



STATE OF VERMONT
JOINT FISCAL OFFICE

MEMORANDUM

To: Joint Fiscal Committee Members
From: Nathan Lavery, Fiscal Analyst
Date: July 6, 2012
Subject: Grant Request

Enclosed please find one (1) item that the Joint Fiscal Office has received from the administration.

JFO #2569 – \$15,000 grant from Central Vermont Public Service Corporation (CVPS) to the Vermont Department of Environmental Conservation. This grant will be used to assess water well temperature and collect other data as part of the Geothermal Systems – Vermont Field Data Acquisition Project.

[JFO received 7/3/12]

Please review the enclosed materials and notify the Joint Fiscal Office (Nathan Lavery at (802) 828-1488; nlavery@leg.state.vt.us) if you have questions or would like an item held for Joint Fiscal Committee review. Unless we hear from you to the contrary by July 20 we will assume that you agree to consider as final the Governor's acceptance of these requests.

State of Vermont
 Department of Finance & Management
 109 State Street, Pavilion Building
 Montpelier, VT 05620-0401

[phone] 802-828-2376
 [fax] 802-828-2428

Agency of Administration

JFO 2569

**STATE OF VERMONT
 FINANCE & MANAGEMENT GRANT REVIEW FORM**

Grant Summary:		To assist collection of water well temperatures and for rock thermal conductivity and chemistry sampling.			
Date:		4/18/2012			
Department:		ANR- DEC 6140020500			
Legal Title of Grant:		Geothermal Systems - Vermont Field Data Acquisition Project: CVPS Assistance			
Federal Catalog #:		N/A			
Grant/Donor Name and Address:		Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701			
Grant Period:	From:	2/21/2012	To:	12/29/2014	
Grant/Donation		\$15,000.00			
	SFY 1	SFY 2	SFY 3	Total	Comments
Grant Amount:	\$6,000	\$6,000	\$3,000	\$15,000	Federal Fiscal Years
Position Information:		# Positions	Explanation/Comments		
		0			
Additional Comments:					
Department of Finance & Management				<i>4/19/12</i>	(Initial)
Secretary of Administration				<i>AC 02/19/12</i>	(Initial)
Sent To Joint Fiscal Office					Date <i>6/29/12</i>

RECEIVED
 JUL 03 2012
JOINT FISCAL OFFICE



VERMONT GRANT ACCEPTANCE REQUEST Affordable Care Act (Form AA-1-ACA)		Priority Level (check one box): Expedited 14 Days <input type="checkbox"/> Normal 30 days <input checked="" type="checkbox"/>		
BASIC GRANT INFORMATION				
1. Agency:	Natural Resources			
2. Department:	Environmental Conservation			
3. Program:	Geology			
4. Legal Title of Grant:	Geothermal Systems - Vermont Field Data Acquisition Project: CVPS Assistance			
5. Federal Catalog #:	N/A			
6. Grant/Donor Name and Address:	Central Vermont Public Service Corporation, 77 Grove Street, Ruland, VT 05701			
7. Grant Period:	From:	2/22/2012	To: 12/29/2014	
8. Purpose of Grant:	Funds to assist collection of water well temperatures and for rock thermal conductivity and chemistry sampling			
9. Impact on existing program if grant is not Accepted:	This grant gives us flexibility to complete the field data acquisition			
10. BUDGET INFORMATION				
	SFY 1	SFY 2	SFY 3	Comments
Expenditures:	FY 13	FY 14	FY 15	
Personal Services	\$3,600	\$3,600	\$1,800	Primary Data collection will take place in FY13 and 14
Operating Expenses	\$2,400	\$2,400	\$1,200	
Grants	\$	\$	\$	
Total	\$6,000	\$6,000	\$3,000	
Revenues:				
State Funds:	\$	\$	\$	
Cash	\$	\$	\$	
In-Kind	\$	\$	\$	
Federal Funds:	\$	\$	\$	
(Direct Costs)	\$	\$	\$	
(Statewide Indirect)	\$	\$	\$	
(Departmental Indirect)	\$	\$	\$	
Other Funds:	\$	\$	\$	
Grant (source Central VT Public Service)	\$6,000	\$6,000	\$3,000	
Total	\$	\$	\$	
Appropriation No:	6140020500	Amount:	\$15,000	
			\$	
			\$	
			\$	

			\$
			\$
			\$
		Total	\$

PERSONAL SERVICE INFORMATION

11. Will monies from this grant be used to fund one or more Personal Service Contracts? Yes No
 If "Yes", appointing authority must initial here to indicate intent to follow current competitive bidding process/policy.

Appointing Authority Name: Commissioner David Mears Agreed by: DM (initial)

12. Limited Service Position Information:	# Positions	Title
	0	
Total Positions		

12a. Equipment and space for these positions: Is presently available. Can be obtained with available funds.

13. AUTHORIZATION AGENCY/DEPARTMENT

I/we certify that no funds beyond basic application preparation and filing costs have been expended or committed in anticipation of Joint Fiscal Committee approval of this grant, unless previous notification was made on Form AA-1PN (if applicable):	Signature:	Date:
	Title:	
	Signature: <u>DM</u>	Date: <u>4/5/12</u>
	Title: <u>Commissioner</u>	

14. SECRETARY OF ADMINISTRATION

<input checked="" type="checkbox"/> Approved:	(Secretary or designee signature) <u>[Signature]</u>	Date: <u>04/19/12</u>
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15. ACTION BY GOVERNOR

<input checked="" type="checkbox"/> Accepted	(Governor's signature) <u>[Signature]</u>	Date: <u>6/08/12</u>
<input type="checkbox"/> Rejected		

16. DOCUMENTATION REQUIRED

Required GRANT Documentation	
<input type="checkbox"/> Request Memo	<input type="checkbox"/> Notice of Donation (if any)
<input type="checkbox"/> Dept. project approval (if applicable)	<input type="checkbox"/> Grant (Project) Timeline (if applicable)
<input type="checkbox"/> Notice of Award	<input type="checkbox"/> Request for Extension (if applicable)
<input type="checkbox"/> Grant Agreement	<input type="checkbox"/> Form AA-1PN attached (if applicable)
<input type="checkbox"/> Grant Budget	

End Form AA-1

GRANT AGREEMENT

This AGREEMENT sets out the terms and conditions under which CENTRAL VERMONT PUBLIC SERVICE CORPORATION ("Central Vermont" or "CVPS"), with offices at 77 Grove Street, Rutland, Vermont, 05701, will provide a grant to the VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION ("DEC"), with offices located at 103 South Main Street, Waterbury, Vermont 05671-0401, to assist DEC in its conduct of the Geothermal Systems – Vermont Field Data Acquisition Project to assess water well temperature data, deep geological properties and collect field data in conjunction with the National Geothermal Data System which will inform and prioritize areas for further study.

RECITALS

WHEREAS CVPS has developed and is implementing a ratepayer benefit plan as required by the Vermont Public Service Board (the "Board" or "PSB") in PSB Docket No. 6545; and

WHEREAS it is the purpose of Central Vermont's ratepayer benefit plan to encourage the development of new and innovative renewable technologies including technologies to use and recover geothermal energy; and

WHEREAS, DEC is conducting a Geothermal Systems – Vermont Field Data Acquisition Project in accordance with Subgrant Award VT-EE0002850, to assess water well temperature data, deep geological properties and collect field data in conjunction with the National Geothermal Data System which will inform and prioritize areas for further study (the "Project") which study satisfies the goals and objectives of the CVPS ratepayer benefit plan; and

WHEREAS, Central Vermont is prepared to award a grant to DEC to assist it in the performance of its Geothermal Systems – Vermont Field Data Acquisition Project subject to the terms and conditions as described more fully herein;

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

I. DEFINITIONS

1.1 The term "grant" shall mean the cash payments made to DEC by Central Vermont to encourage the performance of the Project.

1.2 The term "inspection" shall mean the inspection of DEC's Project by individuals

authorized by Central Vermont in order to view the Project results obtained with funding provided pursuant to this Agreement, and to verify and monitor the development of said Project. All Inspections by Central Vermont shall be with the prior approval of DEC upon at least forty-eight (48) hours prior notice by CVPS, which prior approval by DEC shall not be unreasonably withheld. Furthermore, Central Vermont shall cooperate during any inspection so as not to interfere with DEC's conduct of its research and operations.

1.3 The term "Completion Date" shall be no later than one year following the date when DEC's Geothermal Systems – Vermont Field Data Acquisition Project is completed on December 29, 2013.

1.4 The term "Grant Administrator" shall mean the individual designated by Central Vermont to regularly communicate on all matters that are the subject of this Agreement.

1.5 The term "Party" shall mean CVPS or DEC and the term "Parties" shall mean CVPS and DEC.

II. GEOTHERMAL SYSTEMS – VERMONT FIELD DATA ACQUISITION PROJECT: CVPS ASSISTANCE

2.1 Central Vermont shall provide DEC a grant in the amount of \$15,000.00 upon signing of this agreement to assist it in the conduct of the Geothermal Systems – Vermont Field Data Acquisition Project to assess water well temperature data, deep geological properties and collect field data in conjunction with the National Geothermal Data System which will inform and prioritize areas for further study. DEC shall report to CVPS on the progress of the study on a twice yearly basis including the elements of the study that have benefited from CVPS assistance that can include operational/personnel support, additional sample collection, testing, equipment purchase, and planning for next steps.

2.2 DEC shall use the grant to assist it in the planning, design, and conduct of its Project as described in paragraph 2.1 and for no other purpose.

2.3 Should a dispute concerning any matter pursuant to this Agreement arise between DEC and the Grant Administrator, said dispute shall be resolved in accordance with the provisions of paragraph 11.8 of this Agreement.

2.4 DEC shall designate an individual who shall be able to respond to the Grant Administrator's inquiries concerning the development of the Project.

III. VERIFICATION OF PROJECT

3.1 DEC shall notify Central Vermont upon completion of the Project and at the satisfaction of various Project steps as shall be agreed to by and between DEC and the Grant

Administrator from time to time during the term of this Agreement. Within thirty (30) days of such notification, and upon two business days prior notice to DEC, CVPS shall be permitted reasonable access to the Project and to all documents pertaining to the planning, design, and performance of the Project for the purpose of verifying that:

- (1) the Project work has been paid for and performed; and
- (2) the Project is fully complete; and
- (3) the grant incentives have been used for the purposes contemplated under this Agreement and for no other purposes.

IV. COMPLIANCE WITH LAWS AND REGULATIONS

4.1 DEC warrants that its planning, design and performance of the Project (including the removal, transportation and disposal of any substances or materials incident thereto) that is the subject of this Agreement, shall comply with all applicable federal, state and local laws, regulations and ordinances affecting the Project.

V. PROMOTION AND PUBLICITY

5.1 DEC agrees that Central Vermont shall have the right to employ information concerning the performance of the Project, including specifications, data and photographs, in the promotion and marketing of Central Vermont's mission and activities.

5.2 DEC shall allow CVPS, upon agreement as to reasonable time and manner, the opportunity to conduct open houses and other public education and information event at or with the DEC concerning the Project developed hereunder.

5.3 CVPS and DEC will endeavor to cooperate and coordinate their public education and information activities regarding the Project for a reasonable term during the development and performance of the Project. The Parties shall regularly communicate on matters regarding their respective Project public education and information activities and shall share their plans for such activities during the eighteen (18) month period following execution of this Agreement for such additional term as the Parties may agree.

5.4 All promotions and publicity conducted in accordance to this Section V shall be include an acknowledgement of DOE Support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgement : "This material is based upon work supported by the Department of Energy [National Nuclear Security Administration] [add name(s) of other agencies, if applicable] under Award Number(s) [enter the award number(s)]."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service, by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

VI. MONITORING AND EVALUATION

6.1 DEC shall include in its agreement with any contractor a provision which requires the contractor to deliver to DEC, upon request, all documents which set forth the purchase price (including all applicable equipment and material discounts) of any equipment purchased for installation as a part of the Project, and the installation costs thereof which are subject to grant awards hereunder. Upon request, DEC shall supply CVPS with copies of such documents, or an accounting in such form as it legally can, prior to the verification of the installation under Article III above.

VII. DISCLAIMER OF WARRANTIES

7.1 Central Vermont disclaims all warranties, whether express or implied, including any implied warranty of merchantability or of fitness for a particular purpose, that the development of the Project will result in or produce any specific research capability or other benefit to DEC.

7.2 Central Vermont also disclaims all warranties, whether express or implied, including any implied warranty of merchantability or of fitness for a particular purpose, that the equipment or services to be purchased as a part of the Project complies with any specifications, laws, ordinances, regulations, codes or industry standards.

VIII. EXCLUSION OF CONSEQUENTIAL AND INCIDENTAL DAMAGES AND LIMITATION OF LIABILITY

8.1 **LIABILITY** – Each Party agrees that it will assume all risk and liability to itself, its agents or employees, for any injury to persons or property resulting in any manner from the conduct of its own operations, and the operations of its agents, or employees, under this MOU, and for any loss, cost, damage, or expense resulting at any time from failure to exercise proper precautions, of or by itself or its own agents or its own employees, while occupying or visiting the projects under and pursuant to this MOU. The liability of agencies and employees of the

State of Vermont shall be governed by the Tort Claims Against the State provisions of Chapter 189, Title 12, Vermont Statutes Annotated.

IX. REPRESENTATIONS AND ACKNOWLEDGMENTS

9.1 DEC understands and agrees that the provision of incentives may be considered taxable income by the Internal Revenue Service and other Governmental authorities. DEC acknowledges that CVPS shall not be liable for any taxes or other governmental assessments made against DEC as a result of this Agreement.

9.2 The Parties acknowledge and agree that the actual cost of planning, designing and performing the Project that is the subject of this Agreement may differ from the estimates on which the grant is based. Nothing in this Agreement shall require CVPS to provide additional grant amounts.

9.3 The Parties agree and acknowledge that CVPS does not warranty the performance of the Project that is the subject of this Agreement and that any warranties that may arise involve only the planning, design, installation or service contractors or consultants, and/or the equipment suppliers or manufacturers.

9.4 DEC shall use reasonable efforts to assist Central Vermont to respond to questions concerning the matter that are the subject of this Agreement in any permitting or regulatory proceeding before the PSB or other governmental authority involving Central Vermont's compliance with the its obligation to develop and implement a ratepayer benefits plan in accordance with the requirements of the Orders issued by the PSB in Docket No. 6545. This obligation shall not extend to any other proceedings involving Central Vermont.

X. TERMS

10.1 This Agreement shall become effective upon execution and shall remain in full force and effect for a term of five years from the completion date of the Project.

10.2 DEC shall make all reasonable efforts to plan, design, permit, purchase, install and perform the Project that is the subject of this Agreement. If the Project is not operational within two years of the date hereof, Central Vermont shall not be obligated to provide the incentives provided for herein unless DEC requests and CVPS extends in writing a waiver providing additional time for DEC to complete said Project. In the event that the term is not extended for good cause shown, DEC shall return any unspent grant amounts to CVPS.

10.3 CVPS shall tender to DEC a cash payment in the amount of the incentive award provided for under this Agreement no later than thirty (30) days from the date of this Agreement.

XI. GENERAL CONDITIONS

11.1 All notices required hereunder shall be given in writing and shall be personally delivered or sent by first class mail, postage prepaid, addressed to the Party at its address as first above mentioned, or to such other address as such Party may designate by prior written notice provided in accordance with this paragraph.

11.2 This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont.

11.3 This Agreement sets forth the entire Agreement between the Parties with respect to the subject matter hereof, and supersedes all oral or written representations, warranties, agreements or other inducements relating to this Agreement.

11.4 No provision of this Agreement may be waived, modified, or superseded except by written instrument signed by duly authorized representatives of both Parties.

11.5 This Agreement may be amended with and only with the written mutual consent of the Parties hereto.

11.6 This Agreement may not be assigned without the prior written consent of the other Party, but shall enure to the benefit of the successor to any Party.

11.7 Should any clause, sentence or paragraph of this Agreement be judicially declared invalid, unenforceable or void, such decision shall not have the effect of invalidating or voiding the remainder of this Agreement unless said clause, sentence or paragraph shall go to the heart of this Agreement, and the Parties hereto agree that the part or parts of this Agreement so held to be invalid, unenforceable, or void shall be deemed to have been stricken and the remainder shall have the same force and effect as if said part or parts had never been included herein.

11.8 DEC and CVPS shall attempt in good faith to resolve between themselves any disputes that may arise hereunder. In the event that DEC and CVPS are unable to resolve any such dispute, the matter shall be immediately referred to the executives of both Parties who have authority to resolve the dispute. If these executives are unable to agree upon a solution within thirty (30) days, the Parties shall have recourse to mediation, arbitration, or other alternative dispute resolution device of their mutual selection. If the Parties cannot agree on an alternative dispute resolution device, arbitration shall be selected. Any arbitration shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association unless otherwise agreed upon. The award rendered to any arbitrator or resolution reached in any alternative dispute resolution proceeding shall be final and binding and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof.

11.9 The Parties understand and agree that time is of the essence to this Agreement. Accordingly the Parties shall fulfill their obligations under this Agreement in a diligent and punctual manner. Any failure to require a diligent and punctual fulfillment by either Party shall not constitute waiver of that Party's rights to fulfillment of such obligations.

11.10 Nothing in this Agreement shall create any contractual relationship between CVPS, and any of DEC's employees, contractors, agents or other persons or organizations having a direct or indirect contractual relationship with DEC. Nor shall this Agreement create any obligation on the part of CVPS to pay, or to see to the payment of, any monies due subcontractors, employees, agents, or other persons or organizations from DEC.

11.11 The captions included in this Agreement are for reference purposes only and do not constitute a part of this Agreement, nor do they in any way affect the interpretation of this Agreement.

ACKNOWLEDGMENT OF ARBITRATION

The Parties hereto understand that this Agreement contains an agreement to arbitrate. After signing this document, the Parties understand that they will not be able to bring a law suit concerning any dispute that may arise which is covered by the arbitration agreement, unless the dispute involves a question of constitutional or civil rights. Instead the Parties agree to submit any such dispute to an impartial arbitrator.

THIS AGREEMENT made at Rutland, Vermont this 22 day of February, 2012.

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: _____

Justin G. Johnson, Deputy Commissioner

CENTRAL VERMONT PUBLIC SERVICE CORPORATION

By: _____

*David J. Dunn 02-29-2012
David J. Dunn Mgr of Renewable Projects*