling payment scenarios	4	24	28	$800	$4,320	$5,120

4	Prep and attend meetings with providers	12	0	12	$2,400	$0	$2,400
5	SPA submission, CMS questions, UPL test	8	8	16	$1,600	$1,440	$3,040
6	Work with the State to educate one staff person on aspects of the complete the rate setting and verification process	40 hours (8 hrs onsite one time 8 hours prep for this 2 hrs ad hoc questions each month (2 x 12 months).					$8,000
ate update Jan 1, 2013		**62**	**52**	**114**	**$12,400**	**$9,360**	**$29,760**
1	Read and summarize Medicare Final Rule for CY2013	8	0	8	$1,600	$0	$1,600
2	Review design documents and meetings with DVHA, HP to prepare for enhanced primary care rates	20	0	20	$4,000	$0	$4,000
3	Collect and analyze claims and cost information	6	12	18	$1,200	$2,160	$3,360
4	Modeling payment scenarios	8	32	40	$1,600	$5,760	$7,360
5	Prep and attend meetings with providers	12	0	12	$2,400	$0	$2,400
6	SPA submission and CMS questions	8	8	16	$1,600	$1,440	$3,040
7	Work with the State to educate one staff person on aspects of complete the rate setting and verification process	40 hours (8 hrs onsite one time 8 hours prep for this 2 hrs ad hoc questions each month (2 x 12 months).					$8,000
thodology Annual Review		**28**	**8**	**36**	**$5,600**	**$1,440**	**$7,040**
1	Meetings with DVHA, Fletcher Allen regarding IGTs, payment calculations	12	0	12	$2,400	$0	$2,400
2	Analyze payment models	8	0	8	$1,600	$0	$1,600
3	SPA submission, CMS questions, UPL test	8	8	16	$1,600	$1,440	$3,040
2014 Payments		**86**	**20**	**106**	**$17,200**	**$3,600**	**$36,800**
1	Collect and analyze claims and cost information	30	12	42	$6,000	$2,160	$8,160
2	Prepare DSH Survey instrument and instructions	4	0	4	$800	$0	$800
3	Review initial DSH Survey submissions	12	0	12	$2,400	$0	$2,400
4	Follow-up with hospitals on survey submissions	6	0	6	$1,200	$0	$1,200

5	Calculate final DSH payments	18	0	18	$3,600	$0	$3,600
6	SPA submission, CMS questions, UPL test	8	8	16	$1,600	$1,440	$3,040
7	Write methodology document	8	0	8	$1,600	$0	$1,600
8	Work with DVHA to provide DSH education, in order to transition DSH work activities to State with going forward Contractor's review verification SFY2013	80 hours (16 hrs onsite one time 16 hours prep for this 4 hrs ad hoc questions each month (4 x 12 months).					$16,000
ilot Development		**28**	**16**	**44**	**$5,600**	**$2,880**	**$8,480**
1	Develop additional bundled payment fiscal models	6	16	22	$1,200	$2,880	$4,080
2	Attend meetings with Retreat and DVHA	6	0	6	$1,200	$0	$1,200
3	Technical assistance related to monitoring of pilot	16	0	16	$3,200	$0	$3,200
on Reimbursement Methodologies		**28**	**0**	**28**	**$5,600**	**$0**	**$5,600**
1	Prepare training materials	20	0	20	$4,000	$0	$4,000
2	Conduct two training sessions with DVHA staff	8	0	8	$1,600	$0	$1,600
Technical Assistance as Requested		**120**	**96**	**216**	**$24,000**	**$17,280**	**$41,280**
HOURS		**802**	**380**	**1182**	**$160,400**	**$68,400**	**$228,800**
trips in the year @ $850 per trip)							**$9,350**
AMENDMENT							**$238,150**

ough VI fall under the original contract Work Statement Task I: Rate Setting.
alls under the original contract Work Statement Task II: Fiscal Analysis.
I and IX fall under the original contract Work Statement Task VI: Other.

By renaming Section III. "Total Bid Amount" from Attachment B on page 5 of 12, and substituting in lieu thereof the following section name:

Total Contract Amount

By deleting the contents of Section III from Attachment B on page 5 of 12, and substituting in lieu thereof the following contents:

Costs for work Period 1 (9/24/2010 – 6/30/2012) =	$647,720
Costs for work Period 2 (7/1/2012 – 6/30/2013) =	$238,150
	$885,870.00

By adding the following language to the end of Attachment B on page 4 of 12:

Performance Measures

The contractor shall complete the performance measures specified in Attachment A. In the event that any of the three categories of data are not submitted by their required date, the State will assess a $6,000 penalty per fee schedule, to be withheld from the remainder of the Contractor's invoices following the failure.

In regards to the Contractor's inability to meet their assigned deadlines, such assessment shall not be made to the extent that the failure can be attributed to:

- Unforeseeable catastrophic events experienced at the Contractor local and corporate facilities,
- Unforeseeable catastrophic events experienced by State which has a material effect on the Contractor, or
- Complying with any directions of the State or its employees regarding changes to Scope of Work.

By deleting on pages 6 through 9, Attachment C in its entirety, and substituting in lieu thereof the following Attachment C:

ATTACHMENT C
CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS

1. **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.
2. **Applicable Law.** This Agreement will be governed by the laws of the State of Vermont.
3. **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.

4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.

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, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

   The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. 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 Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

   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.

   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.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverage is 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 coverage 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.

   General Liability and Property Damage: With respect to all operations performed under the 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 Per Occurrence
$1,000,000 General Aggregate
$1,000,000 Products/Completed Operations Aggregate
$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

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: $1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of ***$N/A*** per occurrence, and ***$N/A*** aggregate.

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

9. **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, and if this Subrecipient expends $500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

   The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

   A Subrecipient is exempt if the Party expends less than $500,000 in total federal assistance in one year.

   The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: **http://finance.vermont.gov/forms**

10. **Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter 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. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.

11. **Fair Employment Practices and Americans with Disabilities Act**: Party agrees to comply with the requirement of Title 21V.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. Party further agrees to include this provision in all subcontracts.

12. **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.

13. **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.

14. **Child Support**: (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.

15. **Sub-Agreements**: Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

    Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

16. **No Gifts or Gratuities**: Party shall not give title or possession of any thing 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.

17. **Copies**: All written reports prepared under this Agreement will be printed using both sides of the paper.

18. **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.

19. **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.

State of Vermont – Attachment C
Revised AHS – 7-1-2012

By deleting on pages 10 through 12, Attachment F in its entirety, and substituting in lieu thereof the following Attachment F:

ATTACHMENT F
AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT PROVISIONS

1. **Agency of Human Services – Field Services Directors** will share oversight with the department (or field office) that is a party to the contract for provider performance using outcomes, processes, terms and conditions agreed to under this contract.

2. **2-1-1 Data Base:** The Contractor providing a health or human services within Vermont, or near the border that is readily accessible to residents of Vermont, will provide relevant descriptive information regarding its agency, programs and/or contact and will adhere to the "Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211. If included, the Contractor will provide accurate and up to date information to their data base as needed. The "Inclusion/Exclusion" policy can be found at www.vermont211.org

3. **Medicaid Program Contractors**:

Inspection of Records: Any contracts accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid program must fulfill state and federal legal requirements to enable the Agency of Human Services (AHS), the United States Department of Health and Human Services (DHHS) and the Government Accounting Office (GAO) to:

Evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed; and Inspect and audit any financial records of such Contractor or subcontractor.

Subcontracting for Medicaid Services: Having a subcontract does not terminate the Contractor, receiving funds under Vermont's Medicaid program, from its responsibility to ensure that all activities under this agreement are carried out. Subcontracts must specify the activities and reporting responsibilities of the Contractor or subcontractor and provide for revoking delegation or imposing other sanctions if the Contractor or subcontractor's performance is inadequate. The Contractor agrees to make available upon request to the Agency of Human Services; the Department of Vermont Health Access; the Department of Disabilities, Aging and Independent Living; and the Center for Medicare and Medicaid Services (CMS) all contracts and subcontracts between the Contractor and service providers.

Medicaid Notification of Termination Requirements: Any Contractor accessing payments for services under the Global Commitment to Health Waiver and Medicaid programs who terminates their practice will follow the Department of Vermont Health Access, Managed Care Organization enrollee notification requirements.

Encounter Data: Any Contractor accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid programs must provide encounter data to the Agency of Human Services and/or its departments and ensure that it can be linked to enrollee eligibility files maintained by the State.

Federal Medicaid System Security Requirements Compliance: All contractors and subcontractors must provide a security plan, risk assessment, and security controls review document within three months of the start date of this agreement (and update it annually thereafter) to support audit compliance with 45CFR95.621 subpart F, *ADP* (Automated Data Processing) *System Security Requirements and Review Process*.

4. **Non-discrimination Based on National Origin as evidenced by Limited English Proficiency**. The Contractor agrees to comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, which require that contractors and subcontractors receiving federal funds must assure that persons with limited English proficiency can meaningfully access services. To the extent the Contractor provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services in compliance with this requirement, such individuals cannot be required to pay for such services.

5. **Voter Registration**. When designated by the Secretary of State, the Contractor agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.

6. **Drug Free Workplace Act.** The Contractor will assure a drug-free workplace in accordance with 45 CFR Part 76.

7. **Privacy and Security Standards.**

Protected Health Information: The Contractor shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this contract. The Contractor shall follow federal and state law relating to privacy and security of individually identifiable

health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the Contractor or subcontractor shall be maintained in compliance with any applicable state or federal laws or regulations and specifically set out in 42 CFR Part 2.

Other Confidential Consumer Information: The Contractor agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to information. The Contractor agrees to comply with any applicable Vermont State Statute, including but not limited to 12 VSA §1612 and any applicable Board of Health confidentiality regulations. The Contractor shall ensure that all of its employees and subcontractors performing services under this agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non-public nature.

Social Security numbers: The Contractor agrees to comply with all applicable Vermont State Statutes to assure protection and security of personal information, including protection from identity theft as outlined in Title 9, Vermont Statutes Annotated, Ch. 62.

8. **Abuse Registry.** The Contractor agrees not to employ any individual, use any volunteer, or otherwise provide reimbursement to any individual in the performance of services connected with this agreement, who provides care, custody, treatment, transportation, or supervision to children or vulnerable adults if there is a substantiation of abuse or neglect or exploitation against that individual. The Contractor will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the Contractor holds a valid child care license or registration from the Division of Child Development, Department for Children and Families, the Contractor shall also check the Central Child Protection Registry. (See 33 V.S.A. §4919(a) (3) & 33 V.S.A. §6911(c) (3)).

9. **Reporting of Abuse, Neglect, or Exploitation.** Consistent with provisions of 33 V.S.A. §4913(a) and §6903, any agent or employee of a Contractor who, in the performance of services connected with this agreement, has contact with clients or is a caregiver and who has reasonable cause to believe that a child or vulnerable adult has been abused or neglected as defined in Chapter 49 or abused, neglected, or exploited as defined in Chapter 69 of Title 33 V.S.A. shall make a report involving children to the Commissioner of the Department for Children and Families within 24 hours or a report involving vulnerable adults to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. This requirement applies except in those instances where particular roles and functions are exempt from reporting under state and federal law. Reports involving children shall contain the information required by 33 V.S.A. §4914. Reports involving vulnerable adults shall contain the information required by 33 V.S.A. §6904. The Contractor will ensure that its agents or employees receive training on the reporting of abuse or neglect to children and abuse, neglect or exploitation of vulnerable adults.

10. **Intellectual Property/Work Product Ownership.** All data, technical information, materials first gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement - including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement - or are a result of the services required under this grant - shall be considered "work for hire" and remain the property of the State of Vermont, regardless of the state of completion - unless otherwise specified in this agreement. Such items shall be delivered to the State of Vermont upon 30 days notice by the State. With respect to software computer programs and / or source codes first developed for the State, all the work shall be considered "work for hire," i.e., the State, not the Contractor or subcontractor, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

The Contractor shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State.

If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor's materials.

11. **Security and Data Transfers.** The State shall work with the Contractor to ensure compliance with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Contractor of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Contractor to implement any required.

    The Contractor will ensure the physical and data security associated with computer equipment - including desktops, notebooks, and other portable devices - used in connection with this agreement. The Contractor will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Contractor will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, the Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Computing and Communication:** The Contractor shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Contractor as part of this agreement. Options include, but are not limited to:

    a. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.

    b. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

    The State will not supply e-mail accounts to the Contractor.

13. **Lobbying.** No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.

14. **Non–discrimination.** The Contractor will prohibit discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, or on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. No person shall on the grounds of sex (including, in the case of a woman, on the grounds that the woman is pregnant) or on the grounds of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by state and/or federal funds.

The Contractor will also not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity under Title 9 V.S.A. Chapter 139.

15. **Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, child care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds.

    The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

    Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

    Contractors are prohibited from promoting the use of tobacco products for all clients. Facilities supported by state and federal funds are prohibited from making tobacco products available to minors.

    Attachment F - Revised AHS -12/10/10

This amendment consists of 14 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#18211) dated September 24, 2010 shall remain unchanged and in full force and effect.

STATE OF VERMONT	CONTRACTOR
DEPARTMENT OF VERMONT HEALTH ACCESS	BURNS & ASSOCIATES
E-SIGNed by Hunt Blair on 2012-Jun-29	E-SIGNed by Mark Podrazik on 2012-Jun-29
MARK LARSON, COMMISSIONER DATE	PETER BURNS, PRESIDENT DATE