



To: Church Street Marketplace Commission
From: Kara Alnasrawi, Director
Date: February 23, 2023

Re: Church Street Marketplace Outdoor Café Fees – Annual 1% Increase

Background: The Church Street Marketplace has historically raised all outdoor café fees by 1% annually. Due to the change from paper documentation to digital documentation, the Marketplace staff cannot locate the specific document approving this annual increase.

Action:

Out of an abundance of caution and to ensure that all protocols are being followed, Marketplace staff requests the Commission to (re) approve an annual increase of 1% to all café fees. Please see below for historical reference.

CSM OUTDOOR CAFÉ FEES	May 1, 2017 to April 30, 2018	May 1, 2018 to April 30, 2019	May 1, 2019 to April 30, 2020	May 1, 2020 to April 30, 2021	May 1, 2021 to April 30, 2022 (COVID)	May 1, 2022 to April 30, 2023	May1, 2023 to April 30, 2024	May 1, 2024 to April 30, 2025
RATE INFORMATION	PSF Fee	PSF Fee	PSF Fee	PSF Fee	PSF Fee	PSF Fee	PSF Fee	PSF Fee
ALCOHOL SERVICE RATE	\$8.82	\$8.91	\$9.00	\$9.09	\$9.00	\$9.09	\$9.18	\$9.27
<i>Leunig's PSF rate for its 'covered sidewalk'</i>	\$25.68	\$25.94	\$26.20	\$26.46	\$26.20	\$26.46	\$26.73	\$26.99
<i>Sweetwater's PSF rate for its "covered sidewalk"</i>	\$26.56	\$26.83	\$27.10	\$27.37	\$27.10	\$27.37	\$27.64	\$27.92
FOOD SERVICE RATE (no alcohol) @ 65% of Alcohol Service Rate	\$5.73	\$5.79	\$5.85	\$5.91	\$5.85	\$5.91	\$5.97	\$6.03
COFFEE SERVICE RATE @50% of Alcohol Service Rate	\$4.41	\$4.45	\$4.49	\$4.54	\$4.49	\$4.54	\$4.58	\$4.63



To: Church Street Marketplace Commission
From: Kara Alnasrawi, Director
Date: February 23, 2023

Re: Church Street Marketplace Capital Improvement – Request to Accept Bid

Background: The Church Street Marketplace has multiple trip hazards, instances of cracked and broken bricks, and areas of pooling storm water. These instances of deferred maintenance and their impact on the ability for all visitors to enjoy the street have been deemed a priority.

As a result, in 2023, the Church Street Marketplace received \$1,000,000 in Congressionally Directed Spending thanks to support from Senator Patrick Leahy’s office.

The Church Street Marketplace created a Request for Proposal (RFP) to enlist the expertise of an engineering firm to assess trip hazards, deferred maintenance, and other deficiencies on the street due to weather and normal wear and tear. The winning firm, Dubois & King, did a thorough assessment of the street, created a detailed report and assisted the Director in creating an RFP to solicit bids to complete the work.

Related Costs:

CDS	\$1,000,000
Cost of Engineer’s Assessment and RFP Prep	\$32,416
Remaining Funds:	\$967,584

The resulting RFP was broken into one main mandatory bid section, and two alternative sections which required separate bids. One bid was received from the firm Don Weston Excavating.

BID:

The bid is broken down as follows:

Main Bid: \$858,870
Alternative #1: \$21,000
Alternative #2: \$26,000
Total Bid: \$905,870

The resulting bid has been thoroughly vetted by the Marketplace Team with the assistance of Dubois & King. As a result of this analysis and the discussions with Dubois & King, the main bid and the alterative #1 and #2 bids are deemed to be reasonable and sufficient.

ACTION:

The Director requests the approval to move the main and alternative #1 and #2 bids for a total of \$905,870 from Don Weston Excavating forward to the Board of Finance and City Council.

BID PROPOSAL FORM
Church Street Marketplace Improvements

Proposal of Don Westa Excavating (hereinafter called Bidder), organized and existing
under the laws of the State of Vermont doing business as
a Corporation
(a corporation, a partnership, of an individual)

To the City of Burlington, Vermont (hereinafter called Owner)

The Bidder represents that this bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation. The bidder has not directly or indirectly induced or solicited any other bidder to submit a false bid. Bidder has not solicited or induced any person, firm or corporation to refrain from bidding and the bidder has not sought by collusion to obtain for himself any advantage over any other bidder or Owner.

It is essential that all forms that require signature as part of the final Bid Submission be filled out and signed or the Bid itself will be invalid:

- ☐ Burlington's Livable Wages Ordinance Form – Appendix H
- ☐ Burlington's Union Deterrence Ordinance Form – Appendix H
- ☐ Burlington's Outsourcing Ordinance Form – Appendix H
- ☐ City of Burlington Contractor Prequalification – Appendix L

The undersigned bidder proposed and agrees, if this bid is accepted, to enter into an agreement with Owner to furnish all materials and to complete all work as specified or indicated in the Contract Documents for the contract price and within the contract time indicated in this bid and in accordance with the Contract Documents.

Bidder hereby agrees to commence Work under this contract on the date of issuance of the Notice to Proceed and that the Final Completion date for this contract is November 22, 2024.

Bidder acknowledges receipt of the following Addenda:

Bidder agrees to perform all the Work described in the Contract Documents for the following schedule of prices. Unqualified bids will not be accepted.

All unit prices for the same item description shall be the same unit cost, no matter whether the quantities are in the Base Bid or Add Alternates. The City shall determine whether to include the Add Alternates in the contract based on final bid results and local funding limits.

BASE BID – BASIS OF CONTRACT AWARD

ITEM NUMBER AND DESCRIPTION	UNITS	BID QTY	UNIT PRICE	TOTAL PRICE
203.15 COMMON EXCAVATION	CY	207	100	20,700
UNIT PRICE IN WORDS: One Hundred Dollars				
301.26 SUBBASE OF CRUSHED GRAVEL, FINE GRADED	CY	130	70	9,100
UNIT PRICE IN WORDS: Seventy Dollars				
301.35 SUBBASE OF DENSE GRADED CRUSHED STONE	CY	130	70	9,100
UNIT PRICE IN WORDS: Seventy Dollars				
404.65 EMULSIFIED ASPHALT	CWT	2	100	200
UNIT PRICE IN WORDS: One Hundred Dollars				
406.25 BITUMINOUS CONCRETE PAVEMENT	TON	168	240	40,320
UNIT PRICE IN WORDS: Two Hundred Forty Dollars				
604.40 CHANGING ELEVATION OF DROP INLETS, CATCH BASINS, OR MANHOLES	EA	4	2,000	8,000
UNIT PRICE IN WORDS: Two Thousand Dollars				
616.21 VERTICAL GRANITE CURB	LF	120	160	19,200
UNIT PRICE IN WORDS: One Hundred Sixty Dollars				
616.41 REMOVAL OF EXISTING CURB	LF	460	20	9,200
UNIT PRICE IN WORDS: Twenty Dollars				
629.20 ADJUST ELEVATION OF VALVE BOX	EA	1	500	500
UNIT PRICE IN WORDS: Five Hundred Dollars				
630.10 UNIFORMED TRAFFIC OFFICERS	HR	300	55	16,500
UNIT PRICE IN WORDS: Fifty Five Dollars				
630.15 FLAGGERS	HR	900	25	22,500
UNIT PRICE IN WORDS: Twenty Five Dollars				
635.11 MOBILIZATION/DEMobilIZATION	LS	1	80,000	80,000
UNIT PRICE IN WORDS: Eighty Thousand Dollars				
641.11 TRAFFIC CONTROL, ALL-INCLUSIVE	LS	1	80,000	80,000
UNIT PRICE IN WORDS: Eighty Thousand Dollars				
900.620 SPECIAL PROVISION (BRICK PAVER SPOT REPLACEMENT	EA	1	2,000	2,000
UNIT PRICE IN WORDS: Two Thousand Dollars				

900.620 SPECIAL PROVISION (TEMPORARY TRAFFIC CONTROL SYSTEM)	EA	2	4000	8,000
UNIT PRICE IN WORDS: Four Thousand Dollars				
900.650 SPECIAL PROVISION (GRIND CONCRETE EDGE)	LS	1	1,000	1,000
UNIT PRICE IN WORDS: One Thousand Dollars				
900.670 SPECIAL PROVISION (GRANITE INLAY PAVERS)	SF	180	160	28,800
UNIT PRICE IN WORDS: One Hundred Sixty Dollars				
900.670 SPECIAL PROVISION (BRICK PAVERS)	SF	3,200	50	160,000
UNIT PRICE IN WORDS: Fifty Dollars				
900.670 SPECIAL PROVISION (GRANITE DETECTABLE WARNING PAVER)	SF	644	250	161,000
UNIT PRICE IN WORDS: Two Hundred Fifty Dollars				
900.670 SPECIAL PROVISION (GLOBE PAVERS)	SF	850	215	182,750
UNIT PRICE IN WORDS: Two Hundred Fifteen Dollars				

Total Base Bid \$ 858,870.00

Total Base Bid Words Eight Hundred Fifty Eight Thousand Eight Hundred Seventy Dollars and No cents

Add Alternate No. 1 – Paving Over Tree Pits

ITEM NUMBER AND DESCRIPTION	UNITS	BID QTY	UNIT PRICE	TOTAL PRICE
900.620 SPECIAL PROVISION (BRICK PAVING OF EXISTING TREE PIT)	EA	3	7000	21,000
UNIT PRICE IN WORDS: Seven Thousand Dollars				

Total Add Alternate No. 1 – Maintenance Items \$ 21,000

Total Add Alternate No. 1 Words Twenty One Thousand Dollars and No cents

Add Alternate No. 2 – Paver Spot Replacements

ITEM NUMBER AND DESCRIPTION	UNITS	BID QTY	UNIT PRICE	TOTAL PRICE
900.620 SPECIAL PROVISION (PAVER SPOT REPLACEMENT)	EA	13	2000	26,000

UNIT PRICE IN WORDS: <u>Two Thousand Dollars</u>
--

Total Add Alternate No. 2 – Maintenance Items \$ 26,000Total Add Alternate No. 2 Words Twenty Six Thousand Dollars
and No Cents

LS = lump sum

EA = each

SY = square yard

SF = square feet

CWT = hundredweight

GAL = gallon

HR = hour

LU = lump unit

CY = cubic yard

LF = linear foot

TON = ton

MGAL = thousand gallons

LB = pound

MFBM = thousand feet, board measure

The above unit prices shall include all labor, materials, removal, overhead, profit, insurance, etc. to cover the finished work of the several kinds called for on the drawings and specifications.

THE ABOVE PROPOSAL IS HEREBY RESPECTFULLY SUBMITTED BY:

Don Weston Excavating Inc

Contractor

Jeff Weston

By

Vice President

Title

349 Commerce Street

Business Address

WillistonVT

City

State

1/31/24

Date

Jayce Angel

ATTEST

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we,

Don Weston Excavating, Inc.

as Principal, (hereinafter called the "Principal"), and Fidelity & Deposit Company of Maryland

1299 Zurich Way, Schaumburg, IL 60196-1056, a corporation duly organized under the laws
of the State of Illinois, as Surety, (hereinafter called the "Surety"), are held and firmly bound unto
City of Burlington, 645 Pine St. Suite A, Burlington, VT 05402

as Obligee, (hereinafter called the "Obligee"), in the sum of Five Percent of Attached Bid

Dollars (\$ 5% of attached bid), for the payment of which sum well and truly to be made, the said Principal
and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally,
firmly by these presents.

WHEREAS, the Principal has submitted a bid for
Church Street Improvemnts

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract
with the Obligee in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding
or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt
payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter
into such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the
penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith
contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise
to remain in full force and effect.

Signed and sealed this 11th day of January A.D., 2024


Witness

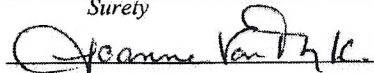


Leo Wrighton

Witness

Don Weston Excavating, Inc.
Principal
 (SEAL)

Fidelity & Deposit Company of Maryland
Surety

By  (SEAL)
Joanne M. Vandyk, Attorney-in-Fact

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by **Robert D. Murray, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Scott F. BOARDMAN, Robin W. FARAONE, Paul E. PLUNKETT, Joanne M. VANDYK, Richard S. SMITH, T. Ian SUTHERLAND, Matthew J. CAMPBELL of **Burlington, Vermont**, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

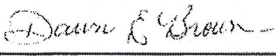
The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 01st day of April, A.D. 2022.



ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND


By: **Robert D. Murray**
Vice President


By: **Dawn E. Brown**
Secretary

**State of Maryland
County of Baltimore**

On this 01st day of April, A.D. 2022, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.




Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2023

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 11th day of January, 2024.




By: Mary Jean Pethick
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
Ph: 800-626-4577

If your jurisdiction allows for electronic reporting of surety claims, please submit to:
reports@claims@zurichna.com

Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790

Appendix H

Certification of Compliance with the City of Burlington's Livable Wage Ordinance

I, Jeff Weston, on behalf of DWEI ("the Contractor") in connection with a contract for Church Street Improvements services that we provide to the City, hereby certify under oath that the Contractor (and any subcontractors under this contract) is and will remain in compliance with the City of Burlington's Livable Wage Ordinance, B.C.O. 21-80 et seq., and that

(1) as a condition of entering into this contract or grant, we confirm that all covered employees as defined by Burlington's Livable Wage Ordinance (including the covered employees of subcontractors) shall be paid a livable wage (as determined, or adjusted, annually by the City of Burlington's chief administrative officer) and provided appropriate time off for the term of the contract;

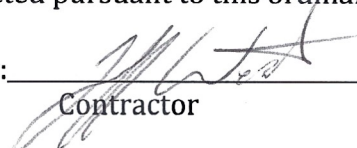
(2) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace(s) or other location(s) where covered employees work;

(3) we will provide verification of an employee's compensation, produce payroll or health insurance enrollment records or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of a request by the City;

(4) we will cooperate in any investigation conducted by the City of Burlington's City Attorney's office pursuant to this ordinance; and

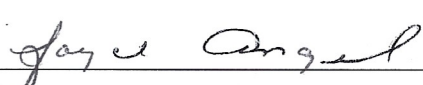
(5) we will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this ordinance.

Date 1/31/24

By: 
Contractor

Subscribed and sworn to before me:

Date 1/31/24


Notary

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, Jeff Weston, on behalf of DWEI

(Contractor) and in connection with the

Church Street Marketplace Improvements [project], hereby

certify under oath that (1) Contractor shall comply with the City of Burlington's Outsourcing Ordinance (Ordinance §§ 21-90 - 21-93); (2) as a condition of entering into this contract or grant, Contractor confirms that the services provided under the above-referenced contract will be performed in the United States or Canada.

Dated at Spa, Vermont this 31 day of Jan, 2024.

By: [Signature]

Duly Authorized Agent

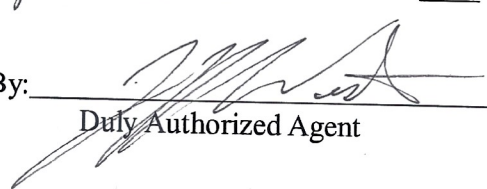
Subscribed and sworn to before me:

[Signature]
Notary

Certification of Compliance with the City of Burlington's
Union Deterrence Ordinance

I, Jeff Weston, on behalf of DWEI
(Contractor) and in connection with Church Street Market place Improvements (City
contract/project/grant), hereby certify under oath that DWEI
(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will it
over the life of the contract advertise or provide union deterrence services in violation of the City's
union deterrence ordinance.

Dated at 5 pm, Vermont this 31 day of Jan, 2024.

By: 

Duly Authorized Agent

**INVITATION FOR BIDS
&
CONTRACT DOCUMENTS
FOR
City of Burlington
Vermont**



Business & Workforce Development

Church Street Marketplace Improvements

November, 2023

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INVITATION FOR BIDS

The City of Burlington Business and Workforce Development (“City”) is seeking bids for Church Street Marketplace Improvements. Electronic bids from pre-qualified contractors will be accepted until **5:00 pm, EST on December 15th, 2023** to MPM email for construction of the project hereinafter described. Bid opening will occur immediately after the bid submittal deadline. The time of receiving and opening bids may be postponed due to emergencies or unforeseen conditions.

Electronic BIDS shall be emailed with the subject line: ***“Bid Documents: Church Street Marketplace Improvements”*** and bidder’s name.

Each BID must be accompanied by a certified check payable to the City of Burlington for five percent (5%) of the total amount of the BID. A BID bond may be used in lieu of a certified check.

This contract is subject to the Burlington Pre-Qualification of Construction Contractors, the Burlington Livable Wage Ordinance, the Burlington Union Deterrence Ordinance, and the Burlington Outsourcing Ordinance. No bid will be accepted without signed certificates of compliance with listed ordinances and a filled out Pre-Qualification of Construction Contractors Application.

LOCATION: Church Street Marketplace in the City of Burlington, Vermont.

TYPE OF CONSTRUCTION: The scope of the work consists of repairs and improvements along Church Street; at the intersection of Church St & College St, the intersection of Church St & Bank St, and the globe paver installation on Church St between Main St and College St.

Work at Church St & College St consists of the installation of granite detectable warning pavers along intersection edges, replacing the brick crosswalks, granite curb crosswalk edges, brick pavers within intersection, subbase materials, with full depth bituminous pavement sections matching into existing pavement on both ends.

Work at Church St & Bank St consists of the installation of granite detectable warning pavers along the intersection edges.

Work at the globe paver installation on Church St between Main St and College St consists of replacing the existing globe pavers and granite line inlays in kind, as well as surrounding brick pavers within the adjacent granite line inlay, replacing two earthline city markers in kind, removing and resetting existing plaques, and grinding the edge of concrete sidewalk.

Add Alternate No. 1 consists of removing three abandoned tree pits along Church Street, installing base and subbase materials, bituminous base and setting beds, and brick pavers matching into the surrounding grades and matching the colors and pattern of surrounding pavers.

Add Alternate No. 2 consists of removal and replacement of brick pavers at spot locations exhibiting damaged, missing, and/or settled pavers, replacing base and subbase materials, as well as brick pavers matching into the surrounding grades and matching the colors and pattern of surrounding pavers.

CONTRACT START DATE: Work shall not begin prior to January 1, 2024.

CONTRACT COMPLETION DATE: The Contract shall be completed on or before November 22, 2024. Work continued after November 22, 2024 shall be subject to accrue liquidated damages as set forth by the GENERAL PROVISIONS of the City of Burlington VT 2023 Engineering Specifications.

COST OF PLANS: Plans are available per request to the Municipal Project Manager (MPM), Name of MPM, by email or phone.

Kara Alnasrawi, Director, Business & Workforce Development
802-238-1910

kalnasrawi@burlingtonvt.gov

ENGINEERS ESTIMATE: The Engineers Estimate of the base bid for this Proposal is \$500,000–\$1,000,000.

PLANS, SPECIFICATIONS AND BID DOCUMENTS MAY BE SEEN AT THE OFFICE OF:

1. City of Burlington, 645 Pine Street, Suite A, Burlington, Vermont 05401
2. Other as applicable (consultant's office, Works in Progress, etc)

STANDARD SPECIFICATIONS: The construction work performed by the selected contractor is subject to the VTrans 2018 STANDARD SPECIFICATIONS FOR CONSTRUCTION and with current special provisions, as modified by general special provisions.

QUESTIONS, REVISIONS, & ADDENDUM: During the advertisement phase of this project all questions shall be addressed solely to the MPM.

All questions must be submitted before November 9th, 2024 at 5:00 pm. Questions received after this time may not be answered. Any revisions, addendums and answers to questions received by the due date for questions will be sent to bidders who received this Invitation via email. In addition, revisions will be posted on the City's RFP web page <http://burlingtonvt.gov/RFP/>. It is the responsibility of the bidder to ensure that a valid email is submitted to the plan distributor to the contact information above. It is recommended that bidders submit secondary contact information. The bidder shall acknowledge receipt of all addenda in the bid form. Failure to acknowledge the receipt of addenda will result in disqualification of the bid.

PREQUALIFICATION OF CONTRACTORS: All bidders on this project shall be prequalified by the Vermont Agency of Transportation (VTrans) and City of Burlington.

For City of Burlington, prequalification shall be submitted by interested Bidders a minimum of 5 days before the Bid Due Date unless they are already qualified with the City of Burlington under a prior project. A Prequalification Application is included with these Bid Documents. Please contact the MPM for questions.

For VTrans qualification questions, please contact VTrans Contract Administrator Jon Winter at 802-622-1267

BI-WEEKLY CONSTRUCTION PROGRESS MEETINGS: The general contractor superintendent shall attend bi-weekly construction progress meetings with City representatives. The

design team and construction subcontractors shall be involved in these meetings as necessary and requested. The general contractor shall prepare an updated construction schedule documenting the upcoming construction activities. The City shall be responsible for securing a meeting location and preparing all meeting materials, notes, and action items.

INSTRUCTIONS FOR BIDDERS

Church Street Marketplace Improvements

1. Bid Preparation and Submission

- a. Bidders are expected to examine the specifications, drawings, all instructions and, the construction site. Failure to do so will be at the bidder's risk.
- b. All bids must be submitted on the forms provided by the municipality. Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidders name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of the agent's authority. (Bidders should retain a copy of their bid for their own records.)
- c. All bid documents shall be combined as a single PDF and submitted electronically to the MPM via email at kalnasrawi@burlingtonvt.gov with "Bid Documents: Project Name," as the subject line and the Invitation for Bids (IFB) number (if applicable), the Project and any other identifying number, the bidder's name, and the date and time for receipt of bids in the body of the email.
- d. This solicitation requires bidding on all items, failure to do so will disqualify the bid.
- e. Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.
- f. Prices in the Bid Proposal Form must be filled in with ink or typewriter in both words and figures indicating the unit price for each respective bid item. The bid total shall also be entered in words and figures.
- g. In case of a discrepancy between a unit price written in words and one entered in figures, the price written in words shall govern.
- h. In the event of a discrepancy between a unit price and the calculated extension, the product based on the unit price bid and the mathematically correct summation of the products shall govern.
- i. In case of discrepancy between the bid total written in words and that entered as a figure, the adjusted figure shall govern.
- j. Bidders must be on the Plan Holders list as managed by the project manager; failure to do so will disqualify the bid.
- k. The estimated quantities are not guaranteed and can be adjusted based on the provisions and the specifications of the contract documents as needed during the project, but are given as a bases for the comparison of the bids.

2. Explanation and Interpretation to Prospective Bidders

- a. Any prospective bidder desiring an explanation or interpretation of the solicitation, specification, drawings, etc., must request it in writing by the date listed for questions in the Invitation for Bids. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided, except for at the PreBid Conference. Any information given to a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written addendum to the solicitation, if that information is necessary in submitting bids, or if lack of it would be prejudicial to other prospective bidders.
- b. Any information obtained by, or provided to, a bidder other than by formal addendum to the solicitation shall not constitute a change to the solicitation.

3. Addendum to Invitation for Bids

- a. If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.
- b. Bidders shall acknowledge receipt of any addendum to this solicitation by identifying the addendum number and date on the bid form. Bids which fail to acknowledge the bidders receipt of any addendum will result in the rejection of the bid if the addendum (addenda) contained information which substantively changed the municipality's requirements.
- c. Addenda will be on file in the offices of the Municipality at least 5 days before the bid opening.

4. Responsibility of Prospective Contractor

- a. Contractors shall also be pre-qualified with the City of Burlington. Applications for pre-qualification are included in the appendix documents and shall be submitted 5 working days prior to the bid opening. Pre-qualification applications for this project shall be submitted to the MPM.
- b. Contractors shall provide a 5-year work history with the BID.
- c. The Method of Measurement and Basis of Payment for all contract items shall follow the VTrans 2018 Standard Specification for Construction, unless modified in these Contract Documents.
- d. If a bidder submits a unit bid price of zero for a contract bid item, the bid will be declared informal.
- e. A bidder may submit a unit bid price that is obviously below the cost of the item. If the Municipality awards and enters into a contract with a Bidder that has submitted a unit bid price that is obviously below cost, the contractor shall be obligated to perform the work under such item as indicated in the contract documents and/or as directed by the Engineer.
- f. When Optional Bid Items are indicated in the proposal bidders shall bid on only one pay item in each group of options, leaving the other pay items in the group without a bid price. If a bidder

enters more than one-unit price bid in a group of options, only the lowest total price will be considered as the basis of calculation for determining the low bidder and used in the contract.

- g. When “Alternate Bid Items” are indicated in the Proposal in an Add Alternate, bidders must bid on all pay items in each set of “Alternate Bid Items”. Failure to bid on all of the “Alternate Bid Items” in the proposal may result in rejection of the bid.
- h. Contractor shall carry consistent unit pricing for item numbers that appear in both the Base Bid and Add Alternates where the Add Alternate work is performed concurrently with work in the base bid. Should a discrepancy exist between the unit cost of the two items, the value in the base bid shall be used when determining the contract amount in the Notice of Award. The exception to consistent unit pricing between the Base Bid and Add Alternates is any LUMP SUM items may have unique unit pricing.
- i. When it is indicated in the contract documents that payment or costs of work and/or materials are incidental to one or more other contract items (but not to specific other items), such costs shall be included by the bidder in the price bid for all other contract items.
- j. When the Bid Proposal Form for a contract contains one or more pay items which have a specified quantity and a unit price and total price entered, the Municipality has set a unit price in the event that such item is used. If such item is determined to be needed by the Engineer, the work will be performed by the contractor according to the contract documents at the unit price listed.

5. Errors and/or Inconsistencies in Contract Documents

- a. By submitting a bid, a prospective bidder/contractor certifies that it shall assert no claim, cause of action, litigation, or defense against the Municipality unless notice was provided to the Municipality in writing of any error or inconsistency found in the plans, proposal, specifications, and/or contract documents immediately upon discovery of such error or inconsistency.

6. Availability of Lands for Work, Etc.

- a. The lands upon which the Work is to be performed, rights of way and easement for access thereto and other lands designated for use by the contractor in performing the Work are identified in the contract documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the work are to be obtained and paid for by the Contractor. Easements for permanent structures or permanent changes in the existing facilities are to be obtained and paid for by the Municipality unless otherwise provided for in the contract documents.

7. Familiarity with Laws, Ordinances and Regulations

- a. By submitting a bid an entity certifies that it is familiar with all Federal, State and local laws, ordinances and regulations which affect in any way the materials, equipment, haul roads used in or upon the work, the conduct of the work, and the persons engaged or employed in the performance of the work to be performed pursuant to the contract.

- b. By submitting a bid an entity certifies that it shall forthwith report in writing to the Municipality any provision in the plans, proposal, specifications or proposed contract that the bidder/contractor believes is in conflict with or inconsistent with any Federal, State or local law, ordinance, or regulation.
- c. By submitting a bid a prospective Bidder certifies that if, during its investigation of the work in the process of preparing its bid, it discovers or encounters subsurface or latent physical conditions at a project site differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, it shall notify in writing the Municipality of the specific differing conditions immediately upon discovering or encountering the differing site conditions.
- d. An entity further certifies that if it fails to notify the Municipality of any differing site conditions as described above, it shall waive any and all rights that it might have to additional compensation from the Municipality for additional work as a result of the differing site conditions and that it shall not bring a claim for additional compensation because of differing site conditions.
- e. By submitting a bid a prospective bidder/contractor certifies that no claim or defense of ignorance or misunderstanding concerning Federal, State or local laws, ordinances and/or regulations will be employed by a bidder/contractor or considered by the Municipality in claims, litigation, alternative dispute resolution procedures, or other matters concerning the contract for which the bid is submitted.
- f. Prequalification of Construction Contractors. As defined by SUBPART B - RELATED LAWS, CHAPTER 21, ARTICLE V - Prequalification of Construction Contractors, Sec. 21-67 through Sec. 21-78. For all projects where total project cost is one hundred thousand dollars (\$100,000.00) or more.
- g. City Livable Wages Ordinance. As defined by SUBPART B - RELATED LAWS, CHAPTER 21, ARTICLE VI - LIVABLE WAGES, Sec. 21-80 through Sec. 21-87. For any contractor that has a service contract(s) with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor. Livable wage rates will change as of July 1. Contractor and all subs will need to meet conditions of that change under this contract. Any change in the Livable Wage Rates that is more than \$0.05 increase will be eligible for consideration of a change order to compensate for the revised rates. Any employees paid at a livable wage rate must continue to be paid at the higher of the livable wage rates should the rate change throughout the contract.
- h. City Outsourcing Ordinance. As defined by SUBPART B - RELATED LAWS, CHAPTER 21, ARTICLE VII - OUTSOURCING, Sec. 21-90 through Sec. 21-94. For any contract for services which involves any city funds and the total amount of the contract is fifty thousand dollars (\$50,000.00) or more

- i. City Union Deterrence Ordinance. As defined by SUBPART B - RELATED LAWS, CHAPTER 21, ARTICLE VIII – UNION DETERRENCE, Sec. 21-100 through Sec. 21-103. For Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more
- j. Erosion Prevention and Sediment Control Plan. As defined by CHAPTER 26 WASTEWATER, STORMWATER, AND POLLUTION CONTROL - ARTICLE III. STORMWATER AND EROSION CONTROL, Sec 96-160. Contractor shall be responsible for filing a Small Project Erosion Control Plan and maintaining practices identified in the approved plan.
- k. Excavations and Obstructions. As defined by Chapter 27 STREETS AND SIDEWALKS - ARTICLE II. EXCAVATIONS AND OBSTRUCTIONS, Sec 29-62. The Contactor shall be responsible to obtaining a no-charge permit for all locations identified in the Contract Documents where pavement and excavation is disturbed within the right-of-way.

8. Late Submissions, Modifications, and Withdrawal of Bids

- a. Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered.
- b. Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a.) of this provision.
- c. The only acceptable evidence to establish the time of receipt at the Municipality is the time/date stamp of the Municipality on the proposal wrapper, or other documentary evidence of receipt maintained by the municipality.
- d. Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids: provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized agent if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

9. Bid Opening

- a. All bids received by the date and time specified in the solicitation will be publically opened and total bid amounts read aloud. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present. In the event of unforeseen circumstances (severe weather, etc.) the Municipality reserves the right to postpone the reading of the bids for that contract. All bids for a contract will be opened at the same time and location at a later date.

10. Rejection of Proposals

- a. A Proposal may be declared “Informal” and hence rejected if it shows any alteration of form, omissions, or additions not called for in the proposal, lacks proper signatures, is a conditional bid, has alternate bids unless required in the proposal, has irregularities of any kind, has changes to the printed content, is submitted on a form not furnished by the Municipality, is incomplete, fails to acknowledge receipt of one or more addendums, or includes a clause in which the bidder reserves a right to accept or reject the contract award.
- b. A proposal may be rejected at the time of bid opening or following analysis to confirm the proposal.
- c. If the bids received in response to this solicitation exceed the municipality’s available funding for the proposed work the municipality may reject the bid(s).
- d. The Municipality may reject all bids when deemed to be in the City’s best interest.
- e. The Municipality may reject an otherwise lowest bid when it is determined that another bid is more advantageous to the City.
- f. The Municipality may reject a bid not accompanied by any required bid security or by other data required by the bid documents.
- g. The Municipality may reject a bid which is in any way incomplete, irregular, amplified or qualified or otherwise not in compliance with bid documents in all material respects or reasonable interpretation thereof.
- h. The Municipality may reject any or all proposals, waive any or all technicalities, and/or advertise for new proposals if the municipality determines that the best interests of the Municipality, or the awarding authority, will be served.
- i. Bids which fail to acknowledge the bidders receipt of any addendum will result in the rejection of the bid if the addendum (addenda) contained information which substantively changed the Municipality’s requirements.
- j. The Municipality will decide whether any bid prices are unbalanced above or below a reasonable cost analysis value as determined by its MPM. Proposals in which bid prices are unbalanced, mathematically and/or materially, may be rejected at the sole discretion of the Municipality. For purposes of this subsection “mathematically unbalanced bid” and “materially unbalanced bid” shall have the same meaning as in Title 23 Code of Federal Regulations (CFR) Part 635 – Construction and Maintenance, available for viewing at the following link: <https://www.ecfr.gov/cgi-bin/text-idx?SID=ed963b850d9d1f55928182b321424963&mc=true&node=pt23.1.635&rgn=div5>
- k. Prospective bidders may be disqualified for various reasons including (a) Submission of more than one proposal for the same work by an entity under the same or different names, (b) Evidence of collusion among bidders, or (c) Any other cause for suspension or debarment as detailed in the

VTrans' policy and Procedures on Debarment, Code of Vermont Rules (CVR), Volume 8A, 14 010 004, pages 1-10, available for viewing at the following link: <https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=9eb9f46c-bd0f-4011-85bc-52c75678c36c&title=14+010+004.+Policy+and+Procedures+for+Debarment&populated=false&haschildren=&level=4&nodepath=%2FROOT%2FAAJ%2FAAJAAB%2FAAJAABAAE%2FAAJAABAAEAAB&nodeid=AAJAABAAEAAB&config=00JAA3YmIxY2M5OC0zYmJLTQ4ZjMtYjY3Yi02ODZhMTViYWUzMmEKAfBvZENhdGFsb2dfKuGXoJFNHKuKZG9OqaaI&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A5WS0-FPD1-FGRY-B0BN-00008-00&ecomp=h3t7kkk&prid=990be612-8d8b-47d1-a708-b8ab130c9465>

- l. The City reserves the right to reject any or all proposals, to negotiate with one or more parties, or to award the contract in the City's best interests, including proposed contractor's schedule. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals.

11. Contract Award

- a. The Municipality will evaluate bids in response to this solicitation without discussions and, limited by the Municipality's rights under Section 10, Rejection of Proposals, set forth above, award a contract to the lowest responsive and responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the municipality considering for following factors:
 1. Adherence to all conditions and requirements of the bid specifications.
 2. Total bid price (including any discounts), unit or extended price, and administrative cost of the City.
 3. Administrative cost of the City.
 4. General reputation and experience of the bidder including past performance with the City.
 5. Evaluation of the bidder's ability to service the City.
 6. Financial responsibility of the bidder to successfully meet the requirements of the contract.
 7. Delivery or completion date.
 8. Maintenance costs and warranty provisions.
- b. Opened proposals will be considered and submitted bids confirmed on the basis of the summation of the products of the quantities shown in each proposal's Bid Proposal Form multiplied by the unit prices bid. In the event of a discrepancy see clarification of sums under Instruction for Bidders.
- c. Prior to signing a construction contract, the successful bidder must submit a current Certificate of Good Standing from the Vermont Secretary of State's office.

13. Bid Guarantee

- a. All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the State of Vermont. Certified checks and bank drafts must be made payable to the order of the municipality. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the

successful bidder as required by the solicitation. **Failure to submit a bid guarantee with the bid shall result in rejection of the bid.** Proposal guarantees of the two lowest bidders that have submitted proposals that comply with all the provisions required to render them formal will be retained until the contract and bonds have been signed by all parties. Bid guarantees submitted by the remaining unsuccessful bidders will be returned as soon as practicable after bid opening. Should no award be made within forty-five calendar days following the opening of bids, forty-six if the forty-fifth day is a state holiday, all proposals may be rejected and all guarantees may be returned.

14. Contract Bonds

- a. A successful bidder entering into a contract for any portion of the work included in a proposal shall provide the Municipality sufficient surety in the form of; 1) a labor and materials bond, and 2) a compliance bond, both as required by 19 V.S.A. Section 10(8) and (9).
- b. Each bond shall be in a sum equal to one hundred percent (100%) of the contract awarded.
- c. The labor and materials bond shall guarantee the payment in full of all bills and accounts for materials and labor used in the work as well as other obligations incurred in carrying out the terms of the contract.
- d. The compliance bond shall guarantee the faithful performance and completion of the work to be done under the contract as well as compliance with all provisions of the contract.
- e. The form of the bond shall be that provided by the Municipality, and the surety shall be acceptable to the State. The bonds shall be procured from an insurance company registered and licensed to do business in the State of Vermont.

15. Signing the Contract

- a. The entity to which the Contract has been awarded shall sign the contract documents and return them to the Municipality within 15 calendar days from the date of the Notice of Award. No contract shall be considered effective until it has been fully executed by all parties.
- b. Failure to comply with any of the requirements of these provisions relative to signing the contract or failure to furnish the required surety within 15 calendar days after notice of award shall be just cause for the annulment of the award or of the contract and/or forfeiture of the proposal guarantee/bid bond. Further, if the award or the contract is annulled, or if the contract is not awarded due to in (action) of the lowest responsible bidder that has submitted a proposal that complies with all the provisions required to make it formal, the proposal guaranty accompanying the proposal shall become the property of the Municipality, not as a penalty but as liquidated damages.
- c. If the award or the contract is annulled, the Municipality may award the contract to the next lowest responsible bidder that has submitted a proposal that complies with all the provisions required to make it formal or advertise a new request for bids for the contract(s).
- d. Failure by the contractor to sign the contract within the time provided by this Subsection shall not be reason for an extension of the contract completion date.

16. Taxes and Insurance Requirements

- a. The City of Burlington is exempt from the Vermont Sales Tax for all purchases and materials, and will provide a copy of its Exemption Certificate to the Contractor after the bid has been awarded.
- b. Taxes and insurance for this project shall be in conformance with Section 103 of the VTrans 2018 Standard Specifications for Construction, with additional requirements as follows:
 - i. It is agreed that the liability insurance furnished by the Contractor is primary and non-contributory for all the additional insured.
 - ii. Minimum limits for Employer's Liability:
 - 1. Bodily Injury by Accident: \$500,000 each accident;
 - 2. Bodily Injury by Disease: \$500,000 policy limit; \$500,000 each employee
 - iii. Umbrella Liability:
 - 1. \$1,000,000 Each Event Limit;
 - 2. \$1,000,000 General Aggregate Limit

17. Prompt Pay Compliance

- a. Vermont's Prompt Pay Statute requires payment from primes to subs within 7 days of primes receiving payment. Vermont State Statutes, Commerce and Trade, T.9§4003 provides: "Notwithstanding any contrary agreement, when a subcontractor has performed in accordance with the provisions of its contract, a contractor shall pay a subcontractor, and each subcontractor shall in turn pay its subcontractors, the full or proportional amount received for each such subcontractor's work and materials based on work completed or service provided under the subcontractor, seven days after receipt of each progress or final payment or seven days after receipt of the subcontractor's invoice, whichever is later."

18. Preconstruction Conference

- a. After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the Municipality, its Resident Engineer, and other interested parties convened by the Municipality. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The municipality will provide the successful bidder with the date, time and place of the conference. Note: If the specific material testing and certification requirements are not included elsewhere in the contract documents, they will be provided to the contractor at the preconstruction conference.

19. Offsite Activity

- a. The opening and use of off-site waste, borrow and staging areas shall follow the provisions of Section 105.25 of the VTrans Standard Specifications for Construction, 2018 Edition or the latest version of the General Special Provisions.

- b. The Contractor and/or property owner shall obtain all necessary permits and clearances prior to using off site waste, borrow or staging areas. In addition all off site waste, borrow and staging areas must be reviewed and approved by the VTtrans Environmental Section prior to use. Application should be made at least 21 calendar days prior to planned utilization. No work will be performed at off site waste borrow or staging areas without written approval of the Engineer. The forms for either documenting an exempt site or applying for review of a site may be found on the VTtrans web site at: <http://vtrans.vermont.gov/working/offsite-activity>

20. Disadvantaged Business Enterprise (DBE) Requirements

- a. There are no mandatory Contract goals for DBE compliance on this project. Bidders are advised, however, that a list of Subcontractors and approximate Contract Values will be required as part of the fully executed Contract for the successful Bidder as a means of evaluating DBE participation.

21. Indemnification

The CONTRACTOR will indemnify and hold harmless the OWNER, the ENGINEER, and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

In any and all claims against the OWNER, or the ENGINEER, or one or more of their agents or employees, by an employee of the CONTRACTOR, or SUBCONTRACTOR, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts or other employee benefits acts.

22. Contract Change Orders

All changes affecting the Project's construction cost, length of time, or modifications of the terms or conditions of the CONTRACT, must be authorized by means of a written CONTRACT Change Order which is mutually agreed to by the OWNER and CONTRACTOR. The CONTRACT Change Order will include extra WORK, WORK for which quantities have been altered from those shown in the BID Schedule, as well as decreases or increases in the quantities of installed units which are different from those shown in the BID Schedule because of final measurements. All changes must be recorded on a CONTRACT Change Order (which form is part of these CONTRACT Documents) and fully executed before they can be included in a partial payment estimate. Changes for WORK, quantities, and/or conditions will include any respective time adjustment, if justified. Time adjustments will require an updated Project Schedule with the Change Order.

When the Contract sum is, in whole or in part, based on unit prices, the OWNER reserves the right to increase or decrease a unit price quantity as may be deemed reasonable or necessary in order to complete the WORK contemplated by this CONTRACTOR. Overhead and Profit (OHP) will not be included in a unit quantity Change Order.

The unit price of an item of Unit Price Work shall be subject to re-evaluation and adjustment to determine a mutually acceptable unit price as follows.

The unit price may be re-evaluated and adjusted under the following conditions:

- a. If the variation in the quantity of a particular item of Unit Price Work performed by CONTRACTOR differs by more than 25% from the estimated quantity of such item indicated in the Agreement
- b. If there is no corresponding adjustment with respect to any other item of Work; and
- c. If CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof; or if OWNER believes that the quantity variation entitles OWNER to an adjustment in the unit price.

Either OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

In addition, there may be added an amount to be agreed upon to cover the cost of general overhead and profit (OHP). The markup for OHP by the General CONTRACTOR may not exceed 10% if the General CONTRACTOR executes the WORK. If a SUBCONTRACTOR executes the WORK, the SUBCONTRACTOR's OHP may not exceed 10% of the cost of the actual WORK, and the General CONTRACTOR may not apply for more than a 5% markup for OHP on the actual WORK (not including the SUBCONTRACTOR's OHP).

In the event that a unit cost cannot be agreed upon, or when Extra Work is requested at the direction of the Owner or Engineer the following shall be used to determine said unit cost. Any additional costs for Public Liability Insurance and Property Damage Insurance that are required in the Contract will be allowed and reimbursed at the actual cost to the Contractor.

- a. Labor. For all machine or equipment operators, other workers, and supervisors in direct charge of the specific operation, the Contractor shall receive the actual wages agreed upon before beginning the work and were paid to the workers performing the work, to which shall be added an amount equal to **10%** for profit. If the Contractor elects to use employee(s) more skilled than required to perform the extra work, the Agency reserves the right to allow compensation for said employee(s) to be capped at 125% of the applicable Davis-Bacon wage rate of the base skill level required to perform the work.

Workers Compensation Insurance, Unemployment Compensation Insurance, and Social Security charges on labor items as paid by the Contractor will be allowed. Other employee insurances (health, disability, e.g.) being paid by the Contractor just prior to the work being ordered will also be allowed, provided the Contractor submits an applicable notarized

insurance rate schedule from its insurance agent. The Contractor shall submit an Agency form indicating all applicable insurances and overhead items for each employee involved in the extra work.

The Contractor will be allowed an additional **10%** of the actual wages paid to the employee as compensation for administration charges and any other additional costs. Additional cost or charge for the Superintendent shall not be allowed.

- b. Materials. The Contractor shall receive the actual cost including freight charges (both as submitted on original receipted bills) for all materials furnished and used. **10%** shall be added thereto for overhead, profit and any other costs incurred in supplying the materials. Vermont sales tax shall not be included.
- c. Equipment. The Contractor will be reimbursed as described below.

Equipment that is used shall be specifically described by year, manufacturer, model number, and any other information required to identify the appropriate hourly rate in the Rental Rate Blue Book published by Equipment Watch (“Blue Book”). In the event the Contractor elects to use equipment of a higher rental value than equipment suitable for the work, payment will be made at the rate applicable to suitable equipment.

- i. Contractor Owned Equipment.

- 1. Ownership Costs. The Contractor will be reimbursed for its ownership costs for self-owned equipment at the rates agreed to before the work begins. These rates shall be on an hourly basis and shall not exceed the monthly ownership rates listed in the current Blue Book divided by 176. The rates will be adjusted for depreciation as computed and published in the Blue Book rate adjustment tables, but will not be adjusted as recommended on the Blue Book regional adjustment maps. The rates for ownership costs will be total reimbursement to the Contractor for all non-operating costs of the equipment, including depreciation, insurance, taxes, interest, storage, overhead, repairs, and profit. The maximum duration for reimbursement in a day shall not exceed eight hours unless the equipment actually is operated for more than eight hours on a particular day, in which case the rate shall be paid for all hours the equipment actually worked on that day.
- 2. Operating Costs. The rates for operating costs include fuel, lubricants, other operating expendables, and preventative and field maintenance. The Contractor will be reimbursed the amount derived as the product of the number of hours of actual use multiplied by the Blue Book estimated operating cost per hour. Operating costs do not apply to equipment idle time. Operating costs do not include the operators’ wages. Except as otherwise provided, the rates to be used for computation shall be those in effect at the time the force account work is performed as reflected in the applicable publication of the Blue Book.

3. In the event that an ownership cost rate and/or an operating cost rate is not established in the Blue Book for a particular piece of equipment, the Engineer shall establish a rate(s) for that piece of equipment consistent with its costs and expected life. The Contractor shall make no charge for small tools that are considered as having a replacement value of less than \$500.
- ii. Rented Equipment. In the event the Contractor does not own a specific type of equipment and must rent, the Contractor will be reimbursed the actual cost for the equipment, as submitted by invoice, for the time that the equipment is used to accomplish the work. Vermont sales tax shall not be included. The Agency reserves the right to limit the hourly rate to the maximum amount allowed by Blue Book in the event that the prime contractor is a subsidiary of, or has a close affiliation to, the firm supplying the rented equipment.
- iii. Maximum Amount Payable. The maximum amount of reimbursement for the ownership cost of Contractor owned equipment or the rental cost of rented equipment is limited to the original purchase price of the equipment.
- iv. Equipment Downtime. No rental cost or operating cost will be paid for downtime for either rented equipment or Contractor owned equipment.
- v. Transportation Costs. The Contractor will be paid for the reasonable documented cost of transporting both Contractor owned and rented equipment to the work location and back to its original location or a new location if the cost is less.
- d. Subcontracted Work. The Contractor shall receive the actual cost, as submitted on original receipted bills, for all extra and force account work subcontracted to others. **10%** shall be added thereto for overhead, profit and any other costs incurred to perform the subcontracted work. However, the Agency reserves the right to use the force account procedures as depicted previously in this subsection in the event that the cost of reimbursable subcontracted work is deemed excessive. The compensation as herein provided shall be received by the Contractor as payment in full for Extra Work done on a force account basis. The Contractor's representative and the Engineer shall compare records of Extra Work on a force account basis at the end of each day. Copies of these records shall be made on Agency forms provided for this purpose and shall be signed by both the Engineer and Contractor's representative. All requests for compensation for Extra Work done on a force account basis, including original receipted bills to verify cost and freight charges for all materials, shall be submitted to the Agency as soon as possible; however, if the required request, invoices, and other documentation are not filed before 90 days have lapsed following final acceptance of the project, the costs associated with such Extra and force account work shall not be reimbursable.

23. Contract Documents

Bidders are reminded to check the contents of this proposal against the table of contents. Documents listed under the Table of Contents are effective for this contract. In the event that you suspect or determine the Bid Documents are incomplete, notify the MPM.

BID PROPOSAL FORM

Church Street Marketplace Improvements

Proposal of _____ (hereinafter called Bidder), organized and existing
under the laws of the State of Vermont doing business as

(a corporation, a partnership, of an individual)

To the City of Burlington, Vermont (hereinafter called Owner)

The Bidder represents that this bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation. The bidder has not directly or indirectly induced or solicited any other bidder to submit a false bid. Bidder has not solicited or induced any person, firm or corporation to refrain from bidding and the bidder has not sought by collusion to obtain for himself any advantage over any other bidder or Owner.

It is essential that all forms that require signature as part of the final Bid Submission be filled out and signed or the Bid itself will be invalid:

- ☐ Burlington's Livable Wages Ordinance Form – Appendix H
- ☐ Burlington's Union Deterrence Ordinance Form – Appendix H
- ☐ Burlington's Outsourcing Ordinance Form – Appendix H
- ☐ City of Burlington Contractor Prequalification – Appendix L

The undersigned bidder proposed and agrees, if this bid is accepted, to enter into an agreement with Owner to furnish all materials and to complete all work as specified or indicated in the Contract Documents for the contract price and within the contract time indicated in this bid and in accordance with the Contract Documents.

Bidder hereby agrees to commence Work under this contract on the date of issuance of the Notice to Proceed and that the Final Completion date for this contract is November 22, 2024.

Bidder acknowledges receipt of the following Addenda:

Bidder agrees to perform all the Work described in the Contract Documents for the following schedule of prices. Unqualified bids will not be accepted.

All unit prices for the same item description shall be the same unit cost, no matter whether the quantities are in the Base Bid or Add Alternates. The City shall determine whether to include the Add Alternates in the contract based on final bid results and local funding limits.

BASE BID – BASIS OF CONTRACT AWARD

ITEM NUMBER AND DESCRIPTION	UNITS	BID QTY	UNIT PRICE	TOTAL PRICE
203.15 COMMON EXCAVATION	CY	207		
UNIT PRICE IN WORDS:				
301.26 SUBBASE OF CRUSHED GRAVEL, FINE GRADED	CY	130		
UNIT PRICE IN WORDS:				
301.35 SUBBASE OF DENSE GRADED CRUSHED STONE	CY	130		
UNIT PRICE IN WORDS:				
404.65 EMULSIFIED ASPHALT	CWT	2		
UNIT PRICE IN WORDS:				
406.25 BITUMINOUS CONCRETE PAVEMENT	TON	168		
UNIT PRICE IN WORDS:				
604.40 CHANGING ELEVATION OF DROP INLETS, CATCH BASINS, OR MANHOLES	EA	4		
UNIT PRICE IN WORDS:				
616.21 VERTICAL GRANITE CURB	LF	120		
UNIT PRICE IN WORDS:				
616.41 REMOVAL OF EXISTING CURB	LF	460		
UNIT PRICE IN WORDS:				
629.20 ADJUST ELEVATION OF VALVE BOX	EA	1		
UNIT PRICE IN WORDS:				
630.10 UNIFORMED TRAFFIC OFFICERS	HR	300		
UNIT PRICE IN WORDS:				
630.15 FLAGGERS	HR	900		
UNIT PRICE IN WORDS:				
635.11 MOBILIZATION/DEMOBILIZATION	LS	1		
UNIT PRICE IN WORDS:				
641.11 TRAFFIC CONTROL, ALL-INCLUSIVE	LS	1		
UNIT PRICE IN WORDS:				
900.620 SPECIAL PROVISION (BRICK PAVER SPOT REPLACEMENT	EA	1		
UNIT PRICE IN WORDS:				

900.620 SPECIAL PROVISION (TEMPORARY TRAFFIC CONTROL SYSTEM)	EA	2		
UNIT PRICE IN WORDS:				
900.650 SPECIAL PROVISION (GRIND CONCRETE EDGE)	LS	1		
UNIT PRICE IN WORDS:				
900.670 SPECIAL PROVISION (GRANITE INLAY PAVERS)	SF	180		
UNIT PRICE IN WORDS:				
900.670 SPECIAL PROVISION (BRICK PAVERS)	SF	3,200		
UNIT PRICE IN WORDS:				
900.670 SPECIAL PROVISION (GRANITE DETECTABLE WARNING PAVER)	SF	644		
UNIT PRICE IN WORDS:				
900.670 SPECIAL PROVISION (GLOBE PAVERS)	SF	850		
UNIT PRICE IN WORDS:				

Total Base Bid \$ _____

Total Base Bid Words _____

Add Alternate No. 1 – Paving Over Tree Pits

ITEM NUMBER AND DESCRIPTION	UNITS	BID QTY	UNIT PRICE	TOTAL PRICE
900.620 SPECIAL PROVISION (BRICK PAVING OF EXISTING TREE PIT)	EA	3		
UNIT PRICE IN WORDS:				

Total Add Alternate No. 1 – Maintenance Items \$ _____

Total Add Alternate No. 1 Words _____

Add Alternate No. 2 – Paver Spot Replacements

ITEM NUMBER AND DESCRIPTION	UNITS	BID QTY	UNIT PRICE	TOTAL PRICE
900.620 SPECIAL PROVISION (PAVER SPOT REPLACEMENT	EA	13		

UNIT PRICE IN WORDS:

Total Add Alternate No. 2 – Maintenance Items \$_____

Total Add Alternate No. 2 Words _____

LS = lump sum

EA = each

SY = square yard

SF = square feet

CWT = hundredweight

GAL = gallon

HR = hour

LU = lump unit

CY = cubic yard

LF = linear foot

TON = ton

MGAL = thousand gallons

LB = pound

MFBM = thousand feet, board measure

The above unit prices shall include all labor, materials, removal, overhead, profit, insurance, etc. to cover the finished work of the several kinds called for on the drawings and specifications.

THE ABOVE PROPOSAL IS HEREBY RESPECTFULLY SUBMITTED BY:

Contractor

By

Title

Business Address

City

State

Date

ATTEST

CITY OF BURLINGTON
DRAFT CONSTRUCTION CONTRACT

Project Name
(BIDDERS – FOR REFERENCE ONLY – DO NOT FILL OUT)

This Construction Agreement (“Agreement”) is entered into by and between the City of Burlington, Vermont (“the City”), through its department of Business & Workforce Development (“BWD”), and _____ (“Contractor”), a Vermont corporation located at _____.

Contractor and the City agree to the terms and conditions of this Agreement.

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “Agreement Documents”** means all the documents identified in section 4 of this Agreement.
- B. “Effective Date”** means the date on which this Agreement is approved and signed by the City, as shown on the signature page.
- C. “Party”** means the City or Contractor and “Parties” means the City and Contractor.
- D. “Project”** means the CY-23 Sidewalk Reconstruction Program
- E. “Work”** means the services described in section 5 of this Agreement, along with the specifications contained in the Agreement Documents as defined in section 4 below.

2. RECITALS

- A. Authority.** Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party’s obligations have been duly authorized.
- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Agreement.
- C. Purpose.** The City seeks to employ the Contractor to remove, replace, and adjust identified sidewalks, sidewalk ramps, and curbs located throughout the City of Burlington.
- D. References.** All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments, are references to sections subsections, exhibits, or other attachments contained herein or incorporated as part of this Lease, unless otherwise noted.

3. EFFECTIVE DATE, TERM, AND TERMINATION

- A. Effective Date.** This Agreement shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Agreement before the Effective Date and shall

have no obligation to pay Contractor for any performance or expense incurred before the Effective Date or after the expiration or termination of this Agreement.

- B. Term.** The Contractor shall commence the Work and furnish the materials on the date the Notice to Proceed is issued. This Agreement and the Parties' respective performance shall commence on the Effective Date and expire on November 1, year or upon the satisfaction of the City, unless sooner terminated as provided herein

4. AGREEMENT DOCUMENTS

The Agreement Documents are hereby adopted, incorporated by reference, and made part of this Agreement. The intention of the Agreement Documents is to establish the necessary terms, conditions, labor, materials, equipment, and other items necessary for the proper execution and completion of the Work to ensure the intended results.

The following documents constitute the Agreement Documents:

Attachment A: Invitation for Bids dated _____
Attachment B: Instructions for Bidders
Attachment C: Contractor's Bid Form dated _____
Attachment D: Burlington Union Deterrence Ordinance Certification
Attachment E: Notice of Award
Attachment F: Notice to Proceed
Attachment G: Certificate of Final Completion
Attachment H: City of Burlington Contractor Prequalification Letter
Attachment I: Right of Way Clearance
Attachment J: 2023 Engineering Specifications
Attachment K: Contract Plans Prepared by the City of Burlington
Attachment L: Performance and Payment Bonds
Attachment M: Work Zone Safety and Mobility Guidance Document
Attachment N: Certificate of Insurance

Included by Reference:

- **VTrans 2018 Standard Specifications for Construction**
- **VTrans 2018 General Special Provisions dated January 24, 2023**
- **2009 Manual on Uniform Traffic Control Devices (MUTCD)**

6. SCOPE OF WORK

The Contractor shall perform the services specified in the Agreement Documents. The contractor shall perform the following work: sidewalk and sidewalk ramp removal and replacement, curb adjustment and replacement. The Contractor shall furnish all materials, supplies, tools, equipment, labor, and other services necessary for completion of the Work to the satisfaction of the City.

7. PAYMENT FOR SERVICES

A. Amount. The City shall pay the Contractor for completion of the Work in accordance with the unit prices bid by the Contractor in Attachment C (Contractor's Bid Form), aggregating approximately the sum of _____, and such other items, as are mentioned in the original Bid. The original Bid and prices named, together with the Standard Specifications for Construction ("Specifications") as are listed in the Schedule of Prices, are made a part of this Contract. Also, the drawings of the roadway prepared by the City of Burlington are made a part of this Contract.

Contractor agrees to accept this payment as full compensation for performance of all services and expenses incurred under this Agreement.

B. Payment Schedule. The Contractor shall submit pay requisitions on a monthly basis. The City seeks to make payment within thirty days of receipt of an approved invoice and any backup documentation requested under section 6D below.

C. Maximum Limiting Amount. The total amount that may be paid to the Contractor for all services and expenses under this Agreement shall not exceed the maximum limiting amount of \$_____. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval.

D. Invoice. Contractor shall submit one copy of each invoice, including rates and a detailed breakdown by task for each individual providing services, and backup documentation for any equipment or other expenses to the following:

MPM Name
MPM Job Title
Associate Public Works Transportation Engineer
645 Pine Street, Suite A
Burlington, VT 05401
MPM email
MPM phone

The City reserves the right to request supplemental information prior to payment. Contractor shall not be entitled to payment under this Agreement without providing sufficient backup documentation satisfactory to the City.

E. Non-Appropriation. The obligations of the City under this Agreement are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Agreement, the Agreement shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Agreement shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. The decision whether or not to budget and appropriate

funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City.

The City shall deliver written notice to Contractor as soon as practicable of any non-appropriation, and Agreement Contractor shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

8. LABOR AND MATERIAL; SPECIFICATIONS

The Contractor shall perform all the work and labor in the best and most workmanlike manner. The materials and labor shall be in strict and entire conformity, in every respect, with the Specifications and drawings and shall be subject to the inspection and approval of the City. If any of the material or labor shall be rejected by the City as defective or unsuitable, then the Contractor shall remove and replace the defective or unsuitable materials with other approved materials and do the labor anew, to the satisfaction and approval of the City, at the cost and expense of the Contractor. The Standard Specifications for Construction, approved and adopted by VTrans in 2018 are incorporated herein, and made a part of this Contract.

9. EXTRA WORK OR MATERIALS; CLAIMS

The Contractor understands and agrees that the City will not allow any claim for extra work or materials, not specifically provided in this Contract. The Contractor shall not do any work or furnish any materials not covered by these Specifications and Contract, unless such work is ordered in writing by the City. In no event shall the Contractor incur any liability by reason of any verbal directions or instructions that he may be given by the City. The City will not be liable for any materials furnished or used or for any work or labor done, unless the materials, work or labor are required of the Contractor on written order furnished by the City. Any such work or material which may be done or furnished by the Contractor without such written order first being given by the City shall be at the Contractor's own risk, cost and expense. The Contractor agrees that without such written order the Contractor shall make no claim for compensation for work or materials so done or furnished.

10. ORDER OF PRECEDENCE

In the event of a conflict or inconsistency between this Contract and the Contract Documents, the Contract shall take precedence. The Invitation to Bids, Notice of Award, General and Supplemental Conditions, and Technical Details and Plans shall prevail over any inconsistency or contradictory provision between the Contract Documents.

11. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign any part of this Contract, or any right to any moneys to be paid the Contractor under this Contract, without the prior written approval of the City. Any attempt at assignment or transfer without such consent shall be void. The Contractor shall not subcontract any part of the work to be done or materials furnished under the Contract without the written approval of the City. If any subcontractor is approved, Contractor shall be responsible and liable for all acts or omissions of that subcontractor for any Work performed. If any subcontractor is approved, Contractor shall be responsible

to ensure that the subcontractor is paid as agreed and that no lien is placed on any City property. Any assignment or transfer of Contractor's rights and obligations approved by the City shall be subject to the provisions of this Contract

12. ACCEPTANCE OF FINAL PAYMENT; RELEASE

The Contractor's acceptance of the final payment shall be considered as a release in full of all claims against the City arising out of, or by reason of the work done and materials furnished under this Contract.

13. BONDS

The Bonds given by the Contractor, a Performance (Compliance) Bond in a sum equal to one-hundred (100) percent, and a Payment (Labor and Materials) Bond in the sum equal to one-hundred (100) percent of the total contract price of the work to be done, to secure a proper compliance with the terms and provisions of this Contract, are attached to and made a part of this Contract.

14. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless the City and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the Contractor's acts and/or omissions in the performance of this Contract. If the City, its officers, agents, or employees are notified of any claims asserted against it to which this indemnification provision may apply, the City shall immediately thereafter notify the Contractor in writing that a claim to which the indemnification provision may apply has been filed. Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

15. CONSTRUCTION CONTRACTS

The Contractor and all Contract Documents between the Contractor and Subcontractors, shall comply with and fully conform to the provisions of Title 9, Chapter 102 "Construction Contracts" Section 4001 et seq. of Vermont Statutes Annotated.

16. DISPUTE RESOLUTION; EXCLUSIVITY OF ADMINISTRATIVE REMEDIES

All questions or disputes arising between the parties hereto respecting any matter pertaining to this Contract or any part of this Contract, or any breach of this Contract shall be referred to the City Engineer. Should a claim be denied in whole or in part by the City Engineer, the Contractor may appeal to the Public Works Commission, whose decision and award shall be final, binding and conclusive upon all parties, subject to the right of appeal to the Transportation Board under 19 V.S.A. § 5(d) (4). All other rights or rights of action at law or in equity under and by virtue of this Contract and all matters connected with and relating to this Contract are hereby expressly waived.

16. COMPLIANCE WITH LAWS

The Parties, and any subcontractors approved under this Agreement, shall comply with all applicable laws, statutes, ordinances, rules, regulations, and/or requirements of federal, state, and local governments and agencies thereof.

17. BINDING EFFECT AND CONTINUITY

This Agreement shall be binding upon and shall inure to the benefit of the Parties, their' respective heirs, successors, representatives, and assigns. If a dispute arises between the Parties, each Party will continue to perform its obligations under this Agreement during the resolution of the dispute, until the Agreement is terminated in accordance with its terms.

18. SEVERABILITY

The invalidity or unenforceability of any provision of this Agreement or the Agreement Documents shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

19. ENTIRE AGREEMENT

This Agreement, including the Agreement Documents, constitutes the entire agreement and understanding of the Parties with respect to the subject matter of this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever.

20. NO THIRD PARTY BENEFICIARIES

This Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

21. WAIVER

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

22. FORCE MAJEURE

Neither Party to this Agreement shall be liable to the other for any failure or delay of performance of any obligation under this Agreement to the extent the failure or delay is caused by acts or events beyond its reasonable control that render performance illegal or impossible ("Force Majeure"). To assert Force Majeure, the nonperforming party must prove that a) it made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, b) diligently pursued performance of its obligations, c) substantially fulfilled all obligations that could be fulfilled, and d) timely notified the other part of the likelihood or actual occurrence of a Force Majeure event.

23. CHOICE OF LAW

Vermont law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by operation of this provision shall not invalidate the remainder of this Agreement to the extent capable of execution.

24. JURISDICTION

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Vermont.

25. ARM'S LENGTH

This Agreement has been negotiated at arm's length, and any ambiguity in any of its terms or provisions shall be interpreted in accordance with the intent of the Parties and not against or in favor of either the City or Contractor.

26. SECTION HEADINGS

The section heading of this Agreement, including its Attachments, are for convenience of reference only and do not modify or restrict the terms of the Agreement.

27. INSURANCE

Contractor and subcontractors, if any, shall secure and at all times maintain insurance as required in the Contract Documents.

28. AUTHORITY

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

29. MODIFICATION

Except as otherwise provided in this Contract or the Contract Documents, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved by the Parties.

30. STANDARD OF PERFORMANCE

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill, and diligence in Contractor's industry, trade, or profession. Contractor shall employ only qualified personnel and properly supervise all such personnel. The City shall have the right to require removal of any person employed by Contractor from Work under this Contract for misconduct, incompetence, negligence, or refusal to comply with the requirements of this Contract.

31. BINDING.

Each Party acknowledges that neither Party has provided any legal advice to the other regarding the transaction contemplated hereby or in connection with the execution of this Contract or Contract Documents. The City and the Contractor have had the full opportunity to avail itself of legal and financial representation. This Contract shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

32. SIGNATURE

Persons signing for the Parties hereby swear and affirm that they are authorized to act on behalf of their respective Party and acknowledge that the other Party is relying on their representations to that effect.

Contractor
(Name of Contractor)

By: _____

Date: _____

City of Burlington
(Department)

By: _____

Date: _____

CITY OF BURLINGTON, VERMONT



2023 ENGINEERING SPECIFICATIONS

INTRODUCTION

The City of Burlington Engineering Standards and Specifications have been developed for use on all City of Burlington projects managed by the Department of Public Works and the Department of Parks, Recreation, and Waterfront. As part of this document, the provisions of the VTRANS 2018 STANDARD SPECIFICATIONS FOR CONSTRUCTION, and the most recent edition of the VTRANS 2018 GENERAL SPECIAL PROVISIONS, shall apply to all contracts.

The provisions of the City of Burlington Engineering Standards and Specifications shall supersede the corresponding provisions in the VTrans 2018 Standard Specifications for Construction, and the most recent edition of the VTrans 2018 General Special Provisions.

In case of discrepancy, precedence of the Contract Documents will be determined by Section 105.05 of the latest edition of the VTrans Standard Specifications for Construction.

VTRANS PROJECT SPECIAL PROVISIONS

NOTICE TO BIDDERS – GENERAL SPECIAL PROVISIONS. The Contractor is hereby notified that the most recent General Special Provisions in effect on the date of advertisement shall apply to this Contract. The General Special Provisions may be found at the following address:

<https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

NOTICE TO BIDDERS – UTILITIES. The Contractor is advised to use caution when working around aerial or underground utilities to protect the facilities from damage.

Employees or agents of utility companies are to be allowed free and full access within the project limits with the tools, materials, and equipment necessary to install, operate, maintain, place, replace, relocate, and remove their facilities.

There will be no extra compensation paid to the Contractor for any inconvenience caused by working around and with utilities.

Act No. 86 of 1987 (30 VSA Chapter 86) (“Dig Safe”) requires that notice be given prior to making an excavation. It is suggested that the Permit Holder or his/her contractor telephone 1-888-344-7233 at least 48 hours before, and not more than 30 days before, beginning any excavation at any location.

Should the Contractor desire additional adjustments of the utility facilities for his/her convenience, proper arrangements shall be made in conformance with Subsection 105.07 of the Standard Specifications for Construction.

NOTICE TO BIDDERS – TEMPORARY CONSTRUCTION SIGNS. All temporary construction signs shall meet the following requirements:

(a) All sign stands and post installation shall be National Cooperative Highway Research Program Report (NCHRP) 350 compliant.

(b) Where sign installations are not protected by guardrail or other approved traffic barriers, all sign stands and post installations shall meet National Cooperative Highway Research Program (NCHRP) Report 350 or the AASHTO Manual for Assessing Safety Hardware (MASH). The appropriate resource shall be determined as described in the MASH publication.

(c) As a minimum, roll up sign material shall have ASTM D 4956 Type VI fluorescent orange retroreflective sheeting.

(d) All post-mounted signs and solid substrate portable signs shall have ASTM D 4956 Type VII, Type VIII, or Type IX fluorescent orange retroreflective sheeting.

(e) All retroreflective sheeting on traffic cones, barricades, and drums shall be at a minimum ASTM D 4956 Type III sheeting.

(f) All stationary signs shall be mounted on two 3 lb/ft flanged channel posts or 2 inch square steel inserted in 2-1/4" galvanized square steel anchors. No sign posts shall extend over the top edge of sign installed on said posts.

(g) Prior to placing temporary work zone signs on the project, the Contractor must furnish for the Engineer's approval a detail for temporary work zone signs on steel posts showing stubs projecting a maximum of 100 mm (4 inches) above ground level and bolts for sign post.

(h) Construction signs shall be installed so as to not interfere with nor obstruct the view of existing traffic control devices, stopping sight distance, and corner sight distance from drives and town highways.

(i) Speed zones, if used, should be a maximum of 10 mph below existing posted speeds. Temporary speed limit certificates must be approved by the Chief Engineer on State highways and can be approved by the governing municipality on local roads.

(j) An accessible sidewalk route must be available for pedestrians at all times when a sidewalk or roadway is closed. Provide a sign, "Sidewalk Closed Ahead", at both ends of the street when the sidewalk is closed. Only sidewalk on one side of a street can be closed at a time.

NOTICE TO BIDDERS. All retroreflective sheeting on permanent signs (signs to remain after the project is completed) shall be at a minimum ASTM Type III sheeting, unless otherwise shown on the Plans.

NOTICE TO BIDDERS – GENDER-FREE SINGLE OCCUPANCY RESTROOMS. The Contractor shall comply with all of the requirements of Vermont Act 127 (H.333) relating to the designation and signage of single-user toilet facilities in public buildings or places of public accommodation. Any such facilities may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

NOTICE TO BIDDERS – CONTAMINATED SHARPS (HYPODERMIC NEEDLES). The Contractor is hereby notified that there are an increasing number of hypodermic needles (also known as contaminated sharps) being found throughout Vermont, and there is the potential to find them along any project. In accordance with Section 107.05, Sanitary Provisions, the Contractor is required to provide a neat and sanitary working environment for each of its employees and workers at no additional cost to the Agency.

The Contractor may reach out to local Police, the Town Health Officer or the Vermont Department of Health at <https://dec.vermont.gov/content/safe-disposal-sharps> for guidance.

If the sharps are located in an area where work is required, the Contractor shall dispose of the sharps in accordance with OSHA Standard 1910.1030 for blood borne pathogens. OSHA has an e-tool for disposal of sharps on their website as well. The standard can be found at the following link: https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10051.

If the sharps are not in an area where the Contractor or workers will come into contact with them, it is best practice to avoid them altogether. The area can be marked and workers should be notified to stay out of the area.

NOTICE TO BIDDERS: Emerald Ash Borer (EAB)

As of 2018, the emerald ash borer (EAB), *Agrilus planipennis*, has been confirmed within Vermont's borders. To provide an assurance of compliance with state and federal EAB laws the contractor shall adhere to the following:

Wherever a potential EAB infestation is identified, the Contractor shall notify and coordinate with the City Arborist as well as the MPM prior to mitigation occurring.

Known EAB infestation areas are changing rapidly. Therefore the Contractor shall consult the online version of the EAB Infested Area Map (Located here: www.vtinvasives.org/land/emerald-ash-borer-vermont) on the same day cutting is to occur. If the project is located with an EAB infested area, ALL tree material, regardless of species, within the project area shall be handled in accordance with a document developed by the Vermont Department of Forests, Parks and Recreation and the Vermont Agency of Agriculture titled "Recommendations to SLOW THE SPREAD of Emerald Ash Borer When Moving Ash from the Infested Area", <https://vtinvasives.org/sites/default/files/images/SLS/SlowSpreadWoodVT%20FINAL.pdf>. Tree material shall not be moved out of state.

Alternatively, the Contractor may choose to hire a qualified professional (Arborist certified by the International Society of Arboriculture or Licensed Forester), at their own expense, to identify the presence of ash trees. Those identified ash trees would be subject to the above referenced recommendations, however other tree species would not.

The Contractor is also hereby made aware of the same potential restrictions as they relate to proposed Waste, Borrow and Staging areas under Section 105.25 Control of Waste, Borrow, and Staging Areas.

NOTICE TO BIDDERS –PARKING RESTRICTIONS. Only such trucks and equipment as are necessary for the construction of this project will be permitted to stop or park on the shoulders or right-of-way of the roadway. All trucks or equipment so stopped or parked shall be at least 4 feet from the edge of the thru traffic lanes. Parking or stopping on the traveled portion of the roadway will not be permitted unless authorized by the Engineer to meet field conditions.

Private automobiles or workers will not be permitted to stop or park on the shoulders or right-of-way of the highway.

Each of the Contractor's trucks or equipment used for the construction of this project and permitted to park or stop as provided above shall be equipped with flashing light signals on the front and rear and the signals shall be operating at all times when parked or stopped on the highway unless otherwise authorized by the Engineer.

The flashing light signals shall be visibly distinct from and physically separate from the hazard warning system required by Federal and State motor vehicle laws and regulations. At least one of these flashing light signals shall be visible to traffic approaching from any angle at all times.

Qualified traffic control personnel shall be employed whenever the Contractor's vehicles or equipment (including that which belongs to the individual workers) enter or leave the traffic flow. All movement, in or out of the traffic flow, shall be with the flow of traffic.

NOTICE TO BIDDERS – MEASURES TO MITIGATE POTENTIAL IMPACTS DUE TO THE COVID-19 PANDEMIC. The Contractor is hereby notified that they should anticipate the possibility of future temporary Contract shutdowns, delays, or suspensions as a result of the COVID-19 pandemic. The Contractor shall consider risks associated with the COVID-19 pandemic as the Contractor develops project schedules and advances the work. The Contractor shall schedule work in a manner that in the event of a temporary shutdown, delay, or suspension, the impacts to mobility will be minimized. The sequence and progression of the work will be solely the Contractor's responsibility. The Contractor is expected to communicate with the Agency regularly to discuss the risks to the project and proposed mitigation measures. VTrans will collaborate with the contractor to mitigate the risks to the project and adjust the sequence of work as necessary to ensure that mobility is not impaired unnecessarily.

If a shutdown, suspension or delay occurs due to the COVID-19 pandemic, the Contractor shall ensure the site is in a stable, safe, and maintainable condition by implementing mitigation measures. Such mitigation measures may include, but are not limited to, limiting the area of milled surfaces exposed at once, or limiting the number of work operations in progress at any one time. The Contractor is solely responsible for any additional maintenance activities or delays related to the sequence and progression of operations. The Agency has established a contract duration which may be longer than expected for the specified work to account for inefficiencies related to the COVID-19 pandemic. The Contractor should anticipate mobility, labor, employee protection measures and material supply issues related to the COVID-19 pandemic. The Contractor is also expected to comply with any Executive Orders.

NOTICE TO BIDDERS – SITE CONDITION. Prior to any shutdown or suspension, the site condition shall be in a stable, safe, and maintainable condition for the travelling public. Stable, safe, and maintainable condition means that the Contractor shall establish necessary erosion and environmental controls; ensure that the full width of the roadway is fully paved with no milled sections; install all safety features including guardrail, traffic signs, and pavement markings as designed or restored to the existing condition to meet the existing geometry; and undertake any additional measures as needed based on site conditions. No lane reductions will be allowed through the winter months. Subsection 109.06 will not apply for work that is required to bring a project to a satisfactory shutdown condition. In the event of a project Suspension of Work Ordered by the Engineer, the Contractor will be reimbursed per Subsection 108.16.

NOTICE TO BIDDERS – SUBSECTION 635.03(a). Subsection 635.03(a) is hereby modified by being deleted in its entirety and replaced with the following:

The first payment of 50% of the lump sum price for Mobilization/Demobilization, or 10% of the adjusted Contract price, whichever is less, will be made within 30 days after execution of the Contract.

NOTICE TO BIDDERS – STANDARD DRAWINGS. The Vermont Agency of Transportation Standard Drawings listed on the Index of Sheets are not included in the plan set, but may be found at the following address:
https://outside.vermont.gov/agency/vtrans/external/CADD/WebFiles/Downloads/Standards/VAOTconSTD_Owner.xml

DIVISION 100
GENERAL PROVISIONS

SECTION 101 – DEFINITION AND TERMS

101.02 DEFINITIONS. **The following shall be added after the first sentence:** Terms listed below are hereby added or replaced from the VTrans 2018 Standard Specifications for Construction and the latest version of the VTrans General Special Provisions, defined as follows:

ACTUAL COMPLETION DATE – Date noted in the Completion and Acceptance memorandum on which designated responsible Municipal personnel have reviewed the project and determined that all Contract work is complete and all Contract requirements have been met, generally considered to be the last day the Contractor performed physical work on any contract item.

ADDENDUM (ADDENDA) – Contract revisions developed after advertisement and before opening bids.

ADVERTISEMENT – A public announcement, inviting bids for work to be performed or materials to be furnished.

AGENCY – Wherever the word Agency appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the City of Burlington, except when referenced to documents or publications.

AGREEMENT – The written instrument which is evidence of the agreement between the Municipality and the Contractor.

AWARD – The formal acceptance by the Municipality of a proposal.

BID – The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

BID BOND – A proposal guarantees as outlined in the Instructions to Bidders for Contracts.

BIDDER – The individual, partnership, firm, corporation, or any combination thereof, or joint venture, submitting a Bid in accordance with the bidding requirements.

BOARD OR TRANSPORTATION BOARD – Wherever the term Board or Transportation Board appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Chief Administrative Officer for the City of Burlington.

CHIEF OF CONTRACT ADMINISTRATION – Wherever the term Chief of Contract administration appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean, the Municipal Project Manager.

COMPLETION – Completion of the project occurs when the Contractor has completed all work required by the Contract and has satisfactorily executed and delivered to the Engineer all documents, certificates and proofs of compliance required by the contract.

CONSTRUCTION ENGINEER – Wherever the term Construction Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Municipal Project Manager and/or Full Time Employee in Responsible Charge.

CONTRACT COMPLETION DATE - The calendar date specified in the Contract and as adjusted by Change Order when applicable, by which the Contractor shall achieve Substantial Completion.

CONTRACT TIME – Refers to CONTRACT DURATION.

DIRECTOR OF PROJECT DEVELOPMENT – Wherever the terms Director of Project Development, director of Engineering and Construction, Director of Construction and Maintenance, Director, or Chief Engineer appears on the plans, in any specification, or in the Contract, they shall be read as and shall mean; the Director of Public Works for the City of Burlington.

DIRECTOR OF PROGRAM DEVELOPMENT – Wherever the term Director of Program Development appears on the plans, in any specification, or in the contract it shall read as, and shall mean; the Director of Public Works for the City of Burlington.

ENGINEER OR CHIEF ENGINEER – Wherever the term Engineer or Chief Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the City Engineer or Designer of Record.

FINAL ACCEPTANCE DATE – Wherever the term Final Acceptance Date appears on the plans, in any specification, or in the Contract, it shall mean the date that the Municipality signs the Final Completion Certificate.

GOVERNING BODY – Shall refer to the Public Works Commission.

HOLIDAYS – In addition to the holidays listed in the VTrans 2018 Standard Specifications for Construction, the Contractor shall observe Juneteenth on June 19th.

INCIDENTAL AND INCIDENTAL ITEM – These terms are used to indicate work for which no direct payment will be made. Such work is considered to be incidental to items having contract prices, and the bid prices submitted by the contractor shall be sufficient to absorb the cost of all work designated as incidental or as incidental items.

INVITATION FOR BIDS – An advertisement for receiving proposals for all work and/or materials on which bids are invited from prospective contractors.

MATERIALS AND RESEARCH ENGINEER – Whenever the term Materials and Research Engineer appears on the plans, in any specification, or in the Contract, it shall be read as, and shall mean; the Resident Engineer (RE).

MUNICIPAL PROJECT MANAGER – A person or firm employed or appointed by the Municipality to provide administrative services for the project.

NOTICE OF AWARD – The written notice of the acceptance of the Bid from the Owner to the successful Bidder.

OWNER – City of Burlington.

PREQUALIFICATION:

Annual Prequalification – The Vermont Agency of Transportation process by which an entity is generally approved to bid on contracts advertised by the Local Project Sponsor. Depending on the project size annual prequalification may be the only prequalification necessary.

Contract Specific Prequalification – The process by which an entity is approved to bid on a specific contract determined by the Municipality to be of a size or scope to warrant more than an Annual Prequalification.

PREQUALIFICATION ADMINISTRATOR – A State and/or Municipal employee charged with administration of their respective prequalification process for the Prequalification Committee.

PROPOSAL – The offer of a bidder, on the prescribed form, to perform work and/or provide materials at the price quoted in the offer.

PROPOSAL FORM – Whenever the term Proposal Form appears on the plans, in any specification, or in the Contract it shall be read as, and shall mean; the BID FORM unless specifically referenced otherwise in these Special Provisions.

PROPOSAL GUARANTEE – The security furnished with a bid to ensure that the bidder will enter into a contract if the bidder's proposal is accepted by the Municipality.

REGIONAL CONSTRUCTION ENGINEER – Whenever the term Regional Construction Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Burlington Public Works Engineer or designated representative.

RESIDENT ENGINEER – An entity employed by the Municipality to perform supervisory duties including the oversight of testing services on the project and oversight and communication with the contractors foreman that the work is performed according to the specifications and other Contract Documents.

SECRETARY – Wherever the term Secretary appears on the plans, in any specification, or in the contract it shall be read as, and shall mean; the Burlington Public Works Director.

SPECIAL PROVISIONS OR PROJECT SPECIAL PROVISIONS – Additions and revisions to the Standard Specifications for Construction, Supplemental Specifications, General Special Provisions, Plans, or other documents that are part of a particular contract.

STANDARD SPECIFICATIONS:

State – The Vermont Agency of Transportation book entitled 2018 Standard Specifications for Construction, the latest version of the VTrans General Special Provisions, and the specifications included therein, as approved for general and repetitive use and application in Agency/Municipal projects.

Burlington – The City of Burlington Department of Public Works Document entitled City of Burlington, Vermont 2023 Engineering Specifications, and the specifications included therein, as approved for general and repetitive use and application in Agency/Municipal projects.

STATE – Wherever the term State appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the State of Vermont.

TESTING FIRM – An independent firm employed by the Municipality or Resident Engineer to perform all sampling and testing of materials as specified in the Contract Documents and as defined in the VTrans Qualified Laboratory Program.

VTRANS – Wherever the term VTRANS appears on the plans, in and specification, or in the contract it shall be read as, and shall mean; VTRANS or THE BURLINGTON DEPARTMENT OF PUBLIC WORKS, whichever is deemed applicable by the OWNER.

END OF DEFINITIONS**SECTION 105 CONTROL OF WORK****105.09 CONSTRUCTION STAKES;**

Delete parts (a) Initial Layout and (b) Permanent Marking Layout, and replace with the following:

Unless horizontal and vertical control information for the project is shown on the project plans, the project shall be staked according to existing conditions. The Contractor shall perform all staking requirements for the proposed work. The Contractor will be responsible for the accuracy and preservation of the staking. The City shall not be held responsible for damage to project staking.

105.20 CLAIMS FOR ADJUSTMENT;

In part (g) Appeal to the Chief Engineer, paragraph (2) Decision Making, delete:

Paragraph 9 of the Construction Contract, “Dispute Resolution, Exclusivity of Administrative Remedies”;

and replace with:

The Dispute Resolution Section of the Construction Contract.

105.21 PAYROLLS;

After part (c), add:(d) The Contractor shall submit certified payroll to the Municipal Project Manager with each pay request. Certified payrolls of subcontractors shall also be submitted with corresponding invoices for which payment is sought.

SECTION 106 – CONTROL OF MATERIAL106.03 SAMPLES AND TESTS:**Before the first paragraph, add:**

A qualified independent testing firm hired by the City of Burlington or its Resident Engineer shall be responsible for Quality Assurance sampling and testing of materials and completed work. The Resident Engineer or Owner may request additional testing as deemed necessary to accept the work.

After the first sentence of the first paragraph, add:

The cost of their Quality Control shall be considered incidental to the payment items in the bid. Any sampling, testing, retesting, and submission of reports and certifications by the Contractor as required by the contract documents and plans shall be considered incidental to the payment items in the bid.

Delete the first sentence of the second paragraph and replace with the following:

Samples will be taken and testing performed by qualified personnel in accordance with the requirements of the latest edition of the Vermont Agency of Transportation's Quality Assurance Program and Material Sampling Manual for level 3, unless otherwise specified in the contract documents.

Modify the last sentence of the third paragraph to read as follows:

Copies of all test results shall be forwarded directly to the Resident Engineer and the Contractor by the testing firm.

SECTION 108 – CONTROL OF MATERIAL108.12 FAILURE TO COMPLETE WORK ON TIME: **Delete TABLE 108.12A and replace with the following:**Amount of Liquidated Damages.

1-15 DAYS OVER CONTRACT COMPLETION DATE: The Owner will deduct the cost to employ the Seasonal Paving Inspector and City personnel time up to a maximum of \$500.00 per day.

15+ DAYS OVER CONTRACT COMPLETION DATE: The Owner will deduct \$1,000.00 per day.

Should the contract not be completed prior to the close of the asphalt plants or determination of the winter shut down for work, then liquidated damages charged to the Contractor shall be equal to the time of City Personnel directly accrued as it relates to this Contract. The count for number of WORKING DAYS OF DELAY shall resume on April 15th of the following construction season.

END OF SECTION 100

DIVISION 300**SUBBASE AND BASE COURSES**SECTION 301 - SUBBASE301.02 MATERIALS:**After the last paragraph, add the following:**

If indicated in the Contract, the contractor may reuse or rework suitable subbase material under sidewalk slabs where conditions allow, as approved by the Engineer. Suitable subbase material shall conform to the requirements outlined in this Section.

301.07 METHOD OF MEASUREMENT:**After the first paragraph, add the following:**

The quantity of Reuse of Existing Sidewalk Subbase to be measured for payment will be the number of cubic yards, as determined by the accepted quantity in place.

301.08 BASIS OF PAYMENT:**After the first paragraph, add the following:**

For Reuse of Existing Sidewalk Subbase, excavation and stockpiling of existing subbase to be reused shall be considered incidental to that pay item.

Add the following to the list of Pay Items:

<u>Pay Item</u>	<u>Pay Unit</u>
301.50 Reuse of Existing Sidewalk Subbase.....	Cubic Yard

END SECTION 300

DIVISION 400**SURFACE COURSES AND PAVEMENTS****SECTION 406 – BITUMINOUS CONCRETE PAVEMENT****406.19 METHOD OF MEASUREMENT; Replace the first sentence with:**

The quantity of Hand-Placed Marshall Bituminous Concrete Pavement or Hand-Placed Medium Duty Marshall Bituminous Concrete Pavement to be measured for payment will be the number of square feet of mixture for the type specified complete in-place in the accepted work.

406.20 BASIS OF PAYMENT; Add the following:

The measured quantity of Hand-Placed Marshall Bituminous Concrete Pavement or Hand-Placed Medium Duty Marshall Bituminous Concrete Pavement will be paid for at the Contract Unit Price per square foot. Payment shall be full compensation for furnishing, mixing, hauling, placing, compacting, and finishing the materials specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete work.

<u>Pay Item</u>	<u>Pay Unit</u>
406.251 Hand-Placed Marshall Bituminous Concrete Pavement	Square Feet
406.271 Hand-Placed Medium Duty Marshall Bituminous Concrete Pavement	Square Feet

END SECTION 400

DIVISION 600
INCIDENTAL CONSTRUCTION

SECTION 651 – TURF ESTABLISHMENT

651.01 DESCRIPTION; **After the first sentence, add:**

All greenbelt areas disturbed by excavation and/or construction activities of the Contractor shall be restored to their original conditions or better.

651.06 SEED AND AMENDMENTS; **Under (a) Hand or Mechanical Seeding, (1) Seed, replace the first sentence with:**

Seed shall be broadcast at a rate of 5 lbs/1,000 square feet, unless otherwise specified in the plans or contract documents.

SECTION 653 – EROSION PREVENTION AND SEDIMENT CONTROL

653.03 EPSC PLAN; **After the first paragraph (b) Submittals, add:**

The contractor is required to submit a City of Burlington Erosion Prevention and Sediment Control (EPSC) permit and implement the practices laid out therein to minimize discharge of sediment from the site. City permitting is now digital and can be found at <https://burlingtonvt.viewpointcloud.com/>.

After the last paragraph, add the following:

- c) At minimum, all construction activities shall conform to the Vermont Department of Environmental Conservation's *The Low Risk Site Handbook for Erosion Prevention and Sediment Control*

SECTION 656 – PLANTING TREES, SHRUBS, AND VINES

656.09 ESTABLISHMENT AND MAINTENANCE; **Delete the third paragraph and replace with the following:**

The Resident Engineer, Contractor, and a Town Representative shall inspect the plantings prior to final acceptance of the project. If any dead or dying plants are identified, these plants shall be replaced at the contractor's expense.

656.11 TREE PROTECTION; **After the last paragraph, add:**

The City Arborist will be aware of street tree locations that may be affected by the Work. The City Arborist will be available at the pre-bid conference and in the field as required.

- a) Contractor shall be liable for any damage to affected trees due to construction. Replacement cost of trees requiring removal due to damage sustained through the work covered under this contract will be determined by the value as listed in the City's current tree inventory. The contractor will be responsible for this replacement cost.
- b) Should the Contractor believe that construction will damage any tree regardless of precautions; the Contractor shall not work in that area and shall immediately notify the Resident Engineer in writing.
- c) Reference Section 659 Exposing of Roots for Street Trees for required methods and payment for exposing of roots for cutting.

656.13 BASIS OF PAYMENT; Delete Part (b) and replace with the following:

(b) The remaining 20% of the Contract Unit Price shall be paid after the plantings have been inspected and accepted by the Resident Engineer and the municipality.

Add the following Section:

SECTION 659 – EXPOSING OF ROOTS FOR STREET TREES

659.01 DESCRIPTION. The work in this section shall consist of the removal of dirt and materials from the roots of street trees adjacent to the work.

659.02 EQUIPMENT. Hand digging or use of pneumatic devices such as the AirSpade CGP system will be used to expose roots for cutting if roots are visible after the existing sidewalk panels have been removed. These methods will be used for the excavation of dirt, soil and organic matter within 8 feet of the base of the tree.

659.03 GENERAL REQUIREMENTS. The Cutting of roots greater than 1 inch in diameter will be completed with the use of a hand pruning saw or reciprocating saw to ensure a clean cut.

Replacement cost of trees requiring removal due to damage sustained through the work covered under this contract will be determined by the value as listed in the City's current tree inventory. The contractor will be responsible for this replacement cost.

The Contractor shall coordinate and verify locations of work with the City Arborist and Resident Engineer.

659.04 METHOD OF MEASUREMENT. The quantity of Exposing of Roots for Street Trees to be measured for payment will be the number of trees which required the exposing of roots to be completed in the method described in this Section.

659.05 BASIS OF PAYMENT. The accepted quantity of Exposing of Roots for Street Trees will be paid for at the contract unit price per each tree. Payment will be full compensation for the excavation of

materials per the methods described in this section, cutting of roots, removal, transporting, handling and disposal of materials.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
659.11 Exposing of Roots for Street Trees	EA

END OF SECTION 600

DIVISION 700

MATERIALS

SECTION 755 – LANDSCAPING MATERIALS

755.04 SEED:

Replace the first sentence of the first paragraph with:

Seed shall be furnished in new, clean, sealed, and properly labeled containers.

After the last paragraph, add:

(c) Unless otherwise shown in the Plans, seed shall be L.D. Oliver Seed Co., "Burlington Public Works Special Mix" with the following analysis, or an approved equal:

30% Shortstop Turf-type Tall Fescue	90%	Germination
20% Jasper Red Fescue	90%	Germination
20% Creeping Red Fescue	85+%	Germination
20% Fiesta II Perennial Rye Grass	90%	Germination

END OF SECTION 700

DIVISION 800**CITY OF BURLINGTON PROVISIONS****SECTION 801 – DRIVEWAY APRONS**

801.01 DESCRIPTION. The work in this section shall consist of both removing and replacing driveway aprons in their entirety in-kind, unless otherwise specified in the contract or by the Engineer; or modified where the transition between the new finished surface and the existing drive will be more severe than the existing conditions.

801.02 MATERIALS. The following are types of driveway apron replacement or adjustment types:

Replace with Concrete: Work shall include the removal, proper disposal of, and replacement of entire concrete driveway apron with concrete.

Adjust Concrete: Work shall consist of sawcutting a 12-inch-wide section of concrete in a straight line parallel with the longitudinal direction of the street. Existing concrete shall be removed, properly disposed of, and replaced with concrete.

Concrete to Asphalt: Work shall include the removal, proper disposal of, and replacement of entire concrete driveway apron with asphalt.

Replace with Asphalt: Work shall include the removal, proper disposal of, and replacement of entire asphalt driveway apron with asphalt.

Adjust Asphalt: Work shall consist of sawcutting a 12-inch-wide section of asphalt in a straight line parallel with the longitudinal direction of the street. Existing asphalt shall be removed, properly disposed of, and replaced with asphalt.

Replace Concrete Drop Curb: Work shall consist of removing existing drop curb within the limits designated, properly disposing of, and reforming/pouring of new concrete dropped curb.

Adjust Concrete Drop Curb: Work shall consist of adjusting the existing concrete curb either lower or higher than existing conditions. Should the curb need to be lowered it shall be saw cut with a wet saw such that a polished surface is created. Water from work shall be cleaned from site and not allowed to enter the City's collection system.

Materials and installation shall meet the requirements of **SECTION 406 – BITUMINOUS CONCRETE PAVEMENT** and **SECTION 541 – STRUCTURAL CONCRETE**.

801.03 METHOD OF MEASUREMENT. The quantity of material to be measured for payment will be the number of square feet of the type specified for use in the complete and accepted work, as determined by the limits designated in the plans.

801.04 BASIS OF PAYMENT. The measured quantity of material will be paid for at the Contract Unit Price per square foot for the type specified. Payment shall be full compensation for sawcutting, removing, hauling, and disposing of existing material, furnishing, mixing, hauling, and placing the new material specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
800.10 Replace with Concrete	Square Foot
800.20 Adjust Concrete	Square Foot
800.30 Concrete to Asphalt	Square Foot
800.40 Replace with Asphalt	Square Foot
800.50 Adjust Asphalt	Square Foot
800.60 Replace Concrete Drop Curb	Linear Foot
800.70 Adjust Concrete Drop Curb	Linear Foot

END OF SECTION 800

BRICK PAVER SPOT REPLACEMENT

- XX. DESCRIPTION. This work shall consist of replacing missing, damaged, and/or settled brick pavers, including but not limited to removal, transporting, and disposal of existing brick pavers and base materials as necessary, preparation of area, subgrade compaction, furnishing, storing, and installing brick pavers, tack coat, joint material, and bituminous concrete setting bed and base course at the locations shown in the Plans and as directed by the Engineer.

The work under this Section shall be performed in accordance with these provisions, the Plans, Sections 203, 404 and 406 of the Standard Specifications, and Special Provision (Brick Pavers).

- XX. QUALIFICATIONS. The installer shall meet the qualifications requirements of Special Provision (Brick Pavers).

- XX. MATERIALS. All materials and colors shall be approved by the Engineer prior to use, and shall meet the following requirements:

- (a) Brick Pavers shall conform to the requirements of Special Provision (Brick Pavers)
- (b) Joint material shall conform to the requirements of Special Provision (Brick Pavers)
- (c) Bituminous concrete setting bed and base course shall conform to the requirements of section 406 of the standard specifications.
- (d) Crushed gravel, fine for subbase shall conform to the requirements of section 704.05 of the standard specifications.
- (e) Dense graded crushed stone for subbase shall conform to the requirements of section 704.06 of the standard specifications.

- XX. CONSTRUCTION REQUIREMENTS.

- (a) Excavation. Excavation shall be made to the depth as shown in the Plans. Excavation width shall extend a minimum of approximately 18" past the missing, damaged, and/or settled pavers. Over-excavation performed by the Contractor shall be at no cost to the City.
- (b) Base. Crushed Gravel and Asphalt base shall be placed and compacted to 95% standard density, to an elevation which will result in the top surface of the pavers being flush with the surrounding pavers.
- (c) Protection of the Pavers. Pavers stored at the project site shall be stacked at the job site on pallets or suitable platforms that do not unnecessarily obstruct pedestrians or motorists and are protected from damage.
- (d) Installation. Installation shall be performed in accordance with the Plans and the following requirements:
 - (1) The depth control base must be set carefully to bring the pavers, when laid, to proper grade.
 - (2) After the asphalt and sand setting bed is applied, carefully place the pavers by hand in straight courses with hand tight joints and uniform top surface. Good alignment must be kept. Match new pavers into the existing pattern. Care shall be taken during the layout to minimize cutting.

(3) Cutting of the pavers may be necessary to accommodate field conditions and to achieve an accurate and consistent fit to the existing pattern. If pavers need to be cut, the cut shall be made with a wet masonry saw. Pavers shall be free from stain, dirt, or dust after cutting. Paver units shall not be cut to a size smaller than one-third of a whole paver.

(4) Any broken pavers shall be replaced with matching pavers.

(5) Hand tight joints, for brick pavers, shall read from 0-inch to maximum 1/8-inch. Sweep a dry mixture of the Polymeric Sand over the paver surface. Follow manufacturer's written instructions.

(e) Tolerances. Loose or uneven pavers with greater than 1/4" differential in elevation to the adjacent pavers, shall be removed and reset as required to attain a level surface.

XX. MOCKUPS.

(a) Mockups: Build mockups (min. 4' x 4' section) to verify initial selections made, to demonstrate aesthetic effects, and to set quality standards for materials and execution. Install Mockups in locations where colors come together as they do on plan.

(b) Subject to compliance with requirements, approved mockups may become part of the completed Work if undisturbed at time of Substantial Completion.

XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Brick Paver Spot Replacement) to be measured for payment will be the number of brick paver spot replacements installed in the complete and accepted work, as specified in the Plans.

XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Brick Paver Spot Replacement) will be paid for at the Contract unit price per each paver area replaced, as specified in the Plans. Payment will be full compensation for removing, transporting, storing, and disposing of existing pavers, paver materials, base course, subbase course, transporting, storing, handling, and placing the material specified, including brick pavers, containment, saw-cutting, replacing damaged pavers damaged at no fault to the Contractor, joint filler, tack coat, bituminous setting bed and base course, compacting existing subgrade, performing any other required excavation, cleaning the completed surface as required, and for all labor, tools, equipment and incidentals necessary to complete the work.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.620 Special Provision (Brick Paver Spot Replacement)	Each

BRICK PAVING OF EXISTING TREE PIT

- XX. DESCRIPTION. This work shall consist of paving over existing tree pits, including but not limited to removal, transporting, storing, and disposal of existing tree pit border pavers, metal frames and grates, concrete, stumps, roots, soil, subbase materials and surrounding brick pavers as necessary, preparation of area, subgrade compaction, furnishing, storing and installing brick pavers, joint material, tack coat, bituminous concrete pavement, aggregate base and subbase at the locations shown in the Plans and as directed by the Engineer.

The work under this Section shall be performed in accordance with these provisions, the Plans, Sections 203, 404 and 406 of the Standard Specifications, and Special Provision (Brick Pavers).

- XX. QUALIFICATIONS. The installer shall meet the qualifications requirements of Special Provision (Brick Pavers).

- XX. MATERIALS.

- a) Brick pavers shall conform to the requirements of Special Provision (Brick Pavers).
- b) Joint material shall conform to the requirements of Special Provision (Brick Pavers).
- c) Bituminous concrete setting bed and base course shall conform to the requirements of section 406 of the standard specifications.
- d) Crushed gravel, fine for subbase shall conform to the requirements of section 704.05 of the standard specifications.
- e) Dense graded crushed stone for subbase shall conform to the requirements of section 704.06 of the standard specifications.

- XX. CONSTRUCTION REQUIREMENTS.

- (f) Excavation. Excavation shall be made to the depth as shown in the Plans. Excavation width shall extend a minimum of approximately 36" past the edge of existing tree pit. Over-excavation performed by the Contractor shall be at no cost to the City.
- (g) Base. Crushed Gravel and Asphalt base shall be placed and compacted to 95% standard density, to an elevation which will result in the top surface of the pavers being flush with the surrounding pavers.
- (h) Protection of the Pavers. Pavers stored at the project site shall be stacked at the job site on pallets or suitable platforms that do not unnecessarily obstruct pedestrians or motorists and are protected from damage.
- (i) Installation. Installation shall be performed in accordance with the Plans and the following requirements:
 - (6) The depth control base must be set carefully to bring the pavers, when laid, to proper grade.
 - (7) After the asphalt and sand setting bed is applied, carefully place the pavers by hand in straight courses with hand tight joints and uniform top surface. Good alignment must be kept. Match new pavers into the existing pattern. Care shall be taken during the layout to minimize cutting.

(8) Cutting of the pavers may be necessary to accommodate field conditions and to achieve an accurate and consistent fit to the existing pattern. If pavers need to be cut, the cut shall be made with a wet masonry saw. Pavers shall be free from stain, dirt, or dust after cutting. Paver units shall not be cut to a size smaller than one-third of a whole paver.

(9) Any broken pavers shall be replaced with matching pavers.

(10) Hand tight joints, for brick pavers, shall read from 0-inch to maximum 1/8-inch. Sweep a dry mixture of the Polymeric Sand over the paver surface. Follow manufacturer's written instructions.

(j) Tolerances. Loose or uneven pavers with greater than 1/4" differential in elevation to the adjacent pavers, shall be removed and reset as required to attain a level surface.

XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Brick Paving of Existing Tree Pit) to be measured for payment will be the number of existing tree pits removed and paved over in the complete and accepted work.

XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Brick Paving of Existing Tree Pit) will be paid for at the Contract unit price per each existing tree pit replaced with pavers. Payment will be full compensation for removing, transporting, storing, and disposing of tree pit border pavers, metal frames and grates, concrete, stumps, roots, soil, subbase materials and surrounding brick pavers as necessary, transporting, storing, handling, and placing the material specified, including brick pavers, containment, saw-cutting, replacing damaged pavers damaged at no fault to the Contractor, joint filler, tack coat, bituminous setting bed and base course, crushed gravel, fine for subbase, dense graded crushed stone, compacting existing subgrade, performing any other required excavation, cleaning the completed surface as required, and for all labor, tools, equipment and incidentals necessary to complete the work.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

Pay Item

900.620 Special Provision (Brick Paving of Existing Tree Pit)	<u>Pay Unit</u>
	Each

TEMPORARY TRAFFIC CONTROL SIGNAL SYSTEMS

- XX. DESCRIPTION. This work shall consist of establishing and maintaining traffic control measures to protect the traveling public and construction operations as indicated herein and as directed by the Engineer. To the maximum extent feasible, one lane of traffic should be kept open at all times. The work under this Section shall be performed in accordance with these provisions, the Plans, and Section 641 of the Standard Specifications.
- XX. SUBMITTALS. Working Drawings shall be submitted to the Engineer for approval in accordance with Subsection 105.03. Submittal shall include a site-specific traffic control plan conforming to the requirements of the MUTCD and all applicable Agency Standard Drawings. Where conflicts exist, the MUTCD will govern. Each phase of construction shall be included in the submitted traffic control plan, and shall show all traffic control devices and signage proposed. Manufacturer's literature for temporary barrier and attenuators shall be included in the submittal.
- XX. TEMPORARY TRAFFIC CONTROL SIGNAL SYSTEMS.
- (k) General Requirements. Temporary traffic control signal systems shall include all necessary existing or Contractor provided materials and equipment, including, but not limited to, controllers, flashers, wiring, conduit, strain poles, associated signs, sign posts, pavement markings, electrical service, vehicle detectors, span wires, interconnect cables, signal heads, and portable signal carts. The temporary signal system shall include all signals and other components necessary to cover every approach to the work zone or lane restriction. The proposed location and operation of the temporary traffic signal equipment shall be shown on the Contractor's traffic control plan. Temporary traffic control signal systems shall meet the following requirements:
- (1) Temporary traffic control signal systems shall be compliant with AASHTO 80 mph wind load requirements.
 - (2) Portable temporary traffic control signal systems shall be powered by solar panels and batteries. The batteries shall allow the system to be operable for a minimum of 20 days without additional solar power. The batteries shall be housed and secured within a steel lock down box.
 - (3) Temporary traffic control signals shall include a conflict monitor or malfunction management unit.
 - (4) Temporary traffic control signals shall include long range microwave or video sensor vehicle detection, including signal preemption for emergency vehicles.
 - (5) All associated signing shall conform to the MUTCD and Section 675.
 - (6) Pavement markings shall conform to the MUTCD and Section 646.
 - (7) Temporary traffic control signal system shall include minimum two signal faces for maintenance of alternating one-way traffic control.
- (l) Installation. The components of the temporary traffic control signal systems shall be installed in accordance with the applicable requirements of Section 646, Section 675, Section 677, Section 678, and Section 679, with the following modifications:
- (1) Concrete bases will not be required for temporary traffic signal installations.

- (2) The Contractor shall correct all deficiencies found in the traffic control signal system and shall repair or replace defective equipment at no cost to the Agency. 641 6-168
 - (3) During installation of the temporary traffic signal systems, no conduit shall be placed under the existing roadway.
 - (4) The entire signal system, including signs, warning beacons, poles, lights, detectors, and other required materials, shall be in place and operating correctly prior to the start of the part of the project requiring its operation. Removal of the temporary signal system in its entirety and restoration of the disturbed areas shall constitute completion of the item.
 - (5) The Contractor shall be responsible for all permits and costs associated with providing electrical power for the temporary traffic signal system.
 - (6) The Contractor shall notify the Engineer or the town or city officials at least 48 hours prior to turning off the existing traffic control signals or installing any temporary signals.
 - (7) Pavement marking shall meet the requirements for temporary pavement markings, unless otherwise shown on the Plans.
- (m) Detectors. Unless otherwise shown on the Plans, detectors for temporary traffic signal activation may be of the type and manufacture chosen by the Contractor. However, the furnished detector must function properly and provide the actuation required for the specific installed site. If, in the opinion of the Engineer, the furnished detector either does not function properly or does not perform the required actuation, the Contractor shall replace the detector within 24 hours of receiving notice to do so from the Engineer, at no cost to the Agency.

XX. METHOD OF MEASUREMENT. The quantity of Temporary Traffic Control Signal System, Portable to be measured for payment will be the number of each system installed in the complete and accepted work, maintained during construction, and then removed from the project when the Engineer determines it is no longer required.

XX. BASIS OF PAYMENT. The accepted quantity of Temporary Traffic Control Signal System, Portable will be paid for at the Contract unit price per each. Payment will include the set up and removal of trailer and trailer poles or strain poles, as applicable, signal heads, controller and cabinet, luminaires, power source, and all other materials necessary for a fully operational temporary traffic control signal system. Partial payments will be made as follows:

- (a) The first payment of 50% of the Contract unit price will be made once the entire system has been set up at a site (including signing and pavement markings) and working for 24 hours to the satisfaction of the Engineer.
- (b) The second payment of 30% of the Contract unit price will be made once the system has been in place and operational for 30 calendar days or work is complete, whichever occurs first.
- (c) The final payment of 20% of the Contract unit price will be made upon complete removal of the system from the site and restoration of disturbed areas.

No additional payment will be made for moving, relocating, or resetting temporary traffic control signal system components, either as directed by the Engineer or for the convenience of the Contractor.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.620 Special Provision (Temporary traffic Control Signal System, Portable)	Each

GRIND CONCRETE EDGE

XX. DESCRIPTION. This work shall consist of grinding concrete pad edges to remove tripping hazard lips at the locations shown in the Plans and as directed by the Engineer.

XX. CONSTRUCTION REQUIREMENTS.

(a) Grinding. Concrete edges with vertical displacements between 1/4" and 2" shall be initially ground using a scarifier with an attached vacuum to contain the generated concrete dust, and then finished with a dry hand grinder. Completed grinds shall be smoothed and sloped back at a slope between 1:8 and 1:12, and squared off at the rear for a clean look. The concrete on the other side of the grind shall be left untouched.

(b) Tolerances. Concrete edge tripping hazard lips shall be ground to 1/4" or less vertical displacement from adjacent surfaces.

XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Grind Concrete Edge) to be measured for payment will be on a lump sum basis for ground concrete pad edges in the complete and accepted work.

XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Grind Concrete Edge) will be paid for at the contract lump sum price.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.650 Special Provision (Grind Concrete Edge)	Lump Sum

BRICK PAVERS

XX. DESCRIPTION. This work shall consist of furnishing, storing, and installing brick pavers, tack coat, and joint material as shown in the Plans and as directed by the Engineer.

XX. QUALIFICATIONS. The installer shall provide their installation history, including installation of brick pavers to the Engineer.

The installer's foreman shall have a minimum of 5 years of experience in the installation of brick paver systems of similar size and complexity.

XX. MATERIALS. All materials and colors shall be approved by the Engineer prior to use, and shall meet the following requirements:

(f) Brick Pavers

(1) Brick used for paving shall meet or exceed ASTM C-1272 for vehicular application, conforming to the PX application. Minimum compressive strength shall be 12,000 psi. Brick Pavers shall be hand selected and free from seams, cracks, chips, and other structural imperfections or flaws which would impair their structural integrity or appearance, and of a smooth but rustic appearance on at least one upward facing side. Paver Size shall have a chamfered edge, matching other existing pavers in the project area. Representative samples shall be provided to the Engineer for approval prior to delivery to the required locations on the project.

(2) Size

a. Vehicular Applications:
2-3/4" x 4" x 8"

(3) Manufacturer

a. Brick pavers shall be manufactured by Pine Hall Brick Company, or approved equal.

Pine Hall Brick Company
Tel: (800) 334-8689
pinehallbrick.com

(4) Types

a. Brick Paver Type A:

Product: English Edge Paver
Initial color selection for mockup: Gray

b. Brick Paver Type B:

Product: English Edge Paver
Initial color selection for mockup: Autumn

c. Brick Paver Type C:

Product: English Edge Paver
Initial color selection for mockup: Dark Accent

(g) Joint Filler

(1) Manufacturer

- a. Joint Filler shall be manufactured by Alliance Designer Products, or approved equal.

Alliance Designer Products, Inc.
225 Boulevard Bellerose West
Laval, Quebec H7L 6A1
www.alliancegator.com

(2) Product

- a. Gator Maxx G2 Polymer Sand
- b. Color: As selected by Engineer / City from mockups

XX. MOCKUPS.

- (b) Mockups: Build mockups (min. 4' x 4' section) to verify initial selections made, to demonstrate aesthetic effects, and to set quality standards for materials and execution. Install Mockups in locations where colors come together as they do on plan.
- (b) Subject to compliance with requirements, approved mockups may become part of the completed Work if undisturbed at time of Substantial Completion.

XX. CONSTRUCTION REQUIREMENTS.

- (n) Excavation. Excavation shall be made to the depth as shown in the Plans. Over-excavation performed by the Contractor shall be at no cost to the City.
- (o) Base. Crushed Gravel and Asphalt base shall be placed and compacted to 95% standard density, to an elevation which will result in the top surface of the pavers being flush with the surrounding pavers.
- (p) Protection of the Pavers. Pavers stored at the project site shall be stacked at the job site on pallets or suitable platforms that do not unnecessarily obstruct pedestrians or motorists and are protected from damage.
- (q) Installation. Installation shall be performed in accordance with the Plans and the following requirements:
 - (11) The depth control base must be set carefully to bring the pavers, when laid, to proper grade.
 - (12) After the asphalt and sand setting bed is applied, carefully place the pavers by hand in straight courses with hand tight joints and uniform top surface. Good alignment must be kept. Care shall be taken during the layout to minimize cutting.
 - (13) Cutting of the pavers may be necessary to accommodate field conditions and to achieve an accurate and consistent fit to the existing pattern. If pavers need to be cut, the cut shall be made with a wet masonry saw. Pavers shall be free from stain, dirt, or

dust after cutting. Paver units shall not be cut to a size smaller than one-third of a whole paver.

(14) Any broken pavers shall be replaced with matching pavers.

(15) Installation shall be performed in one direction by building forward from previously installed pavers.

(16) Hand tight joints, for brick pavers, shall read from 0-inch to maximum 1/8-inch. Sweep a dry mixture of the Polymeric Sand over the paver surface. Follow manufacturer's written instructions.

(r) Tolerances. Loose or uneven pavers with greater than 1/4" differential in elevation to the adjacent pavers, shall be removed and reset as required to attain a level surface.

XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Brick Pavers) to be measured for payment will be the number of square feet placed in the complete and accepted work.

XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Brick Pavers) will be paid for at the Contract unit price per square foot for the specified depth. Payment will be full compensation for transporting, storing, handling, and placing the material specified, including brick pavers, containment, saw-cutting, replacing damaged pavers damaged at no fault to the Contractor, joint filler, tack coat, performing any other required excavation, compacting existing subgrade, cleaning the completed surface as required, and for all labor, tools, equipment and incidentals necessary to complete the work.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.670 Special Provision (Brick Pavers)	Square Foot

GLOBE PAVERS

XX. DESCRIPTION. This work shall consist of furnishing, storing, and installing globe pavers, tack coat, and joint material as shown in the Plans and as directed by the Engineer.

XX. QUALIFICATIONS. The installer shall provide their installation history, including installation of artistic pavers to the Engineer.

The installer's foreman shall have a minimum of 5 years of experience in the installation of artistic paver systems of similar size and complexity.

XX. MATERIALS. All materials and colors shall be approved by the Engineer prior to use. Where globe pavers are specified in the Plans, globe pavers matching the existing globe pavers at the southern end of Church Street between Main Street and College Street shall be used. Globe pavers shall be solid interlocking paving units complying with H-20 loading requirements and resistant to freezing and thawing when tested according to ASTM C 67. Do not use globe pavers with chips, cracks, voids, discolorations, or other defects that might be visible or cause staining in finished work. Representative samples shall be provided to the Engineer for approval prior to delivery to the required locations on the project.

(h) Joint Filler

(3) Manufacturer

a. Joint Filler shall be manufactured by Alliance Designer Products, or approved equal.

Alliance Designer Products, Inc.
225 Boulevard Bellerose West
Laval, Quebec H7L 6A1
www.alliancegator.com

(4) Product

a. Gator Maxx G2 Polymer Sand

b. Color: As selected by Engineer / City from mockups

XX. MOCKUPS.

(c) Mockups: Build mockups (min. 4' x 4' section) to verify initial selections made, to demonstrate aesthetic effects, and to set quality standards for materials and execution. Install Mockups in locations where colors come together as they do on plan.

(d) Subject to compliance with requirements, approved mockups may become part of the completed Work if undisturbed at time of Substantial Completion.

XX. CONSTRUCTION REQUIREMENTS.

(s) Excavation. Excavation shall be made to the depth as shown in the Plans. Over-excavation performed by the Contractor shall be at no cost to the City.

- (t) Base. Gravel and Asphalt base shall be placed and compacted to 95% standard density, to an elevation which will result in the top surface of the pavers being flush with the surrounding pavers.
 - (u) Protection of the Pavers. Pavers stored at the project site shall be stacked at the job site on pallets or suitable platforms that do not unnecessarily obstruct pedestrians or motorists and are protected from damage.
 - (v) Installation. Installation shall be performed in accordance with the Plans and the following requirements:
 - (17) The depth control base must be set carefully to bring the pavers, when laid, to proper grade.
 - (18) After the asphalt and sand setting bed is applied, carefully place the pavers by hand in straight courses with hand tight joints and uniform top surface. Good alignment must be kept. Care shall be taken during the layout to minimize cutting.
 - (19) Cutting of the pavers may be necessary to accommodate field conditions and to achieve an accurate and consistent fit to the existing pattern. If pavers need to be cut, the cut shall be made with a wet masonry saw. Pavers shall be free from stain, dirt, or dust after cutting. Paver units shall not be cut to a size smaller than one-third of a whole paver.
 - (20) Any broken pavers shall be replaced with matching pavers.
 - (21) Installation shall be performed in one direction by building forward from previously installed pavers.
 - (22) Hand tight joints, for globe pavers, shall read 3/8-inch. Sweep a dry mixture of the Polymeric Sand over the paver surface. Follow manufacturer's written instructions.
 - (w) Tolerances. Loose or uneven pavers with greater than 1/4" differential in elevation to the adjacent pavers, shall be removed and reset as required to attain a level surface.
- XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Globe Pavers) to be measured for payment will be the number of square feet placed in the complete and accepted work.
- XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Globe Pavers) will be paid for at the Contract unit price per square foot for the specified depth. Payment will be full compensation for transporting, handling, storing, and placing the material specified, including pavers, containment, saw-cutting, replacing damaged pavers damaged at no fault to the Contractor, tack coat, joint filler, performing any other required excavation, compaction, cleaning the completed surface as required, and for all labor, tools, equipment and incidentals necessary to complete the work.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.670 Special Provision (Globe Pavers)	Square Foot

GRANITE DETECTABLE WARNING PAVERS

- XX. DESCRIPTION. This work shall consist of furnishing, storing and placing granite detectable warning pavers, tack coat, and joint material at the locations shown in the Plans and as directed by the Engineer.

The work under this Section shall be performed in accordance with these provisions, the Plans, and Sections 203, 404, 406 and 618 of the Standard Specifications.

- XX. QUALIFICATIONS. The installer shall provide their installation history, including installation of granite detectable warning pavers to the Engineer.

The installer's foreman shall have a minimum of 5 years of experience in the installation of granite detectable warning paver systems of similar size and complexity.

- XX. MATERIALS. All materials and colors shall be approved by the Engineer prior to use, and shall meet the following requirements:

(a) Granite Detectable Warning Pavers

- (1) Where granite detectable warning pavers are specified in the Plans, granite detectable warning pavers matching the existing granite detectable warning pavers at the Church Street and Cherry Street intersections shall be used. Granite detectable warning pavers shall be solid interlocking paving units complying with ASTM C-615 and resistant to freezing and thawing when tested according to ASTM C 67. Do not use granite detectable warning pavers with chips, cracks, voids, discolorations, or other defects that might be visible or cause staining in finished work. Representative samples shall be provided to the Engineer for approval prior to delivery to the required locations on the project.

(2) Size

a. Vehicular Applications:

(3) Manufacturer

- a. Granite Detectable Warning Pavers shall be manufactured by Vermont Stone Art, or approved equal.

Vermont Stone Art
Tel: (802) 505-2503
vermontstoneart.com

(4) Material

a. Champlain Gray Granite

(5) Finish

a. Sandblast

(b) Joint Filler

(5) Manufacturer

- a. Joint Filler shall be manufactured by Alliance Designer Products, or approved equal.

Alliance Designer Products, Inc.
225 Boulevard Bellerose West
Laval, Quebec H7L 6A1
www.alliancegator.com

(6) Product

- a. Gator Maxx G2 Polymer Sand
- b. Color: As selected by Engineer / City from mockups

- (c) Bituminous concrete setting bed and base course shall conform to the requirements of section 406 of the standard specifications.

XX. SUBMITTALS. Contractor shall submit, for approval by the Engineer, at least 2 sets of full-size samples of the specified granite detectable warning pavers. Samples shall represent material, finish, texture and color to be supplied. Pavers should be made of granite obtained from a single quarry with resources to provide consistent quality in appearance and physical properties.

XX. CONSTRUCTION REQUIREMENTS.

- (x) Excavation. Excavation shall be made to the depth as shown in the Plans. Excavation width shall extend a minimum of approximately 18" past the edge of granite detectable warning pavers. Over-excavation performed by the Contractor shall be at no cost to the City.
- (y) Base. Crushed Gravel and Asphalt base shall be placed and compacted to an elevation which will result in the top surface of the pavers being flush with the surrounding pavers.
- (z) Protection of the Pavers. Pavers stored at the project site shall be stacked at the job site on pallets or suitable platforms that do not unnecessarily obstruct pedestrians or motorists and are protected from damage.
- (aa) Installation. Installation shall be performed in accordance with the Plans and the following requirements:
 - (23) The depth control base must be set carefully to bring the pavers, when laid, to proper grade.
 - (24) After the asphalt and sand setting bed is applied, carefully place the pavers by hand in straight courses with hand tight joints and uniform top surface. Good alignment must be kept. Care shall be taken during the layout to minimize cutting.
 - (25) Cutting of the pavers may be necessary to accommodate field conditions and to achieve an accurate and consistent fit. If pavers need to be cut, the cut shall be made with a wet masonry saw. Pavers shall be free from stain, dirt, or dust after cutting. Paver units shall not be cut to a size smaller than one-third of a whole paver.

(26) Any broken pavers shall be replaced with matching pavers.

(27) Installation shall be performed in one direction by building forward from previously installed pavers.

(28) Hand tight joints, for granite detectable warning pavers, shall read 3/8-inch. Sweep a dry mixture of the Polymeric Sand over the paver surface. Follow manufacturer's written instructions.

(bb) Tolerances. Loose or uneven pavers with greater than 1/4" differential in elevation to the adjacent pavers, shall be removed and reset as required to attain a level surface.

XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Granite Detectable Warning Pavers) to be measured for payment will be the number of square feet placed in the complete and accepted work.

XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Granite Detectable Warning Pavers) will be paid for at the Contract unit price per square foot for the specified depth. Payment will be full compensation for transporting, handling, storing, and placing the material specified, including granite detectable warning pavers, containment, replacing damaged pavers damaged at no fault to the Contractor, tack coat, joint filler, performing any other required excavation, cleaning the completed surface as required, and for all labor, tools, equipment and incidentals necessary to complete the work.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.670 Special Provision (Granite Detectable Warning Pavers)	Square Foot

GRANITE INLAY PAVERS

- XX. DESCRIPTION. This work shall consist of furnishing, storing and placing granite inlay pavers, tack coat, and joint material at the locations shown in the Plans and as directed by the Engineer.

The work under this Section shall be performed in accordance with these provisions, the Plans, and Sections 203, 404, 406 and 618 of the Standard Specifications.

- XX. QUALIFICATIONS. The installer shall provide their installation history, including installation of granite inlay pavers to the Engineer.

The installer's foreman shall have a minimum of 5 years of experience in the installation of granite inlay paver systems of similar size and complexity.

- XX. MATERIALS. All materials and colors shall be approved by the Engineer prior to use. Where granite inlay pavers are specified in the Plans, granite inlay pavers matching the existing granite inlay pavers at the southern end of Church Street between Main Street and College Street shall be used. Granite inlay pavers shall be solid paving units complying with H-20 loading requirements and resistant to freezing and thawing when tested according to ASTM C 67. Do not use granite inlay pavers with chips, cracks, voids, discolorations, or other defects that might be visible or cause staining in finished work. Representative samples shall be provided to the Engineer for approval prior to delivery to the required locations on the project.

(a) Granite Inlay Paver

a. Manufacturer

- i. Granite Inlay Pavers shall be manufactured by Vermont Stone Art, or approved equal.

Vermont Stone Art
Tel: (802) 505-2503
www.vermontstoneart.com

(b) Joint Filler

a. Manufacturer

- i. Joint Filler shall be manufactured by Alliance Designer Products, or approved equal.

Alliance Designer Products, Inc.
225 Boulevard Bellerose West
Laval, Quebec H7L 6A1
www.alliancegator.com

ii. Product

c. Gator Maxx G2 Polymer Sand

d. Color: As selected by Engineer / City from mockups

- XX. MOCKUPS.

- (e) Mockups: Build mockups (min. 4' x 4' section) to verify initial selections made, to demonstrate aesthetic effects, and to set quality standards for materials and execution. Install Mockups in locations where colors come together as they do on plan.
 - (b) Subject to compliance with requirements, approved mockups may become part of the completed Work if undisturbed at time of Substantial Completion.
- XX. SUBMITTALS. Contractor shall submit, for approval by the Engineer, at least 2 sets of full-size samples of the specified granite inlay pavers. Samples shall represent material, finish, texture and color to be supplied. Pavers should be made of granite obtained from a single quarry with resources to provide consistent quality in appearance and physical properties.
- XX. CONSTRUCTION REQUIREMENTS.
- (cc) Excavation. Excavation shall be made to the depth as shown in the Plans. Excavation width shall extend a minimum of approximately 18" past the edge of granite inlay pavers. Over-excavation performed by the Contractor shall be at no cost to the City.
 - (dd) Protection of the Pavers. Pavers stored at the project site shall be stacked at the job site on pallets or suitable platforms that do not unnecessarily obstruct pedestrians or motorists and are protected from damage.
 - (ee) Installation. Installation shall be performed in accordance with the Plans and the following requirements:
 - (29) The depth control base must be set carefully to bring the pavers, when laid, to proper grade.
 - (30) After the asphalt and setting bed is applied, carefully place the pavers by hand in straight courses with hand tight joints and uniform top surface. Good alignment must be kept. Care shall be taken during the layout to minimize cutting.
 - (31) Cutting of the pavers may be necessary to accommodate field conditions and to achieve an accurate and consistent fit. If pavers need to be cut, the cut shall be made with a wet masonry saw. Pavers shall be free from stain, dirt, or dust after cutting. Paver units shall not be cut to a size smaller than one-third of a whole paver.
 - (32) Any broken pavers shall be replaced with matching pavers.
 - (33) Installation shall be performed in one direction by building forward from previously installed pavers.
 - (34) Hand tight joints, for granite inlay pavers, shall read 3/8-inch. Sweep a dry mixture of the Polymeric Sand over the paver surface. Follow manufacturer's written instructions.
 - (ff) Tolerances. Loose or uneven pavers with greater than 1/4" differential in elevation to the adjacent pavers, shall be removed and reset as required to attain a level surface.

- XX. METHOD OF MEASUREMENT. The quantity of Special Provision (Granite Inlay Pavers) to be measured for payment will be the number of square feet placed in the complete and accepted work.
- XX. BASIS OF PAYMENT. The accepted quantity of Special Provision (Granite Inlay Pavers) will be paid for at the Contract unit price per square foot for the specified depth. Payment will be full compensation for transporting, storing, handling, and placing the material specified, including granite inlay pavers, containment, replacing damaged pavers damaged at no fault to the Contractor, tack coat, joint filler, performing any other required excavation, cleaning the completed surface as required, and for all labor, tools, equipment and incidentals necessary to complete the work.

The Contractor will be responsible for replacing, at no additional cost to the City, any pavers that are broken or otherwise damaged by the Contractor's operations.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.670 Special Provision (Granite Inlay Pavers)	Square Foot

CITY OF BURLINGTON PROVISIONS

AUTHORITY TO CLOSE STREETS TO PARKING. Under Section 20-63, City of Burlington Codes and Ordinances, the contractor under this contract may temporarily close streets to parking.

The following general conditions shall be met:

- 1) In locations where parking is unmetered standard "No Parking" paper signs - (furnished by Owner, installed and maintained by the Contractor). In locations where parking is metered the Contractor shall be required to obtain meter bags from BWD at no charge for the bag fee, however the Contractor is responsible for paying any fees for lost or damaged bags/locks. In addition, Contractor will be responsible for all meter bag fees for bags used fifteen (15) days past the completion of work on the street where bags were permitted.
- 2) Signs should be posted a minimum of one week ahead of the start of work for first work on the street, subsequent signage shall meet the conditions required by the Burlington Police Department listed in part e of this Section.
- 3) Posted in conspicuous locations on streets where contract Work is to be performed. One or both sides of the street may be posted if the work warrants such action as determined by the contractor. "No Parking" signs shall be free standing on Contractor furnished stakes. Under no conditions will signs be affixed to utility poles, street signs or mail boxes.
- 4) Signs shall be in place no later than 4:00 PM on the day preceding work to start, including holidays and weekends, and Police, Fire Departments, Green Mountain Transit (GMT), and Chittenden County Regional Planning Organization (CCRPO) traffic alerts shall be notified of the area.
- 5) The Contractor is required to contact Burlington Parking Services by email no later than 6:00 PM on the day preceding work, or of posting with dates and times for the No Parking posting. Failure to notify Parking Services by the time listed will eliminate the feasibility of ticketing and towing violating cars under the City's parking restrictions. Notification shall be sent to Jackie Esperti (jesperti@burlingtonvt.gov) or their designated representative.
- 6) Prohibited parking will remain in effect until said signs are removed by the Contractor. This shall be as soon as work is completed.
- 7) The signs shall state the date on which parking is prohibited, the time at which prohibited parking commences, and a note that says that prohibited parking shall remain in effect until said signs are removed.
- 8) Uniformed Traffic Officers (UTO) will be required at all traffic signals affected by work even if signal and lane operations work in 'flash'.

STREET TREES. The City Arborist will be aware of street tree locations that may be affected by the Work. The City Arborist will be available at the pre-bid conference and in the field as required.

- a) Contractor shall be liable for any damage to affected trees due to construction. Replacement cost of trees requiring removal due to damage sustained through the work covered under this contract will be determined by the value as listed in the City's current tree inventory. The contractor will be responsible for this replacement cost.

- b) Should the Contractor believe that construction will damage any tree regardless of precautions; the Contractor shall not work in that area and shall immediately notify the Resident Engineer in writing.
- c) Reference City of Burlington, Vermont 2023 Engineering Specifications Item 659.05 Exposing of Roots For Street Trees for required methods and payment for exposing of roots for cutting.

RESTORATION OF EXISTING SURFACES. All existing street pavements, driveway aprons, and greenbelt areas disturbed by excavation and/or construction activities of the Contractor shall be restored to their original conditions or better. Street pavements shall be restored to existing asphalt thickness or as designated in the Contract Plans, whichever is greater. Driveway aprons shall be regraded and finished to match the grades of the new curb cut opening and promote proper drainage or surface runoff. Greenbelt areas shall be regraded to match the grades of the curbing using excavation and/or earth borrow as required and a minimum 4-inch layer of topsoil. Top soil shall consist of uniform natural sandy loam, free from lumps, clods, sods, stones larger than 3/4 inch in any dimension, sticks, wood, cinders, concrete or any foreign or undesirable materials. It shall be natural and fertile soils possessing the characteristics of good soil which produce heavy growth of crops, grass or other vegetation and shall be obtained from natural, well-drained areas. It shall be free of sub-soil.

- a) Acidity range from pH 5.0 to pH 6.0 inclusive. Disturbed areas shall be seeded and mulched to provide a vigorous growth of grasses to match the surrounding terrain. This growth of grasses is subject to the three (3) year guarantee period. Seed shall be fresh, clean seed of the latest crop, which meets the standards of the Federal Seed Act including percent pure seed, percent germination and percent weed content listed below. All seed shall be furnished in sealed standard containers of vendor with each container showing vendor name, weight percent of each grass seed, percent pure seed, percent germination, percent weed content, date of seed crop, and date of test. Seed shall be L.D. Oliver Seed Co., "Burlington Public Works Special Mix" with the following analysis, or an approved equal:

30% Shortstop Turf-type Tall Fescue	90%	Germination
20% Jasper Red Fescue	90%	Germination
20% Creeping Red Fescue	85+%	Germination
20% Fiesta II Perennial Rye Grass	90%	Germination
- b) Broadcast seed at 5 lbs./1,000 square feet.
- c) All such work must conform to the "Vermont Standards & Specifications for Erosion Prevention & Sediment Control, 2006", and as amended and all earthen material associated with, or disturbed by, the project shall be retained on the subject property. Bare earthen material shall immediately be stabilized with erosion control netting and with topsoil, seed and mulch to establish vegetative cover.

WORKING HOURS. Working hours for this contract shall be 7am-7pm Monday through Friday, and 7am-5pm on Saturday. Work on Sundays and Holidays must be submitted to the Owner in writing or during a meeting a minimum of 48 hours prior to the date being requested. Work hour limitations include running/warming up of stationary construction equipment outside of the designated or approved work hours that exceed the Noise Ordinance limits for Quiet Hours as set forth in the City Ordinances.

WINTER SHUTDOWN: Contractors shall refer to VTrans Standard Specifications for Construction Section 108.09 & 104.04A for complete seasonal shutdown requirements.

- a) No on-site material or equipment storage will be permitted.
- b) The contractor shall not enter a winter shutdown with a partially completed sidewalk section. If the contractor fails to achieve substantial completion of any work, the following requirements shall apply:
 - i) At minimum, roadway surfaces and paved residential driveways must be paved over with either a base course or temporary asphalt. Under no circumstances shall roadway surfaces be left unpaved throughout a winter shutdown.
 - ii) At minimum, sidewalk surfaces or temporary walkways shall be covered with concrete or temporary pavement. Gravel will not be permitted. All pedestrian access routes shall be five feet wide. Longitudinal slopes, cross slopes, and ramps shall be PROWAG/ADA compliant.
 - iii) All surfaces shall be graded and leveled to adequately drain stormwater and eliminate the potential for ponded water to freeze and create hazards for vehicles and pedestrians.
 - iv) Covers and grates for underground structures shall be flush with surfaces.
 - v) Roadways, sidewalks, and curbs shall be left in a condition suitable for plows and other maintenance operations and vehicles. The contractor will be responsible for surfaces and structures left unsuitable for regular maintenance operations. These responsibilities include but are not limited to plowing, snow removal, salting, sanding, cleaning, grading, leveling, and anything else needed to ensure the safety and functionality of these facilities.
 - vi) The contractor shall avoid leaving pedestrian crossing locations incomplete over the course of a winter shutdown. For example, if sidewalk ramps are installed, the contractor shall ensure that the required signage and markings are installed as well. These situations may require installation of temporary markings.
 - vii) Conflicting or inapplicable signage shall be removed or covered over the course of a shutdown. Adequate markings and signage shall be installed.
 - viii) The City shall not be held responsible for damage to installed materials resulting from unsuitable conditions.
 - ix) Costs associated with meeting these requirements, including but not limited to preparation; labor and materials; installation, maintenance, and removal of materials; inspections; administration; material storage; transportation fees; and all other incurred expenses are the sole responsibility of the contractor.
- c) The following requirements for winter stabilization and maintenance shall apply:
 - i) If turf is not seeded by October 15, the contractor may use winter rye, at no cost to the City, to establish temporary vegetation for a winter shutdown period.
 - ii) Areas which have not been vegetated either permanently or with winter rye will require wood chips or hay mulch, which shall be monitored and maintained throughout the winter season.
 - iii) Silt fence shall be installed and maintained downgrade from areas where vegetation has not been established.
 - iv) Periodic inspections are required at least once per month when the job site is inactive or there is no active earthwork. Inspections shall be performed within 24 hours of a significant (1" or more) rain event, or at the request of the City. Inspections shall be documented in writing and provided to the City and Resident Engineer. Inspection reports

shall include the inspection date, description of site conditions, photographs, and any corrective action required.

- v) The contractor shall refer to and follow the State of Vermont Low Risk Handbook for Erosion Prevention and Sediment Control for additional requirements.
- d) Labor and materials (including installation and removal), storage, administration, and all other costs incurred for a winter shutdown shall be considered incidental to Item 635.11, Mobilization/Demobilization.
- e) The contractor will be required to attend an on-site pre-shutdown construction meeting and inspection prior to a winter shutdown with the resident engineer, and City officials. The contractor will also be required to attend a preconstruction check-in prior to re-mobilizing in the Spring.

HAZARDOUS MATERIALS AND HISTORIC PRESERVATION

1. If at any time during construction the presence of unanticipated hazardous materials at or proximate to a construction site is detected, the construction CONTRACTOR shall cease work in the affected area and perform the following immediately:
 - a. Notify the OWNER verbally and in writing. The OWNER is responsible for notification of the Waste Management Division of the Agency of Natural Resources.

THE HAZARDOUS MATERIALS SPILLS AND EMERGENCY REPORTING PHONE NUMBER IS Toll Free 1-800-641-5005.

- b. Take all action necessary and appropriate for the protection and safety of the public and persons at or about the site, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying OWNERS and users of adjacent sites and utilities.
2. Actions at the construction site following completion of these steps shall be at the direction of the Waste Management Division. Nothing in this Article shall be construed to require the CONSULTANT and/or the CONTRACTOR to perform work for which adequate compensation has not been contracted for other than to insure that basic measures necessary to protect the health and welfare of workers, residents and abutters are immediately adopted.
3. At construction sites where the presence of contaminated or hazardous materials are suspected to exist and provisions have been made in the Contract Documents for their management, the requirements in the Contract Documents will determine the appropriate actions of the CONTRACTOR. In any event, discovery of contaminated soils require the immediate notification of the OWNER. If sites other than the suspected areas previously delineated in the Contract Documents are discovered, Item 1 above shall apply.

HISTORIC PRESERVATION

1. If at any time during construction, the presence of possible human remains are discovered at or proximate to a construction site, the CONTRACTOR shall cease work in the affected area and immediately contact the local medical examiner or law enforcement official in addition to notifying the OWNER or OWNER's representative. The CONTRACTOR shall take all action necessary and appropriate for the protection and safety of the public and the site.

- a. Notify the OWNER verbally and in writing. The OWNER is responsible for notification of the Agency of Natural Resources and FED Construction Project Owner
2. If at any time during construction, the presence of unanticipated historic and archeological resources are detected at or proximate to a construction site, the construction CONTRACTOR shall cease work in the affected area, take all action necessary and appropriate for the protection and safety of the public and the site, and inform the following immediately:
 - a. Notify the OWNER verbally and in writing. The OWNER is responsible for notification of the Agency of Natural Resources.
 - b. Notify the Vermont Division of Historic Preservation at: **(802) 828-3050 landline or (802) 477-2517 cell Or (802) 828-3048 landline or (802) 310-0289 cell**
3. Actions at the construction site following completion of these steps shall be at the direction of the local medical examiner, law enforcement agent or Historic Preservation Division as appropriate. Nothing in this Article shall be construed to require the CONSULTANT and/or the CONTRACTOR to perform work for which adequate compensation has not been contracted for other than to insure that basic measures necessary to protect the safety and welfare of the workers and the site.

APPENDICES

Appendix A: Notice of Award

Appendix B: Notice to Proceed

Appendix C: Performance Bond

Appendix D: Payment Bond

Appendix E: Application for Payment

Appendix F: Change Order

Appendix G: Certificate of Final Completion of Work

Appendix H: Burlington Ordinance Forms

Appendix I: Burlington Ordinance Language

Appendix J: General Special Provision – 1.24.23

Appendix K: Workzone Safety and Mobility

Appendix L: Prequalification of Contractors Application – City of Burlington

Appendix M: Maintenance Items (Posted Separately)

Appendix N: Burlington Standard Contract Conditions (federally funded projects)

NOTICE OF AWARD

TO: _____

Project Description: _____

The Owner has considered the Bid submitted by you for the above described Work in response to its Advertisement for Bids dated _____, 20____, and Information for Bidders. You are hereby notified that your Bid has been accepted for items in the amount of \$_____.

You are required by the Information for Bidders to execute the Agreement and furnish the required Contractor's Performance Bond, Payment Bond, and certificates of insurance within ten (10) calendar days from the date of the Notice to you.

If you fail to execute said Agreement and to furnish said Bonds within then (10) days from the date of this Notice, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your Bid as abandoned and as forfeiture of your Bid Bond. The Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of the Notice of Award to the Owner.

Dated this _____ day of _____, 20_____.

Owner _____ City of Burlington _____

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged by _____

this _____ day of _____, 20_____.

OWNER _____

BY _____

TITLE _____

NOTICE TO PROCEED

TO: _____ Date _____
(CONTRACTOR)

ADDRESS: _____

Contract: _____

Project: _____

OWNER'S CONTRACT NO. _____

You are notified that the Contract Times under the above contract will commence to run on _____ . By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement, the date of Final Completion is _____ and the date of readiness for final payment is _____ .

In addition, before you may start any Work at the Site, you must _____ .

By: _____
City of Burlington
(OWNER)

(AUTHORIZED SIGNATURE)

(TITLE)

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by:

Contractor: _____ Date: _____

Name/Title: _____

Signature: _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal,
(Corporation, Partnership, or Individual)

and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of Burlington
(Name of Owner)

131 Church St., Suite 209; Burlington, VT 05401
(Address of Owner)

hereinafter called Owner, in the penal sum of _____ Dollars,
\$(_____) in lawful money of the United States, for the payment of which sum well and truly
to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these
presents.

The condition of this obligation is such that whereas, the Principal entered into a certain contract
with the Owner, dated the _____ day of _____, 20____, a
copy of which is hereto attached and made a part hereof for the construction of:

Now, therefore, if the principal shall well, truly and faithfully perform its duties, all the
undertakings, covenants, terms, conditions and agreements of said contract during the original
term thereof, and any extensions thereof which may be granted by the Owner, with or without
notice to the Surety and during the one year guaranty period, and if they shall satisfy all claims
and demands incurred under such contract, and shall fully indemnify and save harmless the Owner
from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse
and repay the Owner all outlay and expense which the Owner may incur in making good any
default, then this obligation shall be void; otherwise to remain in full force and effect.

Provided, further, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications.

Provided, further, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts
(No.)

each one of which shall be deemed an original, this the

_____ day of _____, 20_____.

ATTEST:

[Principal]

[Principal Secretary]

(SEAL)

By: _____(s)

Witness as to Principal

Address: _____

Address

Surety

ATTEST:

Witness as to Surety

By: _____
Attorney-in-Fact

Address

Address

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570) as amended and be authorized to transact business in the State where the Project is located.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal,
(Corporation, Partnership, or Individual)

and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of Burlington
(Name of Owner)

645 Pine Street, Suite A; Burlington, VT 05401
(Address of Owner)

Hereinafter called Owner, in the penal sum of _____ Dollars,
\$(_____) in lawful money of the United States, for the payment of which sum well and truly
to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these
present

The Condition of this obligation is such that whereas, the Principal entered into a certain contract
with the Owner, dated the ____ day of _____, 20____, a copy of which
is hereto attached and made a part hereof for the construction of:

Now, Therefore, if the Principal shall promptly make payment to all persons, firms,
Subcontractors, and corporations furnishing materials for or performing labor in the prosecution
of the Work provided for in such contract, and any authorized extension or modification thereof,
including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on
machinery, equipment and tools, consumed or used in connection with the construction of such
Work and all insurance premiums on said Work, and for all labor performed in such Work whether
by Subcontractor or otherwise, then this obligation shall be void; otherwise to remain in force and
effect.

Provided, Further, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications.

Provided, Further, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

In Witness Whereof, this instrument is executed in _____ counterparts,
(No.)

each one of which shall be deemed an original, this the ____ day of _____, 20____.

ATTEST:

Principal

(Principal Secretary)

(SEAL)

By: _____(s)

Witness as to Principal

Address: _____

Address

Surety

ATTEST:

Witness as to Surety

By: _____
Attorney-in-Fact

Address

Address

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bond must appear on the Treasury Department's most current list (Circular 570) as amended and be authorized to transact business in the State where the Project is located.

END OF SECTION

APPLICATION FOR PAYMENT

To: _____ (OWNER)

From: _____ (CONTRACTOR)

Contract: _____

Project: _____

OWNER's Contract No. _____

For WORK accomplished through the date of: _____ Invoice No. _____

1.	Original Contract Price:	\$ _____
2.	Net change by Change Orders and Written Amendments (+ or -)	\$ _____
3.	Current Contract Price (1 plus 2):	\$ _____
4.	Total completed and stored to date:	\$ _____
5.	Less previous Applications for Payment:	\$ _____
6.	DUE THIS APPLICATION (4 MINUS 5):	\$ _____

Accompanying Documentation: 1. Schedule of values and percent complete.

2. _____

CHANGE ORDER

CHANGE ORDER NO. _____ Date: _____

Project No.: _____ Project Title: _____

Contract No: _____ Agreement Date: _____

Contract Title: _____ Original Price: _____

Owner: _____ Contractor: _____

The following changes are hereby made to the Contract Documents:

Description:

Justifications:

Change to Contract Price: \$ _____

Original Contract Price: \$ _____

Current Contract Price adjusted by previous Change Order: \$ _____

The Contract Price due to this Change Order
will be (increased) (decreased) by: \$ _____

New Adjusted Contract Price: \$ _____

Change to Contract Time:

The Contract Time will be (increased) (decreased) by _____ Calendar days

The date for completion of all work will be _____ (Date)

The attached Contractor's Revised Project Schedule reflects increases or decreases in the Contract Time as authorized by this Change Order. Stipulated price and time adjustment includes all costs and time associated with the above described change. Contractor waives all rights for additional compensation or time extension for said change. Contractor and Owner agree that the price(s) and time adjustment(s) stated above are equitable and acceptable to both parties.

REQUESTED BY: _____

SIGNATURES/APPROVALS

Recommended By: _____ (Project Manager)

Accepted By: _____ (Contractor)

Ordered By: _____ (Owner)

Appendix G

CERTIFICATE OF FINAL COMPLETION OF WORK

Contract No.: _____ Agreement Date: _____

Contract Description: _____

Completion Date Per Agreement and Change Orders:

FINAL CERTIFICATION OF CONTRACTOR

I hereby certify that the Work as identified in the Final Estimate of Payment for construction Contract Work dated _____, represents full compensation for the actual value of Work completed. All Work completed conforms to the terms of the Agreement and authorized changes.

Date

Contractor _____
Signature _____
Title _____

FINAL ACCEPTANCE OF OWNER

I, as representative of the Owner, accept the above Final Certifications and authorize Final Payment in the amount of \$ _____ and direct the Contractor's attention to the General Condition #20. The guaranty for all Work completed subsequent to the date of Substantial Completion, expires one (1) year from the date of this Final Acceptance.

Owner

Authorized Representative

Date

Appendix H

Certification of Compliance with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor") in connection with a contract for _____ services that we provide to the City, hereby certify under oath that the Contractor (and any subcontractors under this contract) is and will remain in compliance with the City of Burlington's Livable Wage Ordinance, B.C.O. 21-80 et seq., and that

(1) as a condition of entering into this contract or grant, we confirm that all covered employees as defined by Burlington's Livable Wage Ordinance (including the covered employees of subcontractors) shall be paid a livable wage (as determined, or adjusted, annually by the City of Burlington's chief administrative officer) and provided appropriate time off for the term of the contract;

(2) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace(s) or other location(s) where covered employees work;

(3) we will provide verification of an employee's compensation, produce payroll or health insurance enrollment records or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of a request by the City;

(4) we will cooperate in any investigation conducted by the City of Burlington's City Attorney's office pursuant to this ordinance; and

(5) we will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this ordinance.

Date _____ By: _____
Contractor

Subscribed and sworn to before me:

Date _____
Notary

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, _____, on behalf of _____
(Contractor) and in connection with the
_____ [project], hereby
certify under oath that (1) Contractor shall comply with the City of Burlington's Outsourcing
Ordinance (Ordinance §§ 21-90 – 21-93); (2) as a condition of entering into this contract or
grant, Contractor confirms that the services provided under the above-referenced contract
will be performed in the United States or Canada.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

Subscribed and sworn to before me: _____
Notary

Certification of Compliance with the City of Burlington's
Union Deterrence Ordinance

I, _____, on behalf of _____
(Contractor) and in connection with _____ (City
contract/project/grant), hereby certify under oath that _____
(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will it
over the life of the contract advertise or provide union deterrence services in violation of the City's
union deterrence ordinance.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

Appendix I

ARTICLE VI. LIVABLE WAGES

21-80 Findings and purpose.

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its employees have an opportunity for a decent quality of life and are compensated such that they are not dependent on public assistance to meet their basic needs;
- (c) The City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-81 Definitions.

As used in this article, the following terms shall be defined as follows:

- (a) *Contractor or vendor* is a person or entity that has a service contract with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor.
- (b) *Grantee* is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants, including any contractors or subgrantees of the grantee, that exceed fifteen thousand dollars (\$15,000.00) for any twelve (12) month period.
- (c) *Covered employer* means the City of Burlington, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.
- (d) *Covered employee* means an "employee" as defined below, who is employed by a "covered employer," subject to the following:

(1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington, notwithstanding that the employee may be a temporary or seasonal employee;

(2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the City of Burlington is a "covered employee."

(e) *Designated accountability monitor* shall mean a nonprofit organization, business, or individual hired or retained by the city that is independent of the city contractors it is monitoring.

(f) *Employee* means a person who is employed on a full-time or part-time regular basis. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four (4) years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six (6) months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

(g) *Employer-assisted health care* means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)

(h) *Livable Wage* has the meaning set forth in Section [21-82](#).

(i) *Retaliation* shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.

(j) *Service contract* means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property). A contract involving the furnishing of financial products, insurance products, or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

(Ord. of 11-19-01; Ord. of 10-21-13; Ord. of 6-28-21(2))

21-82 Livable wages required.

(a) Every covered employer shall pay each and every covered employee at least a livable wage no less than:

(1) For a covered employer that provides employer assisted health care, the livable wage shall be at least thirteen dollars and ninety-four cents (\$13.94) per hour on the effective date of the amendments to this article.

(2) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least fifteen dollars and eighty-three cents (\$15.83) per hour on the effective date of the amendments to this article.

(3) Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage compensation will at least equal the livable wage as established under this article.

(b) The amount of the livable wage established in this section shall be adjusted by the chief administrative officer of the city as of July 1 of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the Joint Fiscal Office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to May 1 preceding any such adjustment and prior to May 1 of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by posting a written notice in a prominent place in City Hall by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information to the chief administrative officer, by notice to each such covered employer. However, once a livable wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.

(c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, personal, or combined time off leave.

(Ord. of 11-19-01; Ord. of 5-2-11; Ord. of 6-13-11; Ord. of 10-21-13)

21-83 Applicability.

(a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.

(b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the funds awarded by the City of Burlington are being expended by the covered employer.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-84 Enforcement.

(a) Each service contract or grant covered by this article shall contain provisions requiring that the covered employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this article. The covered employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The covered employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief administrative officer of the City of Burlington, within ten (10) business days from receipt of the City of Burlington's request.

(b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to:

- (1) Verification of an individual employee's compensation;
- (2) Production of payroll, health insurance enrollment records, or other relevant documentation; or
- (3) Evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

(c) The City of Burlington shall appoint one or more designated accountability monitors that shall have the authority:

- (1) To inform and educate covered employers and their employees about all applicable provisions of this article and other applicable laws, codes, and regulations;
- (2) To work with the chief administrative officer to create a system to receive complaints under this article;
- (3) To visit work sites of city contractors (and their subcontractors) or communicate directly with contractors' employees to check for compliance with this article;
- (4) To assist the chief administrative officer to conduct periodic audits of payroll and leave records of covered employees; and
- (5) To refer credible complaints to the city attorney's office for potential enforcement action under this article and assist in enforcement actions.

The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

(d) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the city attorney's office within one (1) year after the alleged violation. The city attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the complaint. Prior to ordering any penalty provided in subsection (e), (f), or (g) of this section, the city attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing officer appointed by the city attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the city attorney's office and the covered employer.

(e) The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with a covered employer from any court of competent jurisdiction, if the covered employer has not complied with this article.

(f) Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.

(g) A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.

(h) If a complaint is received that implicates any City of Burlington employee in a possible violation of this article, that complaint will be handled through the City's personnel procedures, not through the process outlined in this article.

(i) Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:

(1) The difference between the livable wage required under this article and the amount actually paid to the covered employee;

(2) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;

(3) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or fifty dollars (\$50.00) for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;

(4) Reinstatement in employment and/or injunctive relief; and

(5) Reasonable attorneys' fees and costs.

(j) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

(Ord. of 11-19-01; Ord. of 2-17-04; Ord. of 5-2-11; Ord. of 10-21-13; Ord. of 6-28-21(2))

21-85 Other provisions.

(a) No covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this subsection shall be deemed a violation of this article subject to the remedies of Section [21-84](#).

(b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the livable wage as a result of amendments to this article.

(c) Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection (d) of this section, shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

(d) Notwithstanding subsection (c) of this section, where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.

(e) Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.

(f) The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-86 Exemptions.

An exemption from any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage would cause substantial economic hardship; and
- (b) By the City of Burlington where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this section may reapply for an exemption upon the expiration of the exemption. Requests for exemption may be granted by majority vote of the city council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee of the City of Burlington shall first consider such request and make a recommendation to the city council. The decision of the city council shall be final.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-87 Severability.

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-88 Annual reporting.

On or before April 15 of each year, the city attorney's office shall submit a report to the city council that provides the following information:

- (a) A list of all covered employers broken down by department;
- (b) A list of all covered employers whose service contract did not contain the language required by this article; and
- (c) All complaints filed and investigated by the city attorney's office and the results of such investigation.

(Ord. of 10-21-13)

21-89 Effective date.

The amendments to this article shall take effect on January 1, 2014, and shall not be retroactively applied.

(Ord. of 10-21-13)

ARTICLE VII. OUTSOURCING

21-90 Policy.

It is the policy of the City of Burlington to let service contracts to contractors, subcontractors and vendors who perform work in the United States.

(Ord. of 11-21-05/12-21-05)

21-91 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any city funds and the total amount of the contract is fifty thousand dollars (\$50,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Outsourcing.* The assigning or reassigning, directly, or indirectly through subcontracting, of services under a government funded project to workers performing the work outside of the United States.

(Ord. of 11-21-05/12-21-05)

21-92 Implementation.

(a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who is outsourcing, or causing the work to be performed outside of the United States or Canada.

(b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that the services provided under the contract will be performed in the United States or Canada.

(Ord. of 11-21-05/12-21-05)

21-93 Exemption.

An exemption from requirements of this article may be authorized by the chief administrative officer based upon a determination that the services to be performed for the government funded project are not available in the United States or Canada at a reasonable cost. Any such exemption decision by the chief administrative officer shall be reported to the board of finance in writing within five (5) days. The board of finance may, if it should vote to do so, override the exemption decision if such vote occurs within fourteen (14) days of the date of the chief administrative officer's communication to such board.

(Ord. of 11-21-05/12-21-05)

21-94 Enforcement.

(a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or outsources work on a government funded project shall be deemed to be in violation of this article.

(b) A violation of this article shall be a civil offense subject to a civil penalty of from one hundred dollars (\$100.00) to five hundred (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any violation of any provision of this article shall continue shall constitute a separate violation.

(c) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 11-21-05/12-21-05)

21-95—21-99 Reserved.

ARTICLE VIII. UNION DETERRENCE

21-100 Policy.

It is the policy of the City of Burlington to limit letting contracts to organizations that provide union deterrence services to other companies.

(Ord. of 3-27-06/4-26-06)

21-101 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Union deterrence services.* Services provided by a contractor, subcontractor or vendor that are not restricted to advice concerning what activities by an employer are prohibited and permitted by applicable laws and regulations, but extend beyond such legal advice to encouraging an employer to do any of the following:

- 1) Hold captive audience, (i.e., mandatory) meetings with employees encouraging employees to vote against the union;
- 2) Have supervisors force workers to meet individually with them to discuss the union;
- 3) Imply to employees, whether through written or oral communication, that their employer may have to shut down or lay people off if the union wins the election;
- 4) Discipline or fire workers for union activity;
- 5) Train managers on how to dissuade employees from supporting the union.

(d) *Substantial portion of income.* For the purposes of this article, substantial portion of income shall mean greater than ten (10) percent of annual gross revenues or one hundred thousand dollars (\$100,000.00), whichever is less.

(Ord. of 3-27-06/4-26-06)

21-102 Implementation.

(a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who

- 1) Advises or has advised an employer to conduct any illegal activity in its dealings with a union.
- 2) Advertises union deterrence services as specialty services;
- 3) Earns a substantial portion of its income by providing union deterrence services to other companies in order to defeat union organizing efforts.

(b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that it has not advised the conduct of any illegal activity, it does not currently, nor will it over the life of the contract provide union deterrence services in violation of this article.

(Ord. of 3-27-06/4-26-06)

21-103 Enforcement.

(a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or provided union deterrence services during the life of a contract for a government funded project shall be deemed to be in violation of this article.

(b) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 3-27-06/4-26-06)

21-104—21-110 Reserved.

Appendix J: General Special Provision – 04-25-2023

https://outside.vermont.gov/agency/VTRANS/external/docs/construction/02ConstrServ/PreContract/2018SpecBook/2023-01-24%20-%202018_General_Special_Provisions.pdf

Appendix K: Workzone Safety and Mobility

<https://vtrans.vermont.gov/sites/aot/files/highway/documents/workzone/Work%20Zone%20Safety%20and%20Mobility%20Policy%20and%20Guidance.pdf>

Appendix L: Prequalification of Contractors Application – City of Burlington

Appendix M: Maintenance Items (please see separate document posted)

APPENDIX N
BURLINGTON STANDARD CONTRACT CONDITIONS
FOR FEDERALLY FUNDED PROJECTS

- 1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Contractor/Consultant, 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 out motive 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 Contractor/Consultant 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.

27. 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.

28. 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.

29. 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.

30. Requirements Pertaining Only to Federal Grants and Contractor/Consultant 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 Contractor/Consultant will complete the Contractor/Consultant 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 Contractor/Consultant will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Contractor/Consultant Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the Contractor/Consultant 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 Contractor/Consultant 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 Contractor/Consultant 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.

31. 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.

32. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

- A)** The Contractor/Consultant primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (i)** Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (ii)** Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (iii)** Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (iv)** Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- B)** Where the Contractor/Consultant is unable to certify to any of the statements in this certification, such Contractor/Consultant shall attach an explanation to this proposal.
- C)** Applicable CFR's and Federal Executive Orders 12549 and 12689 prohibit non-federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and non-procurement transactions such as grants or cooperative agreements. By

signing this Agreement, the Contractor/Consultant agrees it will verify the status of potential vendors prior to any federal funds being obligated to prevent any debarred or suspended agencies or vendors from receiving federal funds. The Contractor/Consultant can confirm the status of potential vendors by conducting a search on the System for Award Management (SAM) website (<https://www.sam.gov/portal/public/SAM/>). The Contractor/Consultant must maintain this information, in the form of a screen print.

33. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D) and is implemented through additions to the Federal Register on January 31, 1989, and May 25, 1990. The Contractor/Consultant will or will continue to provide a drug-free workplace by: ³

- A) Maintaining a Zero Tolerance Drug Policy
- B) Posting in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor/Consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- C) Stating in all solicitations or advertisements for employees or subcontractors placed by or on behalf of the Contractor/Consultant that the Contractor/Consultant maintains a drug-free workplace;
- D) Establishing an ongoing drug- free awareness program to inform employees about:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The Contractor/Consultant's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (v) Including the provisions of the foregoing clauses in all third party contracts, subcontracts, and purchase orders that exceed ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

34. PROCUREMENT:

The Contractor/Consultant agrees to abide by their respective procurement rules, policies, and/or procedures as outlined in 2 CFR §§ 200.317 to 200.326.

- A) Contractor/Consultant must comply with proper competitive bidding procedures as required by the applicable federal and state rules.
- B) The Contractor/Consultant entity must maintain written standards of conduct covering conflict of interest and governing the actions of its employees and engaged in selection, award, and administration of contracts. (2 CFR § 200.318(c)(1))
- C) The Contractor/Consultant must take all necessary affirmative steps to assure that minority business, women's business enterprises, and labor surplus area firms are used when possible. Please see 2 CFR § 200.321 for the affirmative steps that must be taken.

35. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

- A) All Contractors/Consultants are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them. Determining allowability of costs claimed will be consistent with the requirements of the grant award and its applicable regulations.
 - (i) Contractors/Consultants have the responsibility to employ the organizational and management techniques necessary to assure proper administration and cost allocation, including accounting, budgeting, reporting, auditing and other review controls.
 - (ii) All Contractors/Consultants will accept responsibility for expending and accounting for funds in a manner consistent with an Debarment and Suspension regulations, published in the ³ 2 CFR § 182 approved project, plan and or program as evidenced by their acceptance of an Agreement award by the Department of Public Safety; Policies, procedures, reporting requirements or other special conditions established by the appropriate Federal agency, if applicable, and the Department of Public Safety.
- B) Contractors/Consultants must have an adequate system of internal controls which:
 - i) Presents, classifies and retains all detailed financial records related to the Agreement award. Financial records must be retained by the Contractor/Consultant and be available for review for a period of three (3) years after the expiration of the grant period except that records must be retained until completion or resolution of all issues arising from audit, litigation or claims started before the expiration of the three year period, whichever is later.
 - ii) Provides reasonable assurance that Federal awards are managed in compliance with Federal statutes, regulations, and the terms and conditions. These internal controls should be in compliance with the 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).

- iii) Provides information for planning, control and evaluation of direct and indirect costs;
- iv) Provides cost and property control to ensure optimal use of the grant funds; Controls funds and other resources to ensure that the expenditure of grant funds and use of any property acquired under the grant are in conformance with established guidelines and policies.

C) Notification of Organizational Changes Required:

The recipient shall provide DPS written notification within 30 days should any of the following events occur:

- a. having new or substantially changed systems
- b. having new compliance personnel
- c. loss of license or accreditation to operate program
- d. organizational restructuring.

36. FOLLOWING CONTRACTOR/CONSULTANT PROCEDURES:

The undersigned certifies that the Contractor/Consultant organization has in place standard policies and procedures that govern the Contractor/Consultant’s payroll, purchasing, contracting and inventory control in accordance with 2 CFR 225, Appendix A, Section C 1.e or 2 CFR 200.302. The undersigned further certifies that the Contractor/Consultant organization will use those policies and procedures for any approved expenditure under this Agreement and for any equipment purchased with Agreement funds. The undersigned also agrees to make the policies and procedures available for examination by any authorized representatives of the State or Federal Government. This does not relieve the Contractor/Consultant from requirements of federal financial management, requirements in: **(a) 2 CFR 200 § 302 Financial Management.**

37. DISCLOSURE OF INFORMATION:

Any confidential or personally identifiable information (PII) acquired by Contractor/Consultant during the course of the project shall not be disclosed by Contractor/Consultant to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever without the prior written consent of the City either during the term of the Agreement or in the event of termination of the Agreement for any reason whatsoever. Contractor/Consultant agrees to abide by applicable federal regulations regarding confidential information and research standards, as appropriate, for federally supported projects.

38. CONFLICT OF INTEREST

Contractor/Consultant covenants that, to the best of its knowledge, no person under its employ, including subcontractors, who presently exercises any functions or responsibilities in connection with Board, Department, or projects or programs funded by Board or Department, has any personal financial interest, direct or indirect, in this Contract.

- A) Contractor/Consultant further covenants that in the performance of Contract, no person having such conflicting interest shall knowingly be employed by Contractor/Consultant.
- B) Any such interest, on the part of Contractor/Consultant or its employees, when known, must be disclosed in writing to the City.

39. SPECIAL CONDITIONS

This Agreement is subject to the requirements of all federal laws, policies and bulletins. Most notably:

National Incident Management (NIMS) - Recipients of this award must be compliant with the National Incident Management System activities set forth in the Vermont's NIMS Implementation Plan. As outlined in HSPD-5 (National Incident Management) DHS mandates that States institutionalize NIMS. The Contractor/Consultant agrees to incorporate NIMS into existing training programs and exercises; incorporate NIMS into Local Emergency Management Plans (LEMP's); promote intrastate mutual aid agreements and institutionalize the use of the Incident Command System.

Interoperability Communications - As part of this agreement, the Contractor/Consultant agrees that the U-Call/V-Call and U- Tac/V-Tac frequencies must be programmed into all applicable interoperable communications equipment. All channels other than U-CALL 40 are used in simplex mode.

V-CALL10	(Formerly VCALL)	Command	155.7525
V-TAC11	(Formerly V-TAC 1)	Dispatch/Lifeline	151.1375
V-TAC12	(Formerly V-TAC 2)	Tactical/Fire Ground	154.4525
V-TAC13	(Formerly V-TAC 3)	Tactical/Search & Rescue	158.7375
V-TAC14	(Formerly V-TAC 4)	Tactical/Air or Ground	
		EMS Operations	159.4725
U-CALL40	(Formerly U-CALL)	Dispatch/Lifeline	453.2125
U-TAC41	(Formerly U-TAC 1)	Command	453.4625
U-TAC42	(Formerly U-TAC 2)	Tactical	453.7125

Regional Coordination - A high priority is placed on ensuring that all awards reflect regional coordination and regional integration.

Permits - All local, state and federal permits are the responsibility of the Contractor/Consultant.

Prior Approval/Review of Releases - Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the Contractor/Consultant under this Grant Agreement shall be approved/reviewed by the State prior to release.

Data Collection - The Contractor/Consultant agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

Article I - Summary Description of Award

The purpose of the FY 2020 HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. Among the five basic homeland security missions noted in the DHS Quadrennial Homeland Security Review, HSGP supports the goal to Strengthen National Preparedness and Resilience. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. This HSGP award consists of State Homeland Security Program (SHSP) funding in the amount of \$4,287,500 and Operation Stonegarden (OPSG) funding in the amount of \$905,069. The following shall receive Operation Stonegarden subawards for the following amounts: State of Vermont, \$905,069. These grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas.

Article II - Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article III - Reporting of Matters Related to Recipient Integrity and Performance

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for

Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Article IV - Trafficking Victims Protection Act of 2000 (TVPA)

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22

U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

Article V - Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O.

13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Article VI - Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article VII - Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31,

1981, amendment to Comptroller General Decision B-138942.

Article VIII - Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101-12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article IX - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article X - Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article XI - Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article XII - Best Practices for Collection and Use of Personally Identifiable Information (PII)

Recipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

Article XIII - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services.

For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article XIV - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. section 2225.)

Article XV - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313.

Article XVI - Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

Article XVII - DHS Specific Acknowledgements and Assurances

All recipients, Contractors/Consultants, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years as long as they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Contractors/Consultants are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

6. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Article XVIII - Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste

Disposal Act, Pub. L. No. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42

U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article XIX - Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Article XX - Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at

42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article XXI - Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. Section 200.308. DHS/FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. Section 200.308(e) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the Federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article XXII - Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article XXIII - Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

Article XXIV - Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973), (codified as amended at 29 U.S.C. section 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article XXV - False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

Article XXVI - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article XXVII - Lobbying Prohibitions

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person 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 any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article XXVIII - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article XXIX - Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article XXX - National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XXXI - Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article XXXII - USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18U.S.C. sections 175-175c.

Article XXXIII - Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non- federal sources.

Article XXXIV - Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

Article XXXV - Universal Identifier and System of Award Management

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

Article XXXVI - Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part

170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Article XXXVII - Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XXXVIII - Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

Article XXXIX - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article XL - Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article XLI - Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article XLII – SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article XLIII - Operation Stonegarden Program Hold

The recipient is prohibited from drawing down OPSG funding under this award or reimbursing OPSG Contractors/Consultants of this award until each unique, specific, or

modified county level, tribal, or equivalent Operations Order or Fragmentary Order (Frago) has been reviewed by FEMA/GPD and Customs and Border Protection/United States Border Patrol (CBP/USBP). The recipient will receive the official notification of approval from FEMA/GPD.

Final Guidance must be followed, 2 CFR 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards became effective 12/26/2014 for Federal awards that are issued post 12/26/2014. This regulation supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in 2 C.F.R. Parts 220, 225, 215, and 230); Circulars A-89, A-102, and A-133; and the guidance in Circular A-

50 on Single Audit Act follow-up. See final guidance and OMB Policy Statements for more information.

2 CFR 180 OMB Guidelines to Agencies on Government-wide Debarment and Suspension
(Nonprocurement)

2 CFR 215 (formerly A-110) Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,

2 CFR 220 (formerly A-21) Cost Principles for Education Institutions,

2 CFR 225 (formerly A-87) Cost Principles for State, Local and Indian Tribal Governments,

2 CFR 230 (formerly A-122) Cost Principles for Non-Profit Organizations, and
A-133 Audits of States, Local Governments and Non-Profit Organizations.

This Agreement is also subject to the requirements of the State of Vermont grant and audit policies. The most pertinent bulletins and addendums are:

Bulletin 5, Single Audit Policy for Agreements

Bulletin 5 - Procedure #1

Bulletin 5 - Procedure #2

This agreement is subject to the requirements for the federal agency providing the funds. This agreement is subject to the following Code of Federal Regulation (CFR) and Grant Guidance:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr206_main_02.tpl