



City Council Meeting

Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Please click the link below to join the webinar:

<https://zoom.us/j/99037642421>

Or Telephone: +1 305 224 1968 US

Webinar ID: 990 3764 2421

****CCTV link: https://www.youtube.com/playlist?list=PLIjLFn4BZd2PwCge7lNoKug676jIf_iUA ****

To participate in Public Forum in person, sign up at the meeting.

To participate in Public Forum via ZOOM sign up here:

<https://www.burlingtonvt.gov/citycouncil/publicforum>

******ONLINE closes one hour prior to the beginning of public forum******

Do not sign up in person and via Zoom - select one only

1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	1. Agenda
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to amend/adopt agenda as follows: add to the consent agenda item 7.21. Communication: Solveig Overby, Ward 2, re; Flawed Memorial Block Pre-development Agreement is not ready for signature; add to the consent agenda item 7.22. Communication: Solveig Overby, re: 3/9/2024 FPF Discussion item posted to ONE Central FPF in 3 parts; Misleading 1: Memorial Block Pre-Development Agreement; add to the consent agenda item 7.23. Communication: Solveig Overby, re: Missing and misrepresented timeline items on CEDOs March 11, 2024 Memo re; Memorial/Gateway Block Pre-Development Agreement I add to the consent agenda item 7.24. Communication: Jak Tiano, re: Inclusionary Zoning Resolution; add to the

consent agenda item 7.25. Communication: Michael Long, re: Concerns Regarding Neighborhood Code as Currently Drafted; remove from the agenda items 8.6. and 8.7. and place them on the consent agenda as agenda items 7.26. and 7.27. respectively (per City Council President Paul)

2. Solar Eclipse Update **6:15 pm - 7:00 pm**

Subject	2.1. Solar Eclipse Update: Zach Williamson, Festival and Event Director, BCA and Samantha McGinnis, Assistant Director for Downtown Projects and Events, Downtown and Workforce Development **6:15 pm - 7:00 pm**
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	2. Solar Eclipse Update **6:15 pm - 7:00 pm**
Department	Clerk/Treasurer's Office
Type	Information Presentation

3. Shelburne Street Roundabout Evaluation 2023 (year 1) - DPW **7:00 pm - 7:30 pm**

Subject	3.1. Shelburne Street Roundabout Evaluation 2023 (year 1) - DPW **7:00 pm - 7:30 pm**
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	3. Shelburne Street Roundabout Evaluation 2023 (year 1) - DPW **7:00 pm - 7:30 pm**
Department	Public Works Department
Type	Information Presentation

4. Public Forum: Time Certain: 7:30 pm **See above for signup instructions**

Subject	4.1. Verbal Comments
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	4. Public Forum: Time Certain: 7:30 pm **See above for signup instructions**
Department	Council and Board
Type	Action Procedural

5. Climate Emergency Reports (5 - 10 mins.)

Subject	5.1. Verbal reports
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	5. Climate Emergency Reports (5 - 10 mins.)
Department	Council and Board

Type Information

6. Public Health & Safety Emergency Updates (5-10 mins.)

Subject	6.1. Verbal reports
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Public Health & Safety Emergency Updates (5-10 mins.)
Department	Council and Board
Type	Information

7. Consent Agenda

Subject	7.1. Motion to adopt the consent agenda and take the actions indicated
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Council and Board
Type	Action (Consent) Procedural
Recommended Action	Motion to adopt the consent agenda (as amended) and take the actions indicated
Subject	7.2. Communication: C/T Office, re: Accountability List
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Communication Action (Consent) Information
Recommended Action	waive the reading, accept the communication and place it on file
Subject	7.3. Communication: Trav Fryer, re: support for neighborhood code
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication

Recommended Action	waive the reading and place the communication on file
Subject	7.4. Communication: Caryn Long, re: Neighborhood Code
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.5. Communication: Michael Long, re: Neighborhood Code - CDO
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.6. Communication: Courtney Noyes, re: Neighborhood Code updates
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.7. Communication: Lauren Schweppe, re: Neighborhood Code
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file

Subject	7.8. Communication: Jak Tiano, re: Neighborhood Code Public Hearing Analysis
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication

Recommended Action waive the reading and place the communication on file

Subject	7.9. Communication: Jake Schumann, re: 2/26/24 Public Forum Communications to the City Council
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication

Recommended Action waive the reading and place the communication on file

Subject	7.10. City of Burlington, VT 2021-2023 Dog Task Force
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Committee - Parks
Type	Action (Consent) Information Report

Recommended Action "To refer the recommendations of the 2021-2023 Dog Task Force Report to the following Committees, Commissions, and Departments for further review, study, and recommended action, and to request that such bodies report back to the full Council with their findings by the first Council meeting of September, 2024:

- Recommendation regarding updates and additions to Chapter 5 and Chapter 22 of the Burlington Code of Ordinances to the Ordinance Committee, with Council recommendation to engage the Clerk Treasurer's Office and Parks, Recreation, and Waterfront Department regarding sharing of license revenues; and
- Recommendation regarding additional Animal Control staffing and improvements to include animal related concerns to the online police report system to the Public Safety Committee and Police Commission for concurrent review; and
- Recommendation regarding creation of additional off-leash areas to the Parks Commission; and

- Recommendation regarding standing up an Education Campaign with respect to licensing requirements to the Clerk Treasurer's Office; and, best practices for animal ownership in the City to the Police Department and the Parks, Recreation, and Waterfront Department."

Subject	7.11. Communication: Sharon Bushor, Burlington Resident, re: Amendments to consider for discussion
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.12. Declaration of Elected Candidates Annual City Election - March 5, 2024
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading, accept the communication and place it on file
Subject	7.13. Declaration of Election Results Questions on the Ballot Annual City Election - March 5, 2024
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Communication Action (Consent) Information
Recommended Action	waive the reading and place the communication on file
Subject	7.14. Renewal of Main On-Call Contract for Financial Advisor and Utility Management Services with Raftelis Financial Consultants (Third and Final Renewal) - DPW - Water Resources
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Category	7. Consent Agenda
Department	Public Works Department - Water Resources
Type	Action (Consent)
Recommended Action	1. To authorize the Director of Public Works to renew the Main On-Call Agreement with Raftelis Financial Consultants for on-call financial advisor and utility management services for the Water Resources Division through June 30, 2025 for a maximum limiting amount of \$175,000 for the renewal term, subject to prior review and approval by the City Attorney's Office. 2. To approve and authorize the Director of Public Works to execute individual Work Assignment Contracts, which in total shall not exceed the maximum limiting amount established in the Main On-Call Agreement, to complete work identified in the renewal of the Main On-Call Agreement, subject to prior review and approval by the City Attorney's Office.
Subject	7.15. BED Switch & Save Program subgrant - BED
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Burlington Electric Department
Type	Action (Consent)
Recommended Action	move to approve and authorize the BED General Manager or his designee, to enter into and execute all necessary grant agreements with respect to accepting the Switch & Save Program subgrant in an amount not to exceed \$500,000 to provide financial and technical assistance for low- and moderate-income Vermont households to install heat pump water heaters, subject to final review and approval of the City Attorney's Office
Subject	7.16. Authorization to Execute the Design Contract for the CDS Cherry Street and RAISE Reconnecting Downtown Project - DPW
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Public Works Department
Type	Action (Consent)
Recommended Action	to authorize the Director of Public Works to execute a contract, subject to City Attorney approval with Stantec Consulting Services, Inc. in the amount of \$2,217,249, and further authorize the Director of Public Works to execute any necessary future amendments using up to \$221,725 (10%) in available contingency funds, for a total authorized amount of \$2,438,974, for the development of the design of the CDS Cherry Street and RAISE Reconnecting Downtown project, subject to the review and approval of the City Attorney's Office
Subject	7.17. Church Street Marketplace Capital Improvement - Request to Accept Bid - Business & Workforce Development

Meeting March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 7. Consent Agenda

Department Business and Workforce Development

Type Action (Consent)

Recommended Action to authorize the acceptance of the total bid submitted by Don Weston Excavating as detailed herein to perform capital improvements to the Church Street Marketplace; and, to authorize the Director of Business Workforce and Development to execute a contract with Don Weston Excavating for such services in an amount not to exceed \$905, 870, subject to the review of the City Attorney's Office and Chief Administrative Officer

Subject 7.18. FIO Documents

Meeting March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 7. Consent Agenda

Department Clerk/Treasurer's Office

Type Action (Consent)
Communication
Information

Recommended Action for information only

Subject 7.19. Resolution: Urging Vermont State Officials To Work With The USDA Through 2024 To Ensure Reporting And Other Capability For Compliance And Summer Grocery Benefits Program Eligibility In 2025 (Councilors Carpenter, Bergman, Shannon, Grant, Paul, Magee, King, Traverse)

Meeting March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 7. Consent Agenda

Department Council and Board

Type Action (Consent)
Resolution

Recommended Action waive the reading and adopt the resolution

Subject 7.20. Ordinance: An Update To Chapter 23, Peddlers And Solicitors, To Accommodate Burlingtonians And Visitors On April 8, 2024 (Councilor Traverse)

Meeting March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 7. Consent Agenda

Department Council and Board

Type	Action (Consent)
Recommended Action	suspend the rules and place in all stages of passage
Subject	7.21. Communication: Solveig Overby, Ward 2, re: Flawed Memorial Block Pre-Development Agreement is not ready for signature
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.22. Communication: Solveig Overby, re: 3/9/2024 FPF Discussion item posted to ONE Central FPF in 3 parts: Misleading 1: Memorial Block Pre-Development Agreement
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.23. Communication: Solveig Overby, re: Missing and misrepresented timeline items on CEDOs March 11, 2024 Memo re: Memorial/Gateway Block Pre-Development Agreement
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.24. Communication: Jak Tiano, re: Inclusionary Zoning Resolution
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office

Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	7.25. Communication: Michael Long, re; Concerns Regarding Neighborhood Code as Currently Drafted
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Communication Action (Consent)
Recommended Action	waive the reading and place the communication on file
Subject	7.26. Authorization to Accept MS4 Community Formula ARPA Grant Funds - DPW - Water Resources ***WAS AGENDA ITEM 8.6.***
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Public Works Department - Water Resources
Type	Action (Consent)
Recommended Action	to approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute an MS4 Community Formula Grant Agreement with Vermont DEC for up to \$762,678 of ARPA funds for the design and implementation of stormwater management practices, subject to final review and approval by the City Attorney's Office
Subject	7.27. Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds - DPW - Water Resources **WAS AGENDA ITEM 8.7.**
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Consent Agenda
Department	Public Works Department - Water Resources
Type	Action (Consent)
Recommended Action	to approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute a 2023 ARPA Statewide Sewer Overflow Elimination and Abatement grant agreement with the Vermont Department of Environmental Conservation for up to \$3,294,440 for the design and implementation of CSO reduction practices, subject to final review and approval by the City Attorney's Office

8. Deliberative Agenda

Subject	8.1. Church Street Marketplace Commission Annual Report Fiscal Year 2023 (20 mins.)
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Church St. Marketplace
Type	Action Information Report
Recommended Action	waive the reading, accept the report and place it on file
Subject	8.2. Resolution: Support For The Redevelopment Of The Memorial Block Through Further Due Diligence Of a Public-Private Partnership (Councilors Paul, King)(20 mins.)
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Council and Board
Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution
Subject	8.3. Resolution: Support For The Predevelopment Agreement For South End Coordinated Redevelopment (Councilors Shannon, Traverse) (20 mins.)
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Council and Board
Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution
Subject	8.4. Resolution: Updating Inclusionary Zoning Payment In Lieu (Councilors Hightower, Bergman, Magee, Dieng)(20 mins.)
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Council and Board

Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution
Subject	8.5. Champlain Parkway - FY24 Project Budget Amendment & Consultant Contract Amendments - DPW (15 mins.)
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	1. To authorize an increase to the Champlain Parkway FY24 project budget from \$52,469,159 to \$53,204,967 to continue approved project activities and for completion of the initial construction contract in FY24, and further approve and authorize the Chief Administrative Officer or designee to effectuate all necessary budget amendments and transfers of funds including an additional \$80,000 of Street Capital for local match and \$900,000 (with an allotment of \$863,725 in FY24; and \$36,275 to be budgeted in FY25) of Capital Bond proceeds for non-participating costs; and approve the acceptance of additional reimbursable revenue sources in furtherance of the project budget increase, in substantial conformance with Attachment A. 2. To authorize the Director of Public Works to execute Contract Amendment Number 19 to the contract with Clough Harbour & Associates for engineering design services for the Champlain Parkway project, increasing the total contract amount by \$890,450.00 and the local match obligation by \$17,809.00, for a total authorized contract amount not to exceed \$14,883,379.18 and a local match obligation in the amount of \$297,667.58, as further detailed in Attachment D, subject to review and approval by the City Attorney's Office. 3. To authorize the Director of Public Works to execute Contract Amendment Number 6 to the contract with DuBois & King, Inc. for Municipal Project Management services for the Champlain Parkway project, increasing the total contract amount by \$315,000 and the local match obligation by \$6,300, for a total authorized contract amount not to exceed \$740,485 and a local match obligation in the amount of \$14,809.70, as further detailed in Attachment E, subject to review and approval by the City Attorney's Office. 4. To authorize the Director of Public Works to execute Contract Amendment Number 2 to the contract with WSP USA Inc. for construction inspection and public engagement services for the Champlain Parkway project, increasing the total contract amount by \$4,108,984 and the local match obligation by \$82,179.68, for a total authorized contract amount not to exceed \$7,943,260 and a total local match obligation in the amount of \$158,865.20, as further detailed in Attachment F, subject to review and approval by the City Attorney's Office
Subject	8.6. Authorization to Accept MS4 Community Formula ARPA Grant Funds - DPW - Water Resources (15 mins.)***NOW CONSENT AGENDA ITEM 7.26.***
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Public Works Department - Water Resources
Type	Action

Recommended Action	to approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute an MS4 Community Formula Grant Agreement with Vermont DEC for up to \$762,678 of ARPA funds for the design and implementation of stormwater management practices, subject to final review and approval by the City Attorney's Office
Subject	8.7. Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds - DPW - Water Resources (15 mins.)***NOW CONSENT AGENDA ITEM 7.27.***
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Deliberative Agenda
Department	Public Works Department - Water Resources
Type	Action
Recommended Action	to approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute a 2023 ARPA Statewide Sewer Overflow Elimination and Abatement grant agreement with the Vermont Department of Environmental Conservation for up to \$3,294,440 for the design and implementation of CSO reduction practices, subject to final review and approval by the City Attorney's Office

9. Committee Reports

Subject	9.1. Verbal reports
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Committee Reports
Department	Council and Board
Type	Information

10. City Council - General Affairs (up to 15 mins.)

Subject	10.1. Verbal reports
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	10. City Council - General Affairs (up to 15 mins.)
Department	Council and Board
Type	Information

11. City Council President - Council Updates (up to 5 mins.)

Subject	11.1. Verbal reports
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM

Category	11. City Council President - Council Updates (up to 5 mins.)
Department	Council and Board
Type	Information

12. Mayor - General Affairs (up to 10 mins.)

Subject	12.1. Verbal reports
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	12. Mayor - General Affairs (up to 10 mins.)
Department	Council and Board
Type	Information

13. Adjournment

Subject	13.1. Motion to adjourn
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	13. Adjournment
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to adjourn

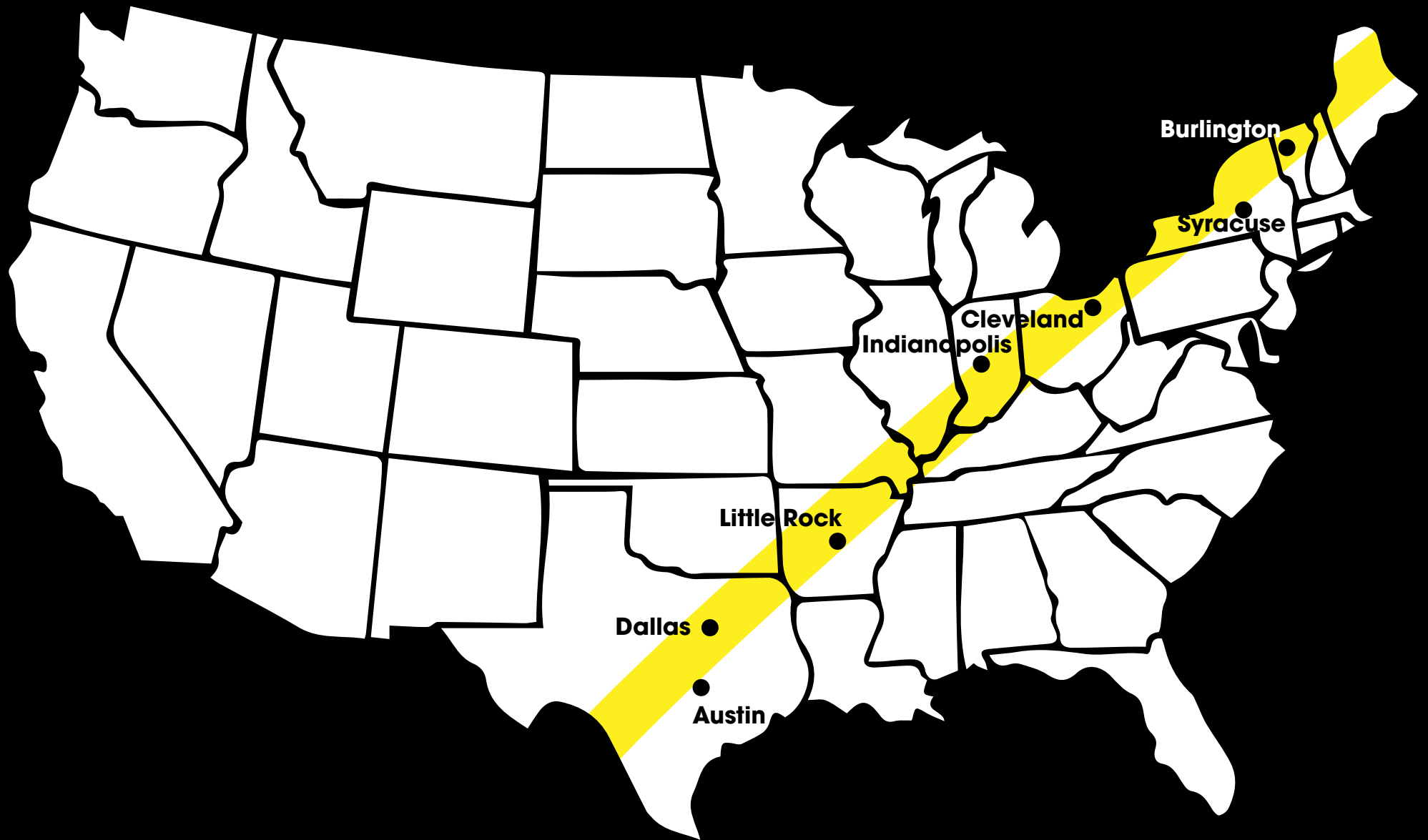
14. Informational and Non-Discrimination Statements

Subject	14.1. This agenda is available in alternative formats upon request. For more information on access, call Lori Olberg, Licensing, Voting and Records Coordinator (802-865-7136)(TTY 802-865-7142). Persons with disabilities who require assistance or special arrangements to participate are encouraged to contact 802-865-7000 (voice) or 802-865-7142 (TTY) at least 72 hours in advance so that proper arrangements can be made. This meeting will also air on Town Meeting TV the Wednesday after the meeting, starting at 8:00 pm and repeating at 1:00 am and 7:00 am the following day. The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information.
Meeting	March 11, 2024 - Regular City Council Meeting - Monday, March 11, 2024, 6:15 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	14. Informational and Non-Discrimination Statements
Department	Council and Board
Type	Information



APRIL 8, 2024

PATH OF TOTALITY



PATH OF TOTALITY

2:14 pm

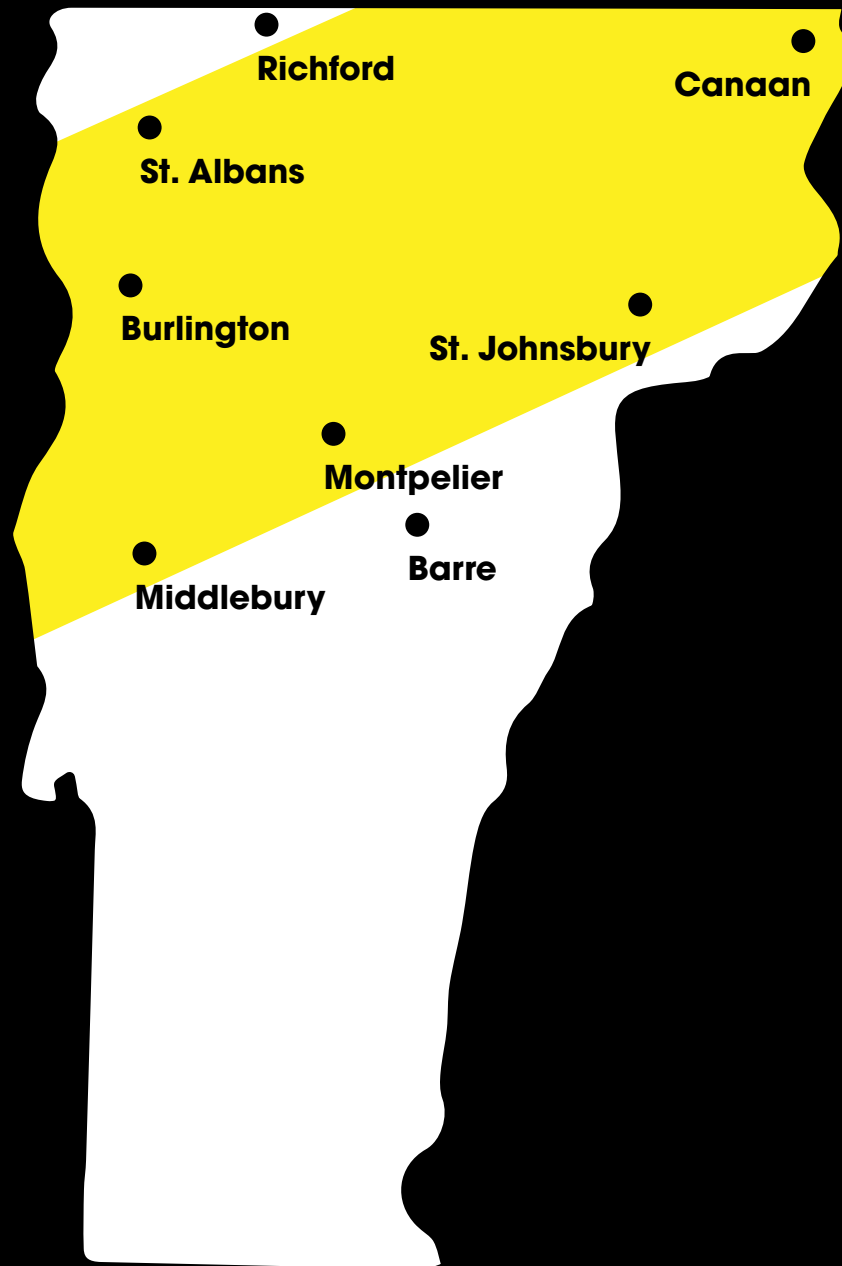
Partial eclipse begins

3:26 pm

Total eclipse begins
lasting a glorious three minutes

4:37 pm

Partial eclipse ends



OBSCURA BTV

Total Solar Eclipse, Burlington Vermont
April 8, 2024



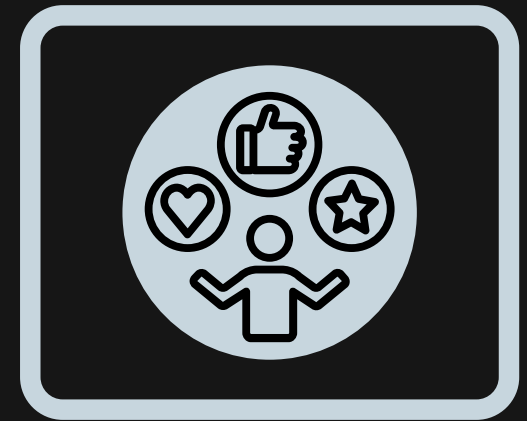
COMMUNICATIONS

Responsible for communication of information about the eclipse to media, businesses, residents, tourists, internally and with external partners.



PREPAREDNESS

Responsible for the safety and movement of all people attending the total solar eclipse in Burlington



OPERATIONS

Responsible for the enjoyment experienced by those attending the total solar eclipse in Burlington.



TEAM OBSCURA BTV

Total Solar Eclipse, Burlington Vermont
April 8, 2024

COMMUNICATIONS

Website

Newsletter

Social Media

Merchandise

App

PREPAREDNESS

Traffic

Parking

Emergency
Response

Trash &
Recycling

State Wide
Coordination

OPERATIONS

Viewing Sites/
Event Management

Bathrooms

Public
Transportation

Info Tents

NPA's



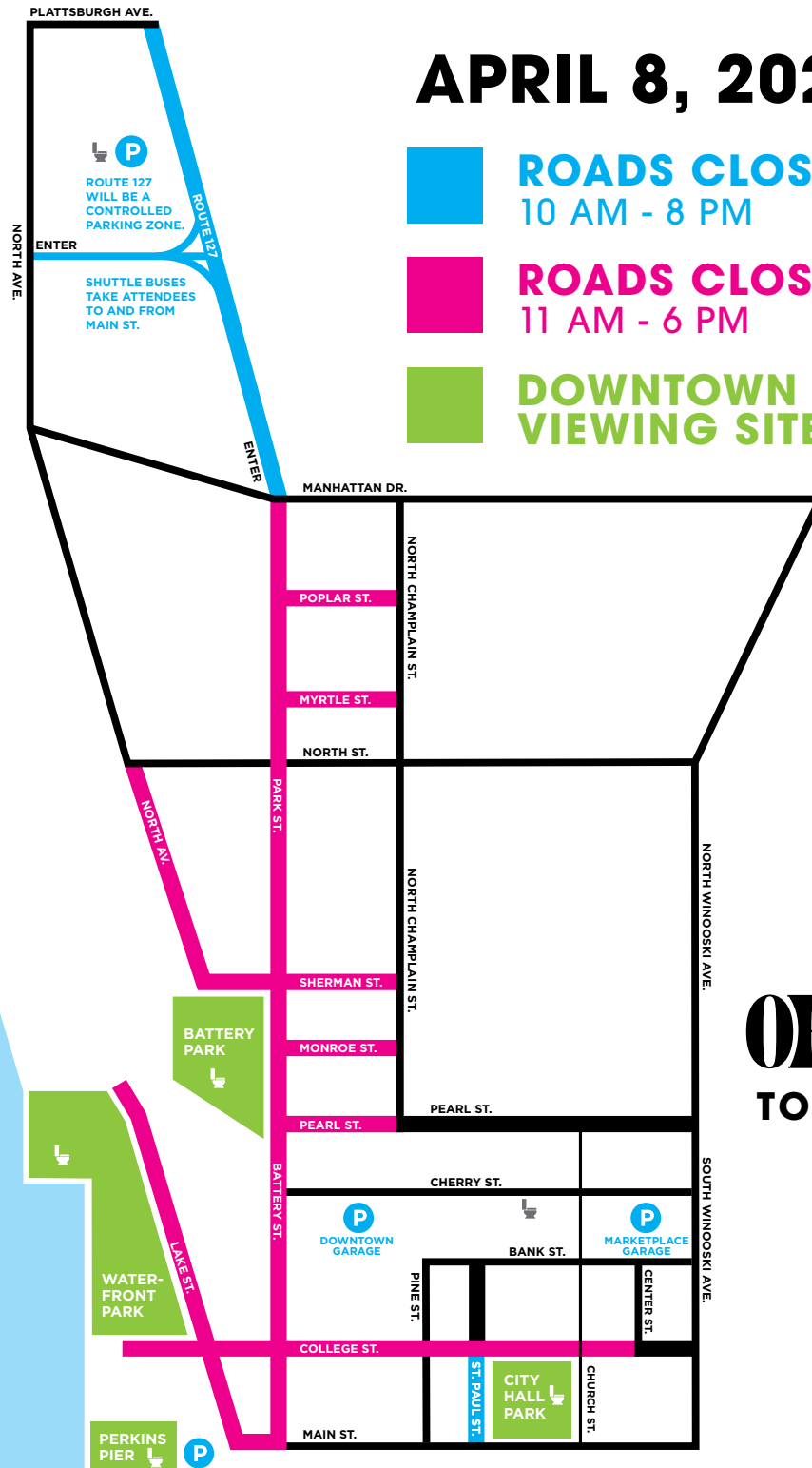
APRIL 8, 2024

ROADS CLOSED
10 AM - 8 PM

ROADS CLOSED
11 AM - 6 PM

DOWNTOWN
VIEWING SITES

LAKE
CHAMPLAIN



OBSCURA.BTV
TOTAL SOLAR ECLIPSE



OBSCURA BTV

**OFFICIAL
VIEWING SITES**

BATTERY PARK: 1PM - 5PM

All Night Boogie Band and
DJ Disco Phantom in the bandshell

One Merchandise and Glasses tent
(10x20, VT Tent)

One Information Point
One ECHO Educational Tent
(10x30, VT Tent)

16 portable bathrooms

BATTERY STREET: 12PM - 5PM

South-bound lanes closed, allowing for
gatherings, North-bound lanes closed,
allowing emergency vehicles and
shuttle buses

Jeh Kulu acoustic drumming near
College Street intersection

Merchandise and Glasses Tent at
Cherry Street (10x10)

WATERFRONT PARK: 1PM - 5PM

Entire park is available for viewing
Platform stage with tent on north end by
boat ramp

Distributed sound throughout the park

Mikahely, AliT and DJ Kwame perform

Two Merchandise and Glasses Tents (10x20,
VT Tent), one north, one south

One ECHO Educational Tent (10x30, VT Tent)
South side of park near ECHO

Two Information Points (Feather flags), one
north, one south

One water trailer

6 Food booths (mix of tents and trucks)

30 portable bathrooms along bike path

ABC 22 will have a TV Truck on the north
east end of the park

WCAX will set up with a stage and trucks
in the boat-launch parking lot, behind our
stage

Boat-launch parking closed (dumpsters,
Atomic production trucks)

Skate Park parking closed (staff parking)



PERKINS PIER: 1PM – 5PM

Paid Parking via BPRW

Quiet Viewing site

One Merchandise and Glasses tent (10x10)

3 portable bathrooms plus permanent units on site

OAKLEDGE PARK: 1PM – 5PM

Focus on Accessibility

Parking via ParkMobile

One Merchandise and Glasses tent (10x10)

3 portable bathrooms plus permanent units on site

CITY HALL PARK: 1PM – 8PM

DJ CRWD CNTL in the afternoon, followed by The Moon Dogs for the Obscura After Party

One Merchandise and Glasses tent (10x10)

One Music tent (10x15)

St. Paul Street, adjacent to City Hall Park closed from 10am to 8pm for food service

3 Food trucks/vendors plus American Flatbread's Total Eclipse at the Hearth

3 portable bathrooms plus permanent unit in the park, BCA and City Hall

*Portable units are in place and accessible starting Friday, April 5

ROOSEVELT PARK: 1PM – 5PM

Music and family activities

One Merchandise and Glasses tent (10x10)

One viewing tent for a NASA stream (20x20, City) and one activity tent (20x20, City)

5 portable bathrooms, plus permanent facilities

LEDDY PARK: 1PM – 5PM

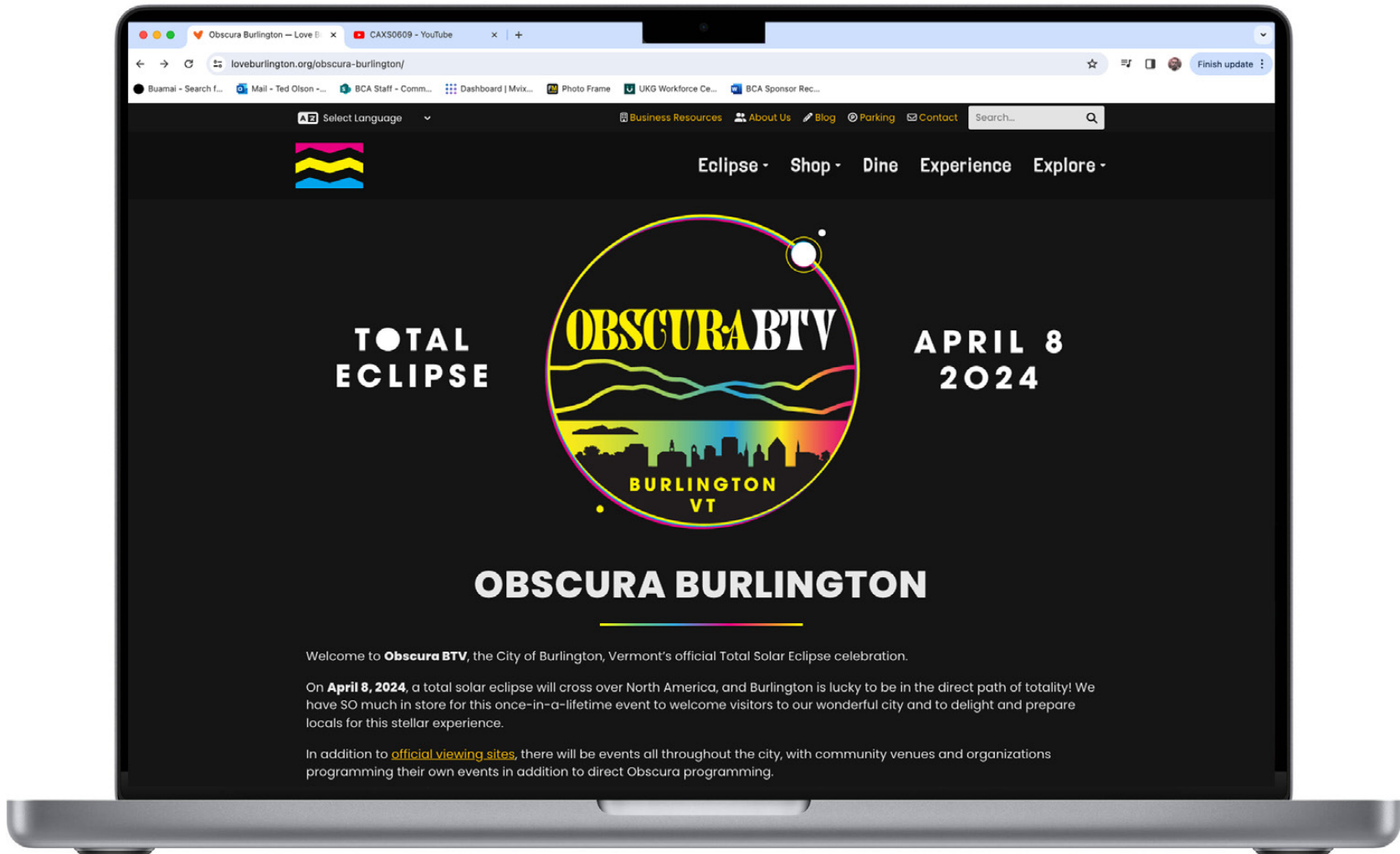
Un-programmed viewing site

Free Parking

Merchandise and Glasses available from Leddy Arena sales desk

Bathrooms available via Leddy Arena

burlingtoneclipse.org





STICKER \$3



MAGNET \$5



PHONE FILTER \$10



YO-YO \$5



POSTCARD \$3

City-wide postcard / mailer



BE TOTALITY INFORMED, BTV!

On **April 8**, Burlington will experience its first total solar eclipse since 1932; the last one until 2106. **Obscura BTV** is the City's official eclipse celebration, offering programming, information, and commemorative merchandise.

You're invited to attend a **Solar Eclipse Info Session** in Contois Auditorium on March 21 at 6 pm. Learn about viewing sites, street closures, and more. This info session will also stream online.

Head to **burlingtoneclipse.org** for information and regular updates.

Happy Totality!



WCAX Commercial





Thank You!



Memo

Date: March 11, 2024

To: City Council

From: Laura Wheelock, P.E., Senior Public Works Engineer
Julia Ursaki, P.E., Public Works Engineer

Subject: Shelburne Street Roundabout Evaluation 2023 (year 1)

SUMMARY

This memo provides traffic data, crash data, and public input to evaluate the functionality of the Shelburne Street Roundabout based on DPW's evaluation plan, as requested as requested by City Council in their February 2009 resolution. DPW and the Chittenden County Regional Planning Commission (CCRPC)'s presented the evaluation plan Shelburne Street Roundabout evaluation plan to the TEUC on October 19, 2022.

Based on this data, the Shelburne Street roundabout is functioning well, with acceptable levels of service and queueing, and positive public input. This data does not show a need to expand or change the roundabout as constructed.

TRAFFIC DATA

Traffic data will be collected at the roundabout annually until 2 years after the completion of the Champlain Parkway.

Side Street Delay (Seconds and Level of Service) | Benchmark: side street delay is LOS E or better

Street	July 2023	
	Sec	LOS
Adams Ct	32.6	D
Gove Ct	10.7	B

Side street delay is the average time a vehicle waits for an acceptable gap in traffic to turn onto the main road (Shelburne Street). In 2023, side street delay for both Adams Court and Gove Court were acceptable levels of service. This does not differentiate between people turning left or right.

Peak Hour Volumes (Vehicles/hour) | Benchmark: compare traffic forecasts to current volumes

Street	Expected 2013	Expected 2033	July 2023
Shelburne St	1196	1232	691
St Paul	892	711	550
S Willard St	239	246	213
Locust St	111	114	148
Ledge Rd	Not included		75

The peak hour for all approaches occurred during the afternoon, between 4pm and 6pm. While most approaches had volumes that were relatively close to the expected volumes, the 2023 peak hour volume on Shelburne Street was notably lower than the forecasted volumes (only 56% of the volume expected in 2033).

Average Daily Traffic (Vehicles/day) | Monitor daily volume annual changes

Street	June 2023
Shelburne St	14,254
St Paul	9,741
S Willard St	5,379
Locust St	2,042
Ledge Rd	1,194

Pre-construction daily traffic data from this intersection is not available. DPW is monitoring daily traffic volumes starting in 2023 to track traffic volume changes at the roundabout, especially as sections of the Champlain Parkway open.

Approach Speeds (miles/hour) | Monitor speeds compared to posted speed limit of 25mph

Street	June 2023	
	Average Speed	85th %ile Speed
Shelburne St	22	26
St Paul	27	31
S Willard St	30	35
Locust St	22	25
Ledge Rd	27	34

Pre-construction speed data at this intersection is not available. DPW started monitoring speeds in 2023. The 85th percentile speed is the speed at which 85% of vehicles are travelling at or below.

Speeds on Saint Paul Street, South Willard Street, and Ledge Road are above the posted speed limit, with the highest average speed and 85th percentile speeds on South Willard Street. Speeds on Locust Street and Shelburne Street are generally at or below the speed limit. DPW will continue to monitor traffic speeds over

time as drivers become more accustomed to the roundabout. If higher speeds persist on approaches to the roundabout, DPW will put that street into the Traffic Calming program.

Queueing (vehicles) | Benchmark: compare existing queues to expected queues from traffic forecasts

Street	Expected 2013	Expected 2033	July 2023
Shelburne St	20	23	12
St Paul	5	13	9
S Willard St	5	6	6
Locust St	2	2	4
Ledge Rd	Not included		3

Queueing at the roundabout in 2023 is similar to the expected queueing, except for the Shelburne Street approach, which has much shorter queues than forecasted. As shown above, the peak hour volume for Shelburne Street is also nearly half of what was forecasted, and it makes sense that the existing queueing is also about half of what was forecasted.

CRASH DATA

Post-construction crash data will be reviewed annually for 5 years.

Annual Crashes | Benchmark: compare 5 years of pre-construction crashes to 5 years of post-construction crash data

	Total Crashes	Serious Injury		Fatality		Involving Bike		Involving Ped		
		No.	%	No.	%	No.	%	No.	%	
Pre-Construction										
2015	7	0	0%	0	0%	0	0%	0	0%	
2016	11	1	9%	0	0%	0	0%	0	0%	
2017	12	2	17%	0	0%	0	0%	1	8%	
2018	12	0	0%	0	0%	0	0%	0	0%	
2019	12	0	0%	0	0%	0	0%	0	0%	
Post-Construction										
2023	9	0	0%	0	0%	0	0%	0	0%	

This crash data includes all reported crashes within 500 feet of the roundabout.

There were nine crashes within 500 feet of the intersection in the year following the opening of the roundabout. None resulted in serious injury or fatality, and none involved our bicycles and pedestrians. With only one year of post-construction crash data to compare to the pre-construction data, it is too early to discern other crash patterns at the intersection.

PUBLIC INPUT

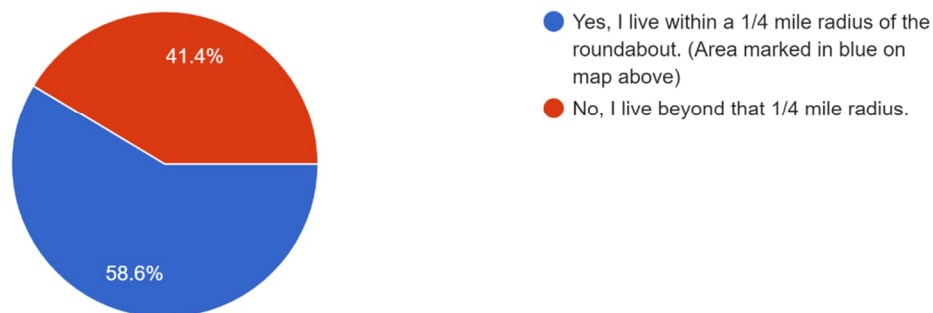
Public input will be collected three times following the opening of the roundabout (6 months, 18 months, and 30 months after opening).

Given the largely positive response to the roundabout opening, DPW is proposing to adjust the evaluation plan and only collect additional public input if traffic data is showing any issues that would lead DPW to consider making changes to the roundabout. This is to avoid engagement fatigue in the neighborhood. We understand it can be frustrating to answer the same questions multiple times within the same year, and want to solicit meaningful input when we ask for it.

DPW staff opened the survey in April 2023—six months after the completion of the roundabout in November 2023--and closed it in July 2023. Information about the survey was posted on Front Porch Forum and the City website (<https://www.burlingtonvt.gov/DPW/ShelburneStreetRoundabout>). Additionally, DPW staff posted approximately 500 fliers at residences located within a quarter of a mile of the roundabout. The survey received 157 responses.

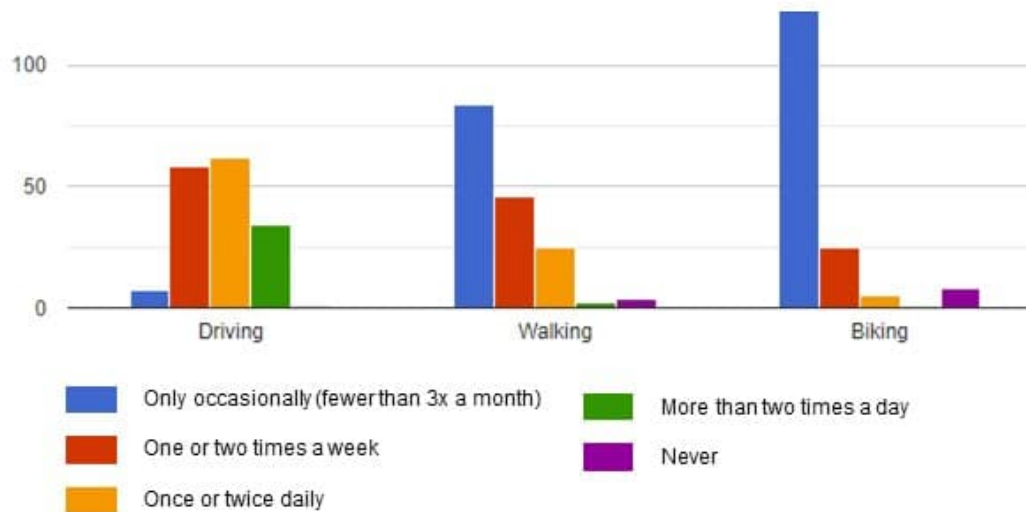
Are you an adjacent resident of the roundabout? (Area marked in blue below)

157 responses



Travel Mode

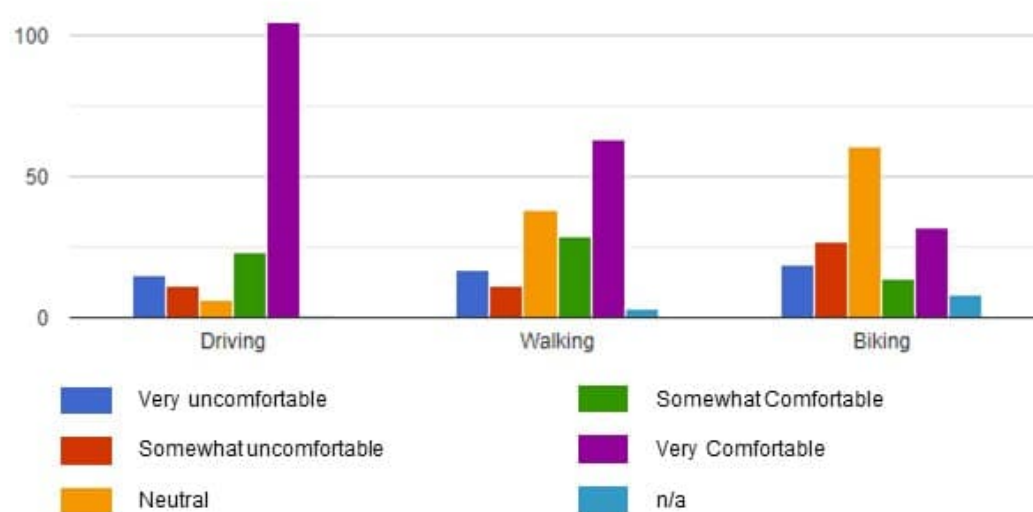
How often do you use the roundabout and by what means?



While a majority of respondents drive through the roundabout daily, most respondents also walk or bike through the roundabout at least a couple times per month.

Level of Comfort by Travel Mode

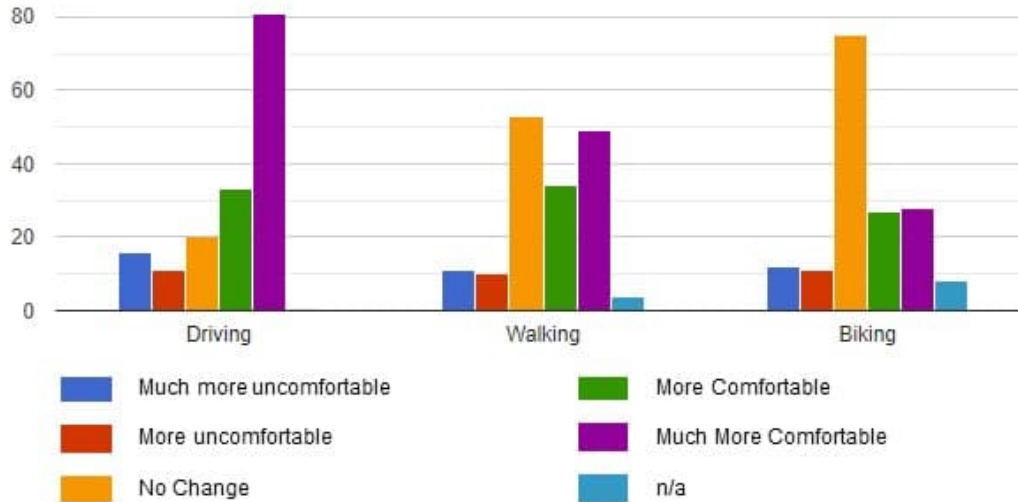
How comfortable are you navigating the roundabout?



When the public was surveyed regarding their comfort navigating the new intersection, drivers were the most comfortable. More pedestrians and cyclists presented more neutral reactions to its reconstruction. 82% of drivers reported feeling comfortable or very comfortable navigating this intersection, while 59% of pedestrians, and 29% of cyclists surveyed did.

Change in Level of Comfort by Travel Mode

Has the roundabout changed your comfort moving through this intersection?



Fewer than 17% of respondents said the roundabout made moving through the intersection more uncomfortable, whether driving, walking, or bicycling. Respondents identified that the roundabout brought the biggest increase in comfort for driving, and an increase in comfort walking. Almost half (48%) of cyclists said the roundabout did not change their level of comfort, compared to 34% of pedestrians and 13% of drivers.

When asked what made this intersection feel more or less comfortable (optional question), respondents said that yielding behavior (14%), traffic flow (14%), bike safety (8%), and pedestrian safety (8%) were all factors. Example responses are included below:

Yielding Behavior

"Some drivers don't seem to understand who has to yield and who has the right of way. Larger signs could help."

"My only issue are the people that don't know how to use it. I use this roundabout two times a day at least and I usually have to worry about getting hit by people not yielding to the cars in the roundabout. There have multiple instances of me having to slam on the brakes. I think the yield signs need to be more emphasized somehow."

Traffic Flow

"The roundabout both slows all traffic down and keeps it flowing. Impressive."

"Cars are paying attention because it is moving more slowly. It is easier and safer to walk through the intersection and it is easier to get out of our street (Adams Ct) because cars are going slower and let me in."

"There is a natural flow of movement now, whereas before it was sheer confusion."

Bike Safety

“My only difficulty has been where the bike lane re-enters the roadway on the southbound side of the rotary. It seems to enter the roadway at a point where there's not really space for a bike lane, so I wait until Gove Ct. Other than that, well done!”

“Previously as I walked or biked, I knew there were 3 stop signs where drivers would stop before heading into the old roundabout. with traffic flowing from all five streets, as I walk or bike I am more careful since traffic may not stop”

Pedestrian Safety

“No matter which direction you enter from, it is completely clear who has the right of way. Pedestrian crossing lights are also great. So much safer for everyone”

“As a pedestrian, cars do not always stop at the crossing south of the roundabout, despite the blinkers. They tend to come into the roundabout or exit the roundabout onto Shelburne St at high speeds, making it more unlikely that they will yield in time.”

Other Open-ended Feedback

Additional sentiments expressed in the open-ended comments section show how roundabouts have a very polarizing public perception. However, a majority of the open-ended comments were positive. There was no negative feedback regarding traffic flow or queueing. Feedback about driver education/behavior and signage was provided, and as Vermonters become more accustomed to driving through roundabouts, we expect that this will be improved.

ATTACHMENTS

Attachment A: 2023 Public Input Survey Results

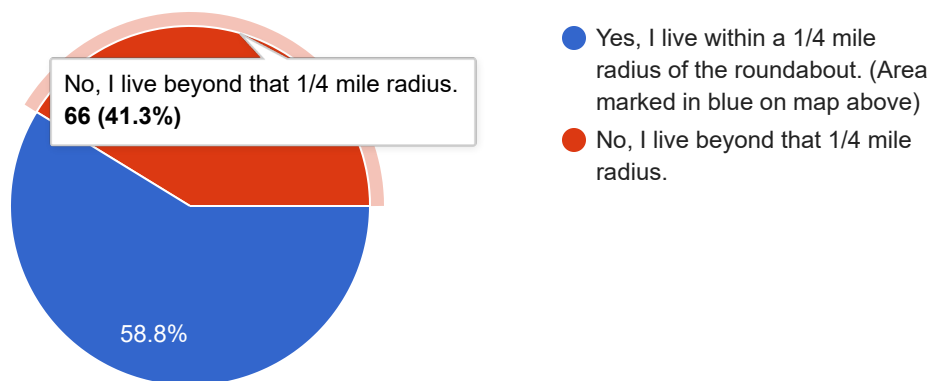
Shelburne Street Roundabout Evaluation

160 responses

Are you an adjacent resident of the roundabout? (Area marked in blue below)

 Copy

160 responses

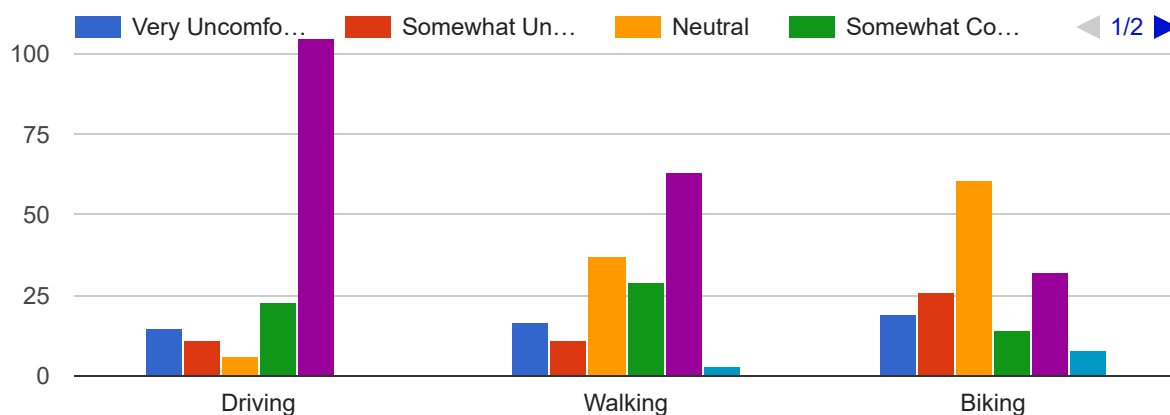


How often do you use the roundabout and by what means?

 Copy

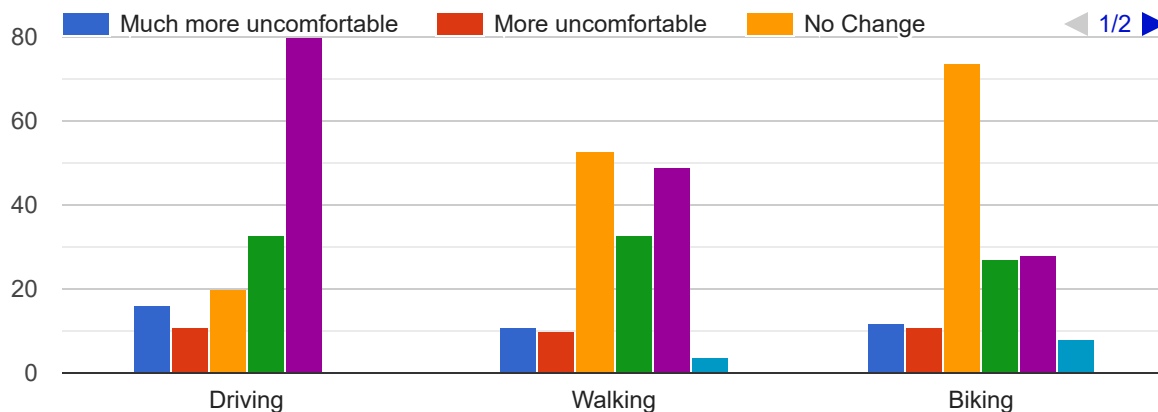

How comfortable are you navigating the roundabout?

Copy



How has the roundabout changed your comfort moving through this intersection?

Copy



If you would like to tell us more about what makes movement through this roundabout comfortable/uncomfortable - please do so here.

112 responses

The roundabout both slows all traffic down and keeps it flowing. Impressive.

Lots of good signage. The walkways really make cars slow down so it's safe to cross.

Poor access to Ledge street

I feel that traffic flow is much better.

It gets dicey as cars squeeze into a single lane. Multiple near accidents

Lower speeds have made a huge difference with the added benefit of less ambient traffic noise

Old set up was rife with confusion

The roundabout feels narrow.

I'm just giving you the worst possible rating for biking because there is no way in hell I would ride a bike anywhere in Burlington.

It is so much safer and efficient. Thank you for this awesome change! A great improvement to traffic flow

love it, traffic is so much calmer, slower, and it feels more civil. My friend said she loves it so much she wants to write a poem about it.

Like the efficiency of not stopping

No matter which direction you enter from, it is completely clear who has the right of way. Pedestrian crossing lights are also great. So much safer for everyone

LOVE THE GRADING & LOW CURBS!!

Walking is more comfortable because there is more distance between the street and the sidewalk. Previously cars sometime drove onto the sidewalk on the southeast corner of Ledge Road and Shelburne Street. During the winter the sidewalk plows did an excellent job keeping the sidewalks open. When driving, it is now easier to exit both Ledge Road and Willard Street.

Great job finishing the project!

It is too big, unnecessarily so.

I like not having to stop and wait at a stoplight. It is always quick and easy for me to traverse this intersection.

Comfortable because everyone has to pay attention now, no matter if you drive walk or bike. Good lights, good crossing and the division is working well. Curbs at sidewalks are good, overall an excellent execution of a great plan. It also works well to have only low flowers in the centerpart, and not a tall sculpure, the visual field is good now.

It is now much more clear who has the right of way. In the previous rotary, this was unclear, especially as a driver.

People are starting to know how to use it so it is better.

I grew up in the area, so I never had a problem with the previous intersection, but I know it was incredibly confusing for visitors. I feel the new roundabout is much safer and more straightforward for all navigating it, contributing to greater comfort among all travelers.

Very well designed & executed.

I like the roundabout, great that it's finally come to fruition. Congratulations!

Everyone seems to know the rules, so there is no hesitation or confusion about who goes when.

I am much more comfortable walking and crossing the street with the roundabout than I was before.

I'm waiting for all drivers to understand how their supposed to drive around it.

I don't know if there is enough room for me to go on about how happy I am with the new rotary. I have lived on Ledge Road for 24 years, and have spent most of that time driving way out of the way to avoid that intersection, whether I was coming from Burlington or South. First of all, so many cars ignored the "rotary" sign and made hard lefts onto Shelburne and that always caused a panic when they were about to collide with people coming from downtown and trying to make the left onto Ledge. Secondly, making the left from Ledge was a terrible challenge. Cars heading north moved way to fast and during busy times, it was a terribly long wait to get past the intersection. Secondly, the bushes from the multi unit building where the "rotary gas station" used to be obscured any view of oncoming traffic. Crossing on foot took forever and could be terrifying. Each and every one of these problems is solved with the new roundabout. Traffic never gets clogged there. Traffic has slowed down considerably. Heading in any direction from the bottom of Ledge is easy as can be. I cannot state enough how very very happy I am. It is a major improvement in the quality of live.

Much easier to see any traffic hazards.

Ignore the above answers in terms of comfort. No change in terms of comfort.

Less wait time....much improved flow

Cars are going slow enough to see crossroad lights blinking

I have never walked or biked on the roundabout so all my answers are invalid

Fantastic improvement for the city and neighborhood

So easy now. Traffic flow so much better. No more waiting on Willard or Ledge to get onto Shelburne Road.

I think the roundabout is a massive improvement and helps the flow of traffic through the area, especially from willard onto the roundabout, compared to the traffic situation that was previously there.

It is now a raceway and drivers only focus on exiting the roundabout at speed. And the lead in from the south is extremely dangerous as drivers don't merge More signage and perhaps an earlier merge would be helpful

I just can't believe we spent all this money when all we needed was a traffic light on/off Ledge road.

Bike ways enter the roadway after the roundabout with no/little signage, road markings, or protection. Additionally, use of a bicycle on the SUPs is difficult when used to cross crosswalks given the tightness of the turns onto the crosswalks

Some people still seem perplexed on how to use it. I've seen a lot of people cut the roundabout by using the truck aprons. I've seen others yield while they are in the roundabout. If everybody uses it correctly it's very efficient and traffic does not back up.

Other drivers struggle to drive it safely; knowing when they can enter or entering too quickly. It's also difficult to tell when drivers are exiting because the circle is very small and few people use their turn signals to indicate they are exiting

Lines of sight are perfect

I think the traffic floww is smooth and quick. This has been a great change to the many intersections involved.

Overall the roundabout is a positive! It has slowed traffic into our road during busy times of day which helps with safety. However cars move very quickly around the roundabout and don't look

for pedestrians. I've seen a number of occasions where pedestrians would've been hit if they weren't prepared for the car to keep going. Typically this is an issue with cars exiting the roundabout. The constant movement is great for drivers but discourages them from pausing to check for pedestrians. Perhaps pedestrian crosses could have lights to alert drivers, or pedestrian crossings could be centralized to a few points of the roundabout rather than all exits.

No waiting. No one dashing out from So. Willard St. after the stop has delayed them for minutes.

Cars move a lot faster through the intersection than before. There is limited visibility for pedestrians because the signposts that have the walk button are on the left, blocking cars view of waiting pedestrians. I have almost been hit 3-4 times while jogging since the change. Also cars don't know how to navigate the intersection often, and are less predictable. Many stop short when approaching the intersection.

Just a word to say thank you. I love the roundabout - it has made a huge positive difference to this intersection. The whole project was carried out incredibly well and I am grateful to all the construction workers involved over the multi year project.

I notice that lots of people drive right over the roundabout not around it. I don't think that was your plan.

It's design and implementation is excellent

The middle is too wide and it funnels the cars into a tight space. Trucks and cars drive over the pavers as a result.?

Speed!

Assholes drive too fast, tailgate thru tight turns

Cars are paying attention because it is moving more slowly. It is easier and safer to walk through the intersection and it is easier to get out of our street (Adams Ct) because cars are going slower and let me in.

So needed. Night and day difference. Only improvement needed is biking signs/clarity.

It's so much safer and more logical than before and therefore much less dangerous.

It feels so much safer. Occ back ups but in general goes very smoothly.

Roundabouts are uncommon here and it seems most people don't know how to use them. People stop short at the yield signs or don't yield at all while others stop short with no yield

sign in order to let a car at a yield sign go ahead of them. I've seen many near accidents. It needs to be a normal intersection.

The problem is that Vermonters have never figured out what YIELD means. Most people come to a complete stop, with nobody else in rotary, others (esp. coming south from downtown) blast through the yield sign with zero regard for others in rotary. Finally, many drive through at about 3 mph.

improve/re-install pavement markings

Bike still go through the rotary rather than the path and people regularly enter and stop, which is concerning.

As a driver I love the predictability, as a walker I love the protected spaces and dedicated signal. As a cyclist it still feels like a deathtrap, but slightly less so than before.

Putting the emphasis on cars

I love the roundabout, but Vermont drivers are the worst drivers in the world and don't know what "Yield" means, so I am often faced with someone entering the roundabout when they should have waited for me to navigate around it, or they pull out in front of me when I'm in a turn.

I really only drive though, so this will just pertain to driving. I think the roundabout is a great concept and it works really well in this location. My only issue are the people that don't know how to use it. I use this roundabout two times a day at least and I usually have to worry about getting hit by people not yielding to the cars in the roundabout. There have been multiple instances of me having to slam on the brakes. I think the yield signs need to be more emphasized somehow.

Right turn onto Ledge Rd is very tight.

When heading North, the signaled pedestrian crosswalk is so close to roundabout that car stopping can easily be rear ended by car behind him in the roundabout

The crosswalk placement is genuinely terrifying to navigate

It's way better than before.

The roundabout is too narrow. I have no idea why you would build something so curvy that is not wide enough to accommodate snow. Given the way that the streets are maintained in Burlington (i.e., that snow is allowed to build up and is not removed immediately), it is unfortunate that you did not take that into account. The idea of traffic "calming" by making driving unsafe under normal conditions is a poor one.

As a pedestrian, cars do not always stop at the crossing south of the roundabout, despite the blinkers. They tend to come into the roundabout or exit the roundabout onto Shelburne St at

high speeds, making it more unlikely that they will yield in time. I wish there were more traffic calming measures in place south of the roundabout so that that stretch of road encouraged cars to slow their speed substantially.

More comfortable: The walk light stays on longer than before the roundabout.

(Sorry this form is hard on my phone. So out of order). One thing that scared the hell out of me was that I saw a woman almost get hit by a reckless driver. She was safely crossing (day time, regular pace, used flashing light) crossing from Union to the Realtor parking lot. The driver came through and didn't even slow down or notice. Not sure if a rumble or other mechanism would help. I cross frequently with my children so am a little worried about that crosswalk now. Otherwise I love the roundabout! Driving through it is nice and easy and traffic coming up through locust flows great! It also looks very nice! There was

The lighted crosswalk signal is a big improvement. When driving, it's more clear what the traffic pattern is from all directions.

The yeild sign coming from locust has not been replaced, the signage is awful, there needs to be better indication that people will have to zipper at the end of shelburne rd. Before the roundabout. Someone is bound to die in this intersection this summer. Disgustingly unsafe.

People don't yield. The turn up ledge road is right.

It created utter havoc for over a year while under construction. It did nothing to improve movement of traffic. What a waste of time and money

I never walk or bike through the circle so this survey will deliver an incorrect portrayal on that question.

Walking - only one way to watch for traffic. Driving easier to get on from side street

Traveling north, people merging from the lefthand lane aggressively

Very few vehicles are using indicators to notify other cars / pedestrians of their exit from the roundabout. This leads to delays and (dangerously) false entries when the entering drivers assume that roundabout traffic will exit clockwise of them. Some reminder signage "Indicators required to exit" might be helpful.

the drivers are ignoring the yield...especially y if you are rounding north on shelburne road to Christ the King- and they are entering from south- they don't yeild- almost an accident often

No designated route for bikers, when walking it's unclear if motorists will actually yield to a walker even if beacons are flashing

As a very regular walker, navigating the new roundabout feels so much safer than the old one!

Continual movement is great.

I love roundabouts!

I feel WAY safer turning onto Shelburne road from South Willard, it is just way way safer and less stressful. Also I see more pedestrians on the road.

It is such a relief not to be afraid of pulling out into oncoming traffic.

It is just a delight. It is very clear which cars are going around and where they are in the circle. So, it is obvious when it is safe for me to enter the circle. Making a right after coming down from Willard wins the most improved award. This corner was so difficult. It was a tough angle to see from and cars just seemed to keep coming. Having the circle creates order and clearly gives priority to cars that have been waiting.

I can't believe how well it works.

Traffic circles are great. There should be more of them.

No bike lane

It's too small and turning is too tight for many vehicles.

It's still a little scary to worry a few cars ignore the yield signs, but no one should be going so fast as to cause an accident no matter what.

I usually choose to bike by another route. Traffic on Rt 7 is more manageable in general.

The slower speeds and ped signals make a huge difference for us walkers.

Uncomfortable because of incoming drivers failing to yield to drivers IN the circle.

Cars traveling over 20mph entering the rotary as well as cars speeding as they exit well above the limit

The turn into the roundabout isn't curved enough to require people traveling N to S to slow down enough to yield to oncoming traffic in the circle.

It makes turning left onto Shelburne possible. Before I had to detour to Howard St. Also I no longer have to deal with backed up traffic on S Willard

It's too tight/close of exits so drivers are having to hammer on the gas or break to quickly

12 more responses are hidden

Do you have any other feedback regarding this specific roundabout project you'd like to provide the City of Burlington?

114 responses

The building process went smoothly despite being long and complicated. Very impressed by the whole project.

It was easier to use the way it was, with a stop sign before turning onto Shelburne. At least you knew what to expect.

While still not perfect for walking, it's such an improvement for traffic! So happy it's there.

Too many signs! The large number and size make the little flowers in the center look ridiculous. Step back and take a look. It's ugly and not appropriate for the prime entrance to our city. Now that drivers have become accustomed to using the roundabout I hope you will reduce to number and size of the signs. Speeds are so low they can't all be necessary

Southbound drivers don't consistently yield when entering the roundabout.

As a driver, it's very smooth. As a walker, not so much, it really feels as if drivers pay less attention to pedestrians. I avoid walking on the east side for that reason (only need to cross Locust Street that way).

This survey made no sense for someone like me who does not walk or bike the roundabout.

Great project! Thank you!

I think you should place a statue of Bernie in the middle after he dies

my other friend lives ON the round about and loves that people can cross safely now, and it went from 4 lanes flying by her house to two lanes moving at a much slower speed. She is estatic and feels her house gained value.

One sign needs to be turned around potentially? : coming south on So Willard, approaching the round about, the sign for Rt 7 is pointing to the left, which seems like Ledge Road. I think it needs to point straight.

Didn't live here before roundabout so my answers about the change don't mean anything, but do like it!

Probably the most essential and beneficial road project that has happened in burlington since I have lived here (16+ years)

Vehicles on Shelburne Street, particularly heading North, seem to be traveling way over the speed limit so that I'm concerned that there will be a crash as 2 vehicles try to merge into the

single lane.

Please change the Howard-St Paul stop light BACK to the timing it had during construction. The timing that it currently has makes no sense for the traffic going through the light from each direction.

I'm new to the area and as I live on Shelburne I'm thankful for the roundabout as it keeps traffic moving at a relatively slow pace.

I have never walked or biked through the area but drive through several times a week.

You had a great team working on the streets throughout the whole time, very patient people. Secondly, as much as I appreciate Public Art, please don't put anything in the center part of the roundabout, it will only confuse the visual field. It really should be clear like it is now in terms of seeing everyone, especially at night.
Thank you!

- 1) I would like to see better signage as you approach the roundabout, giving information about the streets you can access from the roundabout.
- 2) More roundabouts are needed across the city for safety and improved traffic flow. This will sometimes require uncomfortable decisions and landowner sacrifices.

Yes you need a better left turn down Gove Ct. right now to do it correctly I hold up all the traffic. If I pull up as far as I can and move to the left as far as possible people can race by me. Not a real comfortable choice.

It was a big project, and I'm sure it caused a lot of headaches, but I think the end result was absolutely worth it. It looks beautiful and makes me feel safer on the road.

I wish it had been built many years ago. No thanks to Bill Keough for blocking its construction for years!

Two minor quibbles: 1).It seems a little too small. 2).The narrowing of northbound traffic lanes from two to one is potentially dangerous - there's plenty of room on that footprint to keep two northbound lanes, one a straight shot up S.Willard. But overall, very positive. Thanks.

This is a great update!

The roundabout is a GREAT improvement to this once-scary intersection!

The way the 2-northbound lanes merge into one is not marked well enough. Not enough warning and barely visible roadbed markings. Overhead sign would be nice, but I realize that's much more costly.

did't I say enough?

No

It is ugly, too many signs.

One concern. I have twice experienced people driving with speed southbound on shelburne who failed to yield to me in the rotary...not sure if they didn't understand the right of way,...distracted driving etc. It perhaps appears to be a "straightaway " to them. Should a more obvious flashing yield sign be added, perhaps a curb diversion....New Jersey type barrier to swing them left then right more into the rotary,,,I'll take the over on more than one collision a month...which is an improvement from the past. Happy to discuss. Steve contompasis 35 ledge rd. 8025788110

I wish the northbound right lane stayed until Ledge Rd. This isn't the preferred through street, but it is a through street. Having to merge before then turning right adds a stressful moment in navigating this area. I also think drivers accelerate (speed) to merge in the 2 lane-to-1 lane area, but I don't think there is any good way to change that.

Some cars heading west on Ledge road think they are part of the roundabout.

Potential issue with crosswalks backing traffic into flow of roundabout.

You did an excellent job.

Still, some people have no idea how to navigate the roundabout and stop before entering it, even though there's no traffic. I really wish more people would pay attention to how to utilize a roundabout.

Walking and riding a bike through are both terrifying.

a giant waste of taxpayer money.

High speeds of vehicles on South Union coming off of roundabout

We need the occasional police presence in the area to catch people who cut the roundabout, similar to how we used to have the occasional police presence to deter speeding on Shelburne Street. Also, what's the monument base for? Will the residents who live by the roundabout have any ability to block future monuments from being installed?

Thank you! It's a big improvement!

It feels like it has slowed down traffic during peak times. I will sometimes wait in a line for 6-8 cars during rush hour, waiting to move through the intersection (I drive the St. Paul to Shelburne road route).

Love it. Much more comfortable

It is great. I live on Howard Street. I've been in Burlington for 50 years. And I have to commend the construction process. SD Ireland rocks.

Although this has slowed traffic overall, cars still move through our neighborhood at a dangerous speed. (40-50) Many of us have blind driveways which make pulling out dangerous. Anything to reduce the speed would still be a big help! Another thought- adjusting street parking zones to increase visibility as cars exit the roundabout would also offset this problem (this is an issue mostly on the entrance of south union street). Appreciate you checking for feedback! Overall I'm pleased with the improvements to the roadways from this project.

As cars are moving faster, especially north on Willard, it would be great to provide speed bumps or some type of geometric obstacle to bring cars to within the posted 25mph limit.

It would be nice to have something attractive in the middle. Maybe a welcome to Burlington sign. I love this city and have lived here for 30+ years. Keep making these kinds of improvements. So great!

You didn't plant enough trees to replace all the ones you removed; the trees you planted are so small it will be decades before we get back the tree canopy you removed. You aren't watering the trees now and they need it. They will die if you don't water them.

Thank you! We have lived next to this intersection for more than 10 years. We have commuted in multiple directions through this intersection over that time. It is so much easier and safer. Even though traffic flow is smoother it seems as though cars are more likely to follow the speed limit now that they are exiting the rotary.

You all did a great job. The design works well, it keeps traffic moving, is safer, and was completed ahead of schedule.

Intended to be a gateway project, I'm disappointed in the lack of maintenance when it comes to signage problems. Over a month ago, I completed a SeeClickFix report to note that a Yield sign had been struck and removed (Locust St.), with the support pole bent over. No action yet. Another Yield sign (Ledge St.) is now tilted over, and has been for at least a week. Pretty disappointing to see the lack of attention to these issues, as I would imagine DPW vehicles move through the intersection every day. These aren't just aesthetic matters, but safety issues. Additionally, a number of construction signs were never taken down, adding to unnecessary visual clutter in the surrounding neighborhood. Also, the paint that was apparently hurriedly applied to the crosswalks and/or at temperatures too low for proper adherence has largely peeled off, sometimes in large swaths that remain as unsightly trash in the green strip, but mainly in small pieces that continue to break down and have scattered well beyond the project location. Some of this paint will undoubtedly end up in the stormwater system downstream of the chamber and ultimately in the lake. I really hope a more durable solution is put in place this construction season and some measures taken to clean up the mess. Lastly, I'm curious about some of the sign layout decisions, which ask a lot of the driver approaching the intersection, add a lot of visual noise, and in at least one instance might be obstructed in the future by a tree planted some feet in front of them (I-189 / US-7 sign on southbound approach on

Shelburne St). All in all, while it's a well-functioning intersection in my opinion, it is far from well maintained or aesthetically exceptional.

There is so much signage, it is a distraction. Also, you did not make it pretty in the middle. It takes away from our neighborhood.

Consider adding "speed limit/ your speed" digital alerts.

Too steep if you need to get up over the center ring to get out of the way of someone entering the ring and not yielding

Well done!

Many vehicles ignore the actual lane and drive on the center of the island

Great job. So much better. The traffic calming spillover effect is also appreciated

Thank you for this great improvement!

I haven't dared bike through it, still seems a bit sketchy for bikes.

It has made that area much uglier due to the removal of the big walnut trees. While obviously the circle itself can't have trees, I wish we could at least have some sizeable trees re-planted in the corners!

People need to be educated much more on how a rotary works. Also, why the hell do VTers - out of all other drivers in the world - think that when their lane ends (ie coming north on Shelburne St) that they have the right-of-way over those already in the through lane?! I live within eyesight of the rotary, and see very few drivers who follow either the law, the rules-of-the-road, or common sense, when driving through the project.

Love it. Thank you for doing it. Vast improvement!

improve/re-install pavement markings

Parking has been much worse since the project and more spaces were taken away than we were told. Very frustrated and waiting for the town to do something about this on Locust street

Thanks for doing this! Now we can move on to the road diet for Shelburne road, right?

well done

The project itself turned out really well, even though it was VERY DIFFICULT as a neighbor of the project living in the immediate area last summer. What ruins the roundabout are drivers who drive around it, over it, through it...on portions where they don't belong. I saw their tire

tracks in the snow all winter...going around and around in circles in the inner portion of the roundabout, day after day....and these were not the tracks of big trucks that couldn't use the outer portion of the roundabout because they were too big. There really should be cameras that monitor how many pickup trucks ignore the yellow line and just drive wherever they damn well feel like it. Then these idiots should be given tickets for ignoring the rules of the road. Basically, the roundabout has calmed some of the speeding in the area, which is a very good thing and much appreciated.

Just please make sure drivers know to yield to cars in the roundabout. Thank you

It was really sad, to drive on the roundabout for the first time or even walk through it, which I do much more regularly as a member of this community who has been here throughout all of the construction. I understand that in most cases a properly placed roundabout is much more safe than a four way stop especially residential neighborhoods, but come on. Its so poorly constructed and placed, that I can't imagine Burlington will be seeing any of those benefits. As a young adult I can't imagine how much money was sunk into that roundabout that I haven't heard a single good word about, instead of going to other traffic safety matters in Burlington.

The amount of time the project took and the disruption to the neighborhood was excessive. I had more than one instance of contractors driving in an unsafe way (on phone, not looking as they went through the park while people, including me, were walking near by. The flowers are pretty. But they were pretty before.

It's a net positive for this intersection, for sure, but it still doesn't always feel safe to be a pedestrian or cyclist in this area.

Cars are going slower than before the roundabout, at least most noticeably the inbound ones. I can't drive or bike - the question about how often could be better worded to add never.

I like the roundabout but think there should be two lanes instead of one when heading north. The current lane has all cars that are going to Rte 7&2 and to Saint Paul St. When Shelburne Road is busy, it gets backed up there.

Is there a better form system to use? This is a little bulky (not sure if my above feedback made sense)

The roundabout has improved the flow and maintains a moderate speed of traffic that is appropriate for this residential area. I will submit comments separately on the community and safety challenges of many vehicles racing upon exiting the single lane in the roundabout and entering the oversized two travel lanes heading south between the roundabout and traffic signal at Prospect St. This section of Shelburne St. should be a single travel lane in each direction with a center turn lane for consistency with the roundabout traffic flow and the residential and school zone nature of this area. Unfortunately, many take the two-fold increase in travel lanes here to mean this is essentially an acceleration area and an extended on-ramp to I-89.

There need to be more speed traps and speed limit signs on locust!!!!!!! People go 35-50 on any given day. Pretty horrifying for a road with a park and a school. We have a joke in my household that it's a good day when someone doesn't come close to hitting the car in the roundabout. It is insane that tractor trailers take locust street though the roundabout daily. Living half way down locust street, I feel as though my safety had significantly decreased since this project. Hopefully something can be done before summer, when hundreds more walkers and bikers will be using the intersection.

Pedestrian safety is much improved but drivers don't always abide by the rules.

I am appalled that such an enormous amount of tax payer's money went into this. Burlington has far greater and more serious needs that supersede a roundabout. Like more police protection and more funds to the police, money towards abuse disorder treatment and mental health treatment. Shame on Burlington for allocating that amount of money to a roundabout when the city is literally falling into shambles. .

Good job! Nice work.

It still feels a bit barren -- nicer landscaping / more native plantings would be appreciated!

This is a great solution.

People leaving the roundabout southbound accelerate beyond the speed limit

Coming down Ledge road at evening rush hour, it can be difficult to get onto Shelburne Rd before the roundabout because of traffic. Overall the roundabout is a great improvement over what we had before.

Time to remove the "Road Work 100 ft" bright orange signs.

built well

Bus riders like myself have a much longer walk from rotary to nearest bus stop north of rotary.

On-street markings didn't hold up over winter and need to be refreshed.

I live on Adams Court and received the regular email updates throughout the whole project. These were super helpful and I was very impressed with the communication efforts. The workers were kind and responsive to our Adams Court needs.

My only difficulty has been where the bike lane re-enters the roadway on the southbound side of the rotary. It seems to enter the roadway at a point where there's not really space for a bike lane, so I wait until Gove Ct. Other than that, well done!

The amount of signs on the roundabout is overwhelming... but I get it

Thank you thank you!! Despite all the construction and closed roads, it was communicated well and didn't drag on and on! Well managed! It is a vast improvement over the previous intersection which was so dangerous. People generally drive slower now and I think people are getting used to yielding to people already in the circle, although some just enter despite all the signs.

The only other feedback I would say is it would be great if the lines including crosswalks could be repainted, many are already fading. Additionally some signs are getting damaged but not replaced.

The curbs turning into our property at 100 Shelburne is hard to maneuver and has blown out our tenant's tires twice. The curbs need to slant down into the driveway.

It's pretty too. Kudos to everyone.

Please paint lines showing where the northbound right lane on Rt 7 ends. A lot of people wait until the last possible second to merge, then have to be jerks about it when they do.

Nice job all around. The traffic flaggers for Ireland did a great job of managing the traffic during construction. They were very friendly.

Who is taking care of the trees? Two crab apples were not replaced in the park on Locust where there was a construction staging site. Trees are very small!!!

It would be good to have signs that say "Yield to traffic in the circle" or "Traffic in the circle has the right of way" because some people don't know how traffic circles work. There are the few cars that don't give way when entering or give way while in the circle which you need to look out for. An education program or very clear signs would be helpful

Occasionally an entering driver thinks they have the right of way

I think you've created a bigger problem than what was there before.

I LOVE it. SO much easier to get where I'm going!

More public education on moving through roundabouts. I've seen people stopping more than once at the access to the roundabout, with no traffic in roundabout - this nearly caused collisions. The more there are the better we will all be.

Install Stop Signs with more police enforcement.

The paint used on cross walks etc has largely been scraped off by plows so should be remedied - and lane signage for cars approaching from the south needs to be more clear - especially given the tendency for traveling above the speed limit.

14 more responses are hidden

Google Forms

CITY COUNCIL ACCOUNTABILITY LIST

This list is a working document. It is a record of resolutions, ordinances, communications that have come to the Council and there is an action requested.

Prepared by: Lori Olberg, Licensing, Voting & Records Coordinator

3/11/24

	Meeting Date	Type of Document	Action Requested	Updated Next Steps in the Process
1	2/6/23	Communication re Ward 2/3 NPA Resolution to Name the New Shelburne Street Roundabout After Tony Redington and Ward 2/3 NPA Resolution in Support of Big Heavy World Teen Center Proposal for Memorial Auditorium	refer the communication to TEUC and CDNR Committees respectively for further review and engagement	TEUC Item was taken up at the March meeting, more information was requested for the next TEUC meeting. As of January 2024, no further action taken
2	3/13/23	Communication re Ward 5 NPA Steering Committee to Name the New Shelburne Street Roundabout after Tony Redington	refer the communication to TEUC for further review	TEUC Item was taken up at the March meeting, more information was requested for the next TEUC meeting. As of January 2024, no further action taken
3	3/13/23	Resolution: Supporting LGBTQIA+ Community Members and Condemning Transphobia	City Council will work in collaboration with community members and organizations and the City administration to develop a plan for ongoing activities to support and amplify the voices of the LGBTQIA+ community, including days of action, flying pride flags on City property, and organizing a speakers series; City Councils urges Burlington’s state legislative delegation to look at current state hate crime statute to look to extend protections for schools and organizations that advocate/support LGBTQ+ (and other minoritized communities) from hate motivated targeted crimes City Council’s Ordinance Committee shall, in coordination with the Burlington Police Department and the City Attorney’s Office, examine Burlington’s graffiti ordinance and consider changes that address continued defacement of public property, and graffiti that spreads hateful and harmful messages.	There have been stakeholder meetings brought forward by the Administration to address the directives in the resolution. UPDATE: Work is being done in the Legislature and a former resident created a physical Burlington trans pride flag and offered the flag to the City to fly in front of City Hall in recognition of Trans Day of Visibility which is coming up on March 31; the flag will fly the flag from March 15 - April 15 to celebrate Trans Day of Visibility and reboot the Trans People Belong campaign.
4	4/17/23	Communication re Winooski Avenue Corridor Study Implementation Update	refer the communication to TEUC in order to work with the Administration on the plan to monitor and evaluate the changes to the North Winooski Avenue corridor and any proposal to address the transportation and neighborhood needs arising from the evaluation	This will be an ongoing item as DPW works with property owners and organizations on off street and further parking options
5	5/15/23	Resolution: BTV Solar Eclipse 2024	the City Council requests that the event planning staff in Burlington City Arts, Business and Workforce Development, and the Burlington Parks, Recreation and Waterfront Department provide regular updates to the City Council Parks, Arts, and Culture Committee regarding planning for this event, including but not limited to, developing a page on the City’s website with visitor data, coordinating with local organizations on events in the area, and city-sponsored events to celebrate the eclipse in collaboration with area schools, scientific organizations, and/or other groups celebrating the arrival of the exclipse. Staff to update the Parks, Arts, and Culture Committee in July or August 2023 and in January 2024 with a full plan for the event.	Referred to PACC with updates to the full Council in September and early 2024; UPDATE: last update will be March 11 Council meeting
6	6/5/23	Resolution: Accepting Grant Funding from the Department of Mental Health for the Crisis Response Team and Exploring the Creation of a Burlington CAIP Department	requests an evaluation be done to explore Burlington CAIP becoming a department of the City , an evaluation be done to review the reporting and supervisory structure needed to support three public safety departments (police, fire and CAIP), that a report come to Public Safety Committee in October 2023, approval for the Chief of Police to accept the Department of Mental Health grant for Burington CARES	A report was to come to Public Safety in late 2023. UPDATE: this will need to carry over to the next Council year and remain with Public Safety for further action.
7	7/24/23	Resolution: The Climate Emergency and the Council Request to Count Vermont Air National Guard GHG Emissions and to Plan to Eliminate VTANG Aviation and Ground GHG Emissions in the Spirit of the City's 2030 Net Zero Goals	requests that the Vermont Air Force National Guard Adjutant General, beginning for the year 2023, calculate aviation and ground fuel usage at the VTANG base and to annually provide BTV Director and TEUC with a complete record of the calculated aviation and ground greenhouse gas emission; for VTANG to work collaboratively to draft a plan to adopt simulation and augmented reality training to substantially reduce or eliminate GHG with initial meeting on or before 12/31/23 and follow up at TUEC's March 2024 meeting	Initial meeting of the parties by 12/31/2023; UPDATE: parties to meet at March TEUC meeting
8	12/18/23	Ordinance: Burlington Code of Ordinances-Sections 21-45 - 21-49 Trespass	refer the proposed to the ordinance committee for further review to include, but not be limited to, consideration of the list of parties authorized to issue no trespass orders, balancing no trespass orders with proactive harm reduction efforts and to evaluate expanding the ability to enforce the trespass ordinance on private property.	Work being done on this in the Ordinance Committee
9	1/16/24	Proposed Charter Change: Articles 62, 63 and 65 regarding Police Oversight	Referred the proposed Charter change to the Police Commission for further consideration and a request for a report back to the Council by June 3, 2024.	Report back to the City Council in June 2024
10	1/29/24	Ordinance: ZA-24-02 Neighborhood Code	first hearing on February 26, 2024	first hearing on February 26, 2024; moved to a second hearing on March 25, 2024

NOTE: These communications are both regarding the Shelburne Street Roundabout naming after Tony Reddington

Lori Olberg

From: Trav Fryer <trav@teafry.me>
Sent: Monday, February 26, 2024 8:27 PM
To: City Council
Cc: Lori Olberg
Subject: support for neighborhood code

You don't often get email from trav@teafry.me. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

perhaps it's too late but I just wanted to voice (text) my support for the new Neighborhood Code. I'm a homeowner in the Old North End and I think that increasing density is an important step in becoming a sustainable city.

thanks,
-Trav Fryer, Ward 2

Lori Olberg

From: Caryn Long <carynlongvt@gmail.com>
Sent: Monday, March 4, 2024 11:40 AM
To: Michael Long
Subject: Neighborhood Code

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear Councilor,

It is important to postpone this vote for several reasons.

1- False Advertising -- The information Meagan shared about Neighborhood Code in October 2023 at all the NPAs was not accurate. Meagan spoke of duplexes, triplexes and fourplexes. Sixplexes were never mentioned (which would be a required component of the ten unit RM configuration) nor were two fourplexes on the same lot or up to 10 units on the same lot with no lot size minimums. Similarly, Karen Paul's Blue Letter in February references "neighborhood scale solutions" and notes that a lot in the RL zone "could have four dwelling units on it." This is a substantial change even as inaccurately described. What is actually proposed is twice as many units, 100% more than we were told would be the case.

2 - The on-the-ground data is false. Both Ann Vivian, architect, and Professor Paul Bierman are skilled at mapping and noted that the maps and charts on lot coverage Ward 1 were flawed. Michael and I verified data the old fashioned way - by eye, tape measure, and calculating building footprints, reaching the same conclusion. Accurate data is essential.

3- The housing crisis that Neighborhood Code intends to address is a crisis of affordability, but it includes no provisions addressing affordability. I shared Portland's up zoning - 4 Units on a residential lot and 6 units if 3 are affordable.

4- The infrastructure to support density of a magnitude many times beyond what it currently permitted is not addressed.

5- Current stormwater runoff pollutes the lake and yet proposed increases of 30% to 70% in lot coverage are accompanied by no provisions for treating, retaining, or mitigating the polluting effects of increased storm water runoff. When Meagan was asked about runoff and tree retention in October, she replied that that had not been discussed yet but would be addressed by the joint committee. That did not happen and in January, Joan Shannon said directly that stormwater and infrastructure had not been considered and was not a zoning issue.

6- It does not make sense to go forward with the absence of the MOU.

It would be a disservice to the community and an abdication of the Council's responsibility to be thorough and diligent in drafting ordinances if this amendment were to move forward in its present state.

Best,
Caryn Long

Lori Olberg

From: Michael Long <mjlongvt@gmail.com>
Sent: Monday, February 26, 2024 5:13 PM
To: Zoraya Hightower; Gene Bergman; Joseph Magee; Sarah Carpenter; Benjamin Traverse; Karen Paul; Ali Dieng; Hannah King; Melo Grant; Tim Doherty; Mark Barlow; Joan Shannon; Lori Olberg
Subject: Neighborhood Code -- CDO

[WARNING]: This email was sent from someone outside of the City of Burlington.

Councilors:

Neighborhood Code is seriously flawed as currently drafted and needs substantial additional revision, analysis, and data collection to be worthy of Council approval. The prudent course of action is to return it to committee and take the time required to get it right.

Because:

1. The good sense of approaching this comprehensively instead of in phases is clear. PUDs are the well established approach to multiple building developments and the 2 acre PUD minimum (only in RL) is the most inequitable, exclusionary, and anti-housing provision in the CDO.

This should have been the *first* thing to fix if we were serious about a city-wide density increase.

2. Eight or ten units in two structures on any lot is extreme, has not been modeled or drawn (as Bob Duncan suggested) to understand what it would lead to, and doubles or more than doubles what a city like Portland did in 2020 in what was heralded then as “the best low density zoning reform in U.S. history.”

3. Storm water and parking impacts have not been addressed (as if Burlington has no precipitation or cars). And lot coverage increases that have been repeatedly termed “modest” are in fact increases of 29%, 50%, and 71%. It’s false to call these increases modest.

4. The maps and table purporting to show that ONE East is grossly out of compliance is grossly in error, and this flawed data is the purported basis for double upzoning.

5. The unique vulnerability of the neighborhoods closest to campus has not been addressed, even though we have relevant experience with the negative effects of “studentification” on specific streets and neighborhoods.

6. The exclusionary and equity ramifications of maintaining or modifying the RL and RM zones have not been addressed.

7. Deceptive drawings, promotion, and presentations have led to endorsements from organizations like AARP and Local Motion under the banner of “gentle infill and the expansion of housing options . . . without changing the physical character of the neighborhoods.” Indisputably, what’s proposed goes many times beyond and directly contradicts what AARP has endorsed.

8. Finally, the frenzied rush to get this over the finish line is fueled in part by the mayor, in part by VPOP, and in part by collusion between the two among others. And VPOP, while it might be a housing advocacy group — maybe even a tunnel vision fanatical one — is also kind of a hate group. They hate anyone with

a different point of view, especially professors and/or people they label NIMBYs or people who own single family houses and they lament that “unfortunately, we can’t wait for 5 years for some of these people to die” (Colin Larsen 2/20/24 11:11pm -Discord).

Now, I think everyone should have a voice, but I’m not sure these are the sort of strident and even malicious voices the mayor or the council should embrace as voices shaping public policy.

Best,

Michael

Lori Olberg

From: Courtney Noyes <fay.courtney@gmail.com>
Sent: Monday, February 26, 2024 4:33 PM
To: City Council
Cc: Lori Olberg
Subject: Neighborhood Code updates

Some people who received this message don't often get email from fay.courtney@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hey there,

I am a huge fan of the Neighborhood Code updates, and am especially excited to see the allowance for more commercial development along North Ave. Makes a lot of sense for moving Burlington in the direction of a more walkable, bikeable, human-friendly city to me.

Thanks!
Courtney Noyes
Ward 4

Lori Olberg

From: Lauren Schweppe <schweppelauren@gmail.com>
Sent: Monday, February 26, 2024 5:59 PM
To: City Council
Cc: Lori Olberg
Subject: Neighborhood Code

Some people who received this message don't often get email from schweppelauren@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

I hope this finds you all well! I'm a Ward 7 resident here in Burlington and I'm writing to implore the council to pass the neighborhood code as proposed, with no watering it down or weakening it.

If we don't pass this code, Burlington is doomed. Rents will remain far too high, housing stock too low, crime will continue to increase as the housing crisis worsens, and the city that we know and love will decompose.

Please please please pass this neighborhood code so we can actually start to build this city into something we can be proud of and that can withstand the present in the future issues that the city faces.

Best,
Lauren Schweppe
Ward 7 Resident

Councilors,

The Neighborhood Code is, I believe, the pivotal moment of our housing crisis. If handled well, it can be a signal that Burlington is prepared to evolve into a city ready to take on the many impending challenges of the 21st century, starting with the housing crisis. If handled poorly, it has the potential to lock-in our downward trajectory for long enough to sustain lasting damage to the city.

I firmly support the Neighborhood Code being enacted as it is written, and ask the City Council to immediately direct the planning commission to begin work on even more transformative zoning changes that are driven by the data I've presented within the rest of this email. The Neighborhood Code is not a solution to the housing crisis, but a “normalizing” ordinance that corrects harmful policies of the past and creates a baseline that represents the city as it is.

If you don't have time to read this whole email before voting on amendments today, here are my takeaways for today's meeting: **both amendments proposed are a continuation of bad housing policy for Burlington, risk wasting this critical opportunity for shifting the tide of the housing crisis, and should under no circumstances move forward tonight.** If you disagree, I really hope you'll read this whole email before voting.

Even given the late hour, I hope you will all read this email in its entirety before voting to modify the Neighborhood Code as written, because it also proposes a decision making framework and assessment metrics for you all to use. I hope you will take this as constrictive criticism, but I genuinely believe that the council would benefit from a shared way to talk about and measure housing policy decisions, because many of the conversations I've been present for have been at times frustratingly un-grounded. We can't afford to be having confusing conversations about this topic.

A Brief History of Housing

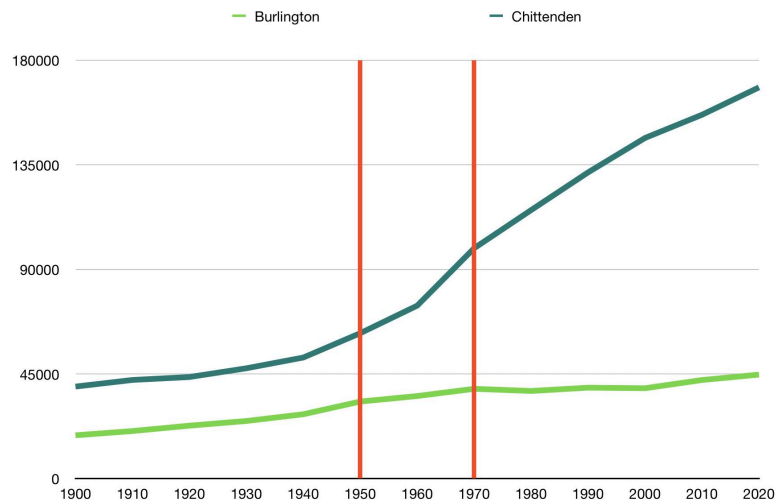
Burlington is currently suffering from the consequences of the better part of a century of poor housing policy, and we are not alone—much of the United States has made the same bad decisions that we have made. **Restrictive zoning and overly prescriptive master plans have taken away our cities' ability to adapt to a changing world, and have forced their population growth into suburban sprawl.** This building pattern diffuses and fractures municipal revenues and increases costs while simultaneously wreaking havoc on the natural environment. It is quite literally the inverse of creating an “economy of scale”. Over time, this pattern weakens collective (municipal) finances, erodes social cohesion, and changes behaviors of citizens to prioritize the individual over the city. These changes create an environment of resource scarcity and selfishness, which then manifest policy structures within that worldview, which then further entrenches the worldview; a vicious cycle.

Healthy cities rely on people to be able to “vote with their feet” to where each person can best meet their needs and wants. **Healthy cities are cities where people have options; options for which jobs to take, where they can live, and how they move around.** Without options, a city loses its dynamism, ossifies, and dies. And so these patterns of development that create social rigidity, restrictive housing policy, and ultimately a reduction of choices for housing and transportation patterns is the precursor to the failure of a city.

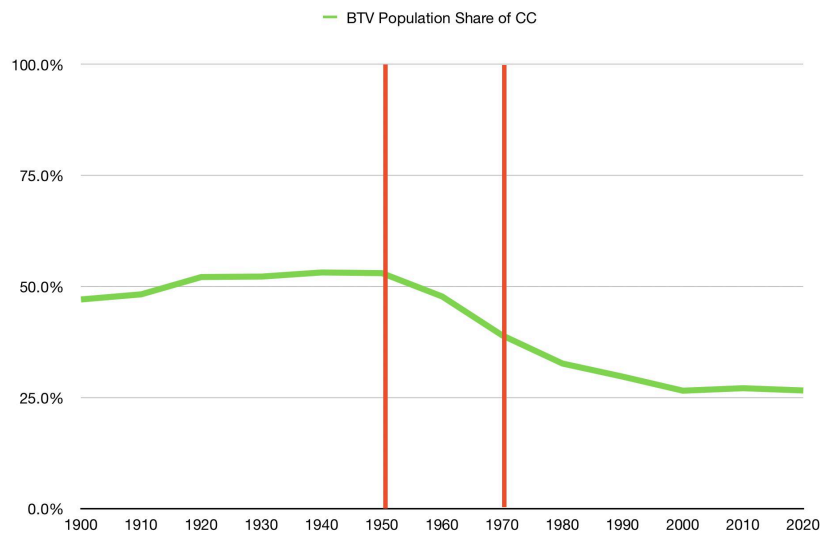
In Burlington, this cycle tensions have built up slowly over decades, and our systems have begun to snap as they reach their limits. **Our public safety, homelessness, and affordability crises are all rooted in a single fact: everyone must live somewhere, and there are not enough places for everyone to live.** Those with means bid up the prices for scarce housing, and those without are ejected onto the streets. Even those who have means don't have enough housing choice, and must live far from their work and social groups, with car-dependency increasing the burden on our collective transportation system and on their individual finances.

If we look at the history of housing regulation in Burlington, we can see a pretty clear story. (In the graphs below, the first red line represents Burlington's first zoning ordinance in 1947, and the second red line represents both the 1970 passage of Act 250, and the 1973 major down-zoning in Burlington.) First we can take a look at the population growth in Burlington compared to Chittenden County. **The most important takeaway from this graph is to see that Chittenden County has been growing tremendously over the past 70 years, with almost none of that growth happening in Burlington.** However, before the introduction of zoning regulations, Burlington was directly tracking the county-wide population. Furthermore, after the double-impact of the

1973 down-zoning and 1970's Act 250, Burlington's population flatlined for decades while the county pulled even further away.



Another important thing to understand from this graph is that in 1950, Burlington was a city of 33,000 people, providing the central urban services to support a county of 62,500 people. However, as Burlington's restrictive housing environment pushed all growth to the suburbs, our population has remained largely stagnant, meaning that the burden of providing services to the region has become proportionally more burdensome on the city. To make this even clearer, we can look at another graph that shows Burlington's proportional share of the county's population over time.



Prior to the post-war suburban era, the majority of the county's population was focused in Burlington, where services, jobs, and transportation were easy to access. We peaked at 53% of the county's population in 1950, and are currently sitting at exactly half that number, at 26.5%. If you're looking for a culprit for our cost burdens, this should be your first suspect. **In 1950, Burlington was supporting a county whose additional population was only 90% of its own. Today, Burlington is supporting a county with an additional population that is 275% of its own.**

Beyond just the impact on Burlington's infrastructure and services, this should hopefully raise alarm bells about the pent up demand for housing in Burlington. **Our restrictive housing policies have prevented Burlington from providing almost any new housing for a county that has added over 100,000 people since 1950.** It's not because people don't want to live here, but that there is nowhere to live. This, again, pushes people out to surrounding towns, farther from jobs, and putting pressure on those towns. This ripples out through the county and beyond. I know people who live in St Albans and Montpelier who commute to Burlington due to lack of housing in the region, and I'm sure I'm not the only one.

Finally, this pressure creates a regional crunch on housing and affordability. Burlington has been "full" for decades (as evidenced by its historical vacancy rate). All of our surrounding suburbs have also been full, as evidenced by the dramatic new construction they've had to do to accommodate population growth. This chronic pressure means that when a shock hits the system (like a sudden shift in migration patterns due to a pandemic caused by a novel coronavirus), the people at the bottom of the housing totem pole are swiftly knocked out of housing and into the street. **When a region is "full", every person who moves into the housing system means someone has to move out, and generally those are going to be the most vulnerable people moving into homelessness.**

And so this is where we're at: almost a century of housing policy that has restricted supply, forced suburban sprawl, dramatically increased transportation emissions, put pressure on city finances, and ejected a huge percentage of our most vulnerable neighbors into homelessness.

How to Judge Progress

The only way out of this problem is to build enough housing to meet demand.

This is not an opinion or a party line; it is impossible to reduce the demand to live in Burlington without making Burlington a worse place to live (and I assume we don't want that), and it is impossible for everyone to find a seat in a game of musical chairs—the problem is fundamentally due to a serious lack of supply. The lack of supply makes it hard for people to choose where to live, makes it hard for jobs to be filled and for new companies to grow, and puts tremendous pressure on our reactive social services like emergency responders and health care systems. Economic stagnation and public safety issues are rooted in restricted housing supply.

This leads to the key metric that should be guiding our decision making on housing policy: vacancy rate. When the vacancy rate goes up, housing choice goes up. When housing choice goes up, landlord and home seller leverage goes down, and prices deflate. When housing choice goes up, people move closer to their primary destinations, and impact on transportation networks go down. When housing choice goes up, jobs are easier to fill, companies grow, talent is retained locally, industries mature, and job options go up. When housing choice and job choice go up together, people make more money, spend less on rent, and use less intensive transportation. To be a bit less mechanical: it gives the city some “slack” for people to find their best fit, make the most of themselves, and live a more fulfilling life. A housing surplus is also a prerequisite for eliminating homelessness. **Generally speaking, the accepted vacancy rate for a healthy housing system is 5%, and this should be our target.**

The two ways to influence the vacancy rate is to add new units to the system, or have people leave the city—which is not a valid option. But there's another wrinkle: demand is dynamic and responsive, meaning that adding new units can actually increase the total demand for them, and so one unit added is not one *vacant* unit added. Demand increases and decreases in small increments over time; it does not remain fixed until it is met and then drops to zero. Units also “flow” through the city, changing purposes, splitting/consolidating, and being lost to damage or neglect over time. Both of these facts (demand is dynamic, units flow through the city) are important to understand that **housing need should not be looked at as a static number (i.e. we need X units to satisfy demand), but as a *rate* of new units added to the system per year.**

And so this is how we need to look at the health of our housing system: we need to track the trailing average of units built per year, and see how changes to that number affect the vacancy rate. As an example, if we are building an average of 117 new units per year and our vacancy rate is still getting smaller (our current situation), then we need to increase that average rate of new units built until the vacancy rate starts

increasing. **When considering new housing policies, the critical question to ask should be “how will this impact the rate of new unit development?”.**

In a best case scenario, we would have a lot more data to help us make decisions. A much more robust data set, updated yearly, with all of the units we have in the city, their sqftage, their rent and/or market value, their occupancy status, etc, would give us an even better understanding of the impact of housing policies, but for now this “yearly rate of new units/vacancy rate” combination can get us pretty far.

Our Actual Needs

So now that we've taken a roundabout way to explain exactly why we need to build more housing: how much housing do we actually need to build? As I mentioned when describing how demand is dynamic, it's actually hard to come up with a specific rate because of the fact that increasing production can cause a feedback loop that increases demand. This means that we actually can't know for sure what rate of housing development is needed to move the vacancy rate to our target of 5% until we get there. We have to increase our rate of housing production until the vacancy rate is responding towards our goal.

However, what we can do is an engineer's "napkin math estimate" for the order of magnitude of housing production; we can't necessarily come to a precise estimate, but we can at least come up with a 10, 100, 1,000, or 10,000 unit per year rate target to help us guide our policy. Aiming for 200 vs 300 units per year doesn't require categorically different approaches to policy, but the difference between 100, 1,000, or 10,000 would require totally different approaches. So let's do that math.

Luckily, the Vermont Housing Finance Agency has already run the numbers on the statewide housing deficit, accounting for unit loss, population growth, and a naive estimate for calculating needs for a healthy vacancy rate. Their analysis shows a need of 30,000 to 40,000 new units in Vermont by 2030. This is a statewide rate of 5,000-6,666 units per year. We can use these numbers to come up with a low/high estimate range for Burlington itself.

The low-end estimate is easy: Burlington accounts for 7% of the state's population, so we take 7% of the low end VHFA estimate of 5,000 and get a rate of 350 units per year.

The high end estimate is more difficult, because we have to remember that Burlington's current population is artificially deflated by housing scarcity. There is probably a lot of latent demand for housing in Burlington. A reasonable number to use for a high-end estimate is to assume that Burlington had maintained its share of the county population before housing policy restrictions. In 1950, BTV was 53% of Chittenden County's population. Today the County's population is 170,000 people, and so if development had maintained the original proportions Burlington would be a city of 90,000 people ($170,000 * 53\%$). Using that weighted population, Burlington would have a weight of 14% of the state's population. And so we can say that a high-end estimate for our rate of housing need would be 14% of the high end VHFA estimate of 6,666 units per year, for 933 units per year.

And so, based on the VHFA analysis, **the napkin math estimate for the pace of housing development in Burlington to meet demand and reach a 5% vacancy rate is 350-933 new units per year.** However, the critical number is the high-end estimate. Because we don't know which part of this range will help us achieve our goal until we start building, if we target anything lower than the high-end estimate we may find that it's not enough. And so from a policy perspective, we have to make sure we are enabling the 933 unit/year pace; in practice we may find relief at a lower number and ease off, but we don't want policy to remain the bottleneck on housing construction as it has been for the last century.

Lastly, using a number like 933 units/year gives the false impression of precision; since we're looking for an order of magnitude to guide policy, I think that its fair to treat this number as a round 1,000. This means that while the actual estimate of the range that may bring the vacancy to 5% is 350-933 units per year, **we should be developing housing policies that targets 1,000 units per year to get the housing crisis under control within the next decade.**

The Neighborhood Code

This finally brings us to the Neighborhood Code itself. Here's the thing: the Neighborhood Code will make no material impact on the housing crisis. It is projected to increase the rate of housing development by 10, maybe 20, units per year. Compared to our policy baseline need of 1,000 units per year, this is a 1% to 2% increase. With that context, the true impact of the Neighborhood Code is twofold:

1. It moves our residential zoning ordinance to actually represent the city as it is currently built, giving us a real baseline to work from for the changes that will actually impact sustained housing development.
2. It is an opportunity for the city to take the firm stance of tackling the housing crisis head on, and make it clear to anti-development voices that the era of sitting on our hands is over.

Point 1 gets back to the first section of this email. We in Burlington have been enacting more and more restrictive zoning codes since 1973, making more and more of the previously built city illegal. The Neighborhood Code will largely take us back in time to 1972, giving us a zoning code that represents the real Burlington that has been trapped at that moment in time. **It is not an “upzoning”, but an “undoing of arbitrary downzoning”.** This is exactly why it won't actually yield that much additional housing—all of the buildings it allows already exist. I live (as a renter) in an unassuming and perfectly “in-character” two-story townhouse style building on St Paul Street in an RM district that will be “upzoned” to RC; as it stands today it is 110 units/acre, and even in RC will still be non-conforming due to lot coverage limits. The point being that Neighborhood Code as it is still doesn't even completely legalize the existing built environment. Claims of its extremism are purposeful misdirections.

Point 2 touches on the complicated political backlash that is driving members of the council to propose amendments that weaken the Neighborhood Code. **There are folks in this city who fundamentally oppose development.** They may present it through the lens of water management, greenspace protection, or wildlife corridors, and some of them will come right out and say that they “are afraid of losing the morning light in [their] kitchen”, or that “Burlington is trying to build too much housing, and I don't think we need any more”, but overall these are not people who are affected by—or understand—the housing crisis, and are not serious about shifting the tide.

There are folks who are now calling to stop the Neighborhood Code so that we can focus development on high-rise downtown development, but who were also key players in the lawsuits to stop the CityPlace development. There are folks quoting and misconstruing a two-decade-old UVM research paper about stormwater absorption that

was spurred by anti-student sentiment around informal parking lots to stop this instead of, say, calling for better transportation policy, or more housing close to UVM (and in fact, these are the folks most focused on maintaining low housing supply near UVM). There are folks who are claiming this policy to be anti-family, because they cannot imagine a family living without a single family home (or at worst, a duplex) with a yard as a place where families can live, while ignoring the fact that vision of family living would further restrict the privilege of starting a family for only the wealthiest residents, furthering racial and class segregation in our neighborhoods.

My point being: you are hearing from folks who are having un-examined and knee-jerk reactions to the idea of more housing and more people in Burlington. **You can, and in my opinion must, push back against those voices and champion policy that has been developed in the context of real world data.** You may represent some of these voices, but at a certain point there is such a thing as an invalid and anti-social opinion that must be isolated and protected against. **These voices will never be satisfied.** They will ask to shut this down so we can build in downtown instead, and then show up later to say the downtown buildings are too tall (never mind that Downtown can not shoulder the needed housing burden alone). They will ask to shut this down and wait for a stormwater study, and then vote against the tax increase needed to pay for separating and modernizing water management systems the study will call for. **We cannot let these voices continue to hold the city hostage, and this vote is a critical moment to make that clear.**

As a 30-year-old person who works by contract and gets paid by the hour, and who isn't paid for my housing advocacy at all, I don't have the time to dispute every single claim that the vocal NIMBY opposition can muster: it can take 10 seconds for someone to throw out a claim that undermines a policy like this, that took a year of data analysis and deliberation to craft, and it would take me hours to write up an explanation that dismisses each claim. This is a fundamental issue with democracy that you, as the council, must use your authority to mitigate. If 10 seconds of bad-faith misdirection can require hours of unpaid damage control, we'll never be able to pass the policies we need to get out of the mess we're in. And in fact, it's exactly why we're here.

We cannot empower and reward the vocal minority by saying that “if you complain loud enough, we will exclude your neighborhood from having to contribute to the housing crisis”. It's a recipe for those with the most time and money to speak up and maintain the most historically exclusionary neighborhoods, and put continued pressure on the neighborhoods that are the most dense. If one neighborhood is excluded, many more will stand up to ask for theirs to be excluded as well. **You must**

stop this process before it starts by not allowing it at all, or by raising the city-wide baseline to RM as a statement of solidarity.

Finally, if you've been visualizing these numbers in your head, you might be thinking that 1,000 units per year sounds like an amount of development that Burlington has never seen, and you'd be right. We have a 50 year deficit of housing that we're facing, and a Metropolitan Statistical Area of 225k people exerting pressure on us—there's no way toward a housing system without fundamental changes to how we approach housing policy and development. **If we signal to the public that moving 1% closer to the goal that will end the housing crisis is “too fast” and in need of compromise, we will never get there.** It is a time for bold, data-driven leadership.

Recommendations

To recap, my concrete recommendations for the council regarding the Neighborhood Code are:

1. Move the Neighborhood Code forward as it is with no changes.
 - Optionally: Eliminate RL, and adopt RM as the baseline as it is to make these zoning changes simpler and more equitable.
2. Reject both amendments on the table tonight.
3. Immediately upon passing the Neighborhood Code, direct the planning commission to prepare an assessment of how Burlington can modify its zoning ordinance to enable the construction of 1,000 new units per year.

-Jak Tiano, Ward 5

Resolution Relating to

BURLINGTON’S UNWAVERING SUPPORT OF THE
THREE YOUNG MEN OF PALESTINIAN DESCENT WHO
WERE VICTIMIZED BY A SENSELESS ACT OF HATE

RESOLUTION_____

Sponsor(s): **Jake Schumann**
Introduced:
Referred to: **Dec. 12, 2023**

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three
Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, In the early evening of Saturday, November 25, 2023, our community of Burlington, Vermont
2 was horrified to learn that three young men of Palestinian descent had been shot on North Prospect Street while
3 they were here visiting family and celebrating a holiday of thanksgiving; and
4
5 WHEREAS, This attack was profoundly hateful and evil; likely constituting a Hate Crime; and
6
7 WHEREAS, Since 2020, Burlington has experienced many incidents involving gun violence that have
8 justifiably caused many members of our community to feel unsafe; and
9
10 WHEREAS, We aspire to be a welcoming community where all people can feel safe regardless of how they
11 look, what language they speak, where they come from, what they believe, or who they love; and
12
13 WHEREAS, We recognize that diversity is a gift and is our future; and this diversity encompasses people of
14 color, people living with disabilities, older people and younger people, LGBTQIA+ people, people of different
15 beliefs, faiths, and cultures; and
16
17 WHEREAS, The Burlington City Council recognizes that what makes Burlington unique and special is a
18 forward-thinking environment that fosters a healthy community dialogue and acceptance of all people; and
19
20 WHEREAS, Protesters and counter-protesters around the world have demonstrated *against* each other and
21 *against* Hamas, Palestinians, Israel, and/or Israelis; however, within Burlington, Arabs, Muslims, Palestinians,
22 and Jews have generally come together and spoken with one voice in *support* of love, peace, and unity; and
23
24 WHEREAS, Burlingtonians have demonstrated their strong support and care for the victims that were shot on
25 Saturday, November 25th in Burlington, Vermont, as well as their families and their communities; and
26
27 WHEREAS, On December 11, 2023, the Burlington City Council failed to enact a resolution of support for the
28 victims of this hateful act of violence; and
29
30 WHEREAS, The competing resolutions proposed at the City Council Meeting of December 11, 2023 only
31 served to divide our community where it had previously been united; and
32

Resolution Relating to BURLINGTON’S UNWAVERING SUPPORT OF THE THREE YOUNG MEN OF PALESTINIAN DESCENT WHO WERE VICTIMIZED BY A SENSELESS ACT OF HATE

WHEREAS, The public statement of November 26, 2023 from the Islamic Society of Vermont is as follows:

“The incident involving three Palestinian-American students has deeply affected both the Muslim community and the Greater Vermont community. One of the three Palestinian college students who was attacked [will] face a lifetime of impaired mobility. The Islamic Society of Vermont urgently demands a transparent investigation to bring the responsible individual to justice as soon as possible. We ask that the individual responsible for this heinous crime be tried under the auspice that this was a hate crime. Our community calls on all local, state, and national leaders, law enforcement agencies, school districts, and Vermonters to unite against hateful acts, foster peace in our beautiful state, and take necessary steps to prevent such incidents in the future.

“We express deep concern over the escalating violence in Gaza and the tragic loss of lives, including children who make up nearly half of the population. We strongly denounce the senseless acts of violence and aggression against the innocent civilians in Gaza. We urgently call on all parties, including the international community, to collaborate in halting the bloodshed. It is crucial to emphasize the imperative to safeguard the rights and well-being of all children and innocent civilians, irrespective of their nationality or origin.

“The Muslim community is an integral part of the greater community, contributing to the state and the country. It is unjust for any Muslim individual, especially women wearing hijab, to feel unsafe. We expect that our children are secure in schools and shielded from anything that might undermine their faith or harm them. Furthermore, we anticipate that our local, state, and national leaders will remain neutral towards all religious communities, treating us equally without any bias.”; and

WHEREAS, Governor Phil Scott has stated, “I urge Vermonters to unite to help the community heal, and not let this incident incite more hate or divisiveness. We must come together in these difficult times – it is the only way to put a stop to the violence we’re seeing” (11/26/2023) and “As we pull for their recovery, we must come together in support of Hisham, Kinnan and Tahseen, as well as our communities, who are reeling from this incident. One way to overcome the violence and hate is to unite to support one another” (11/27/2023); and

WHEREAS, Governor Phil Scott has declared December “Rays of Kindness Month.”¹

NOW, THEREFORE BE IT RESOLVED, That the Burlington City Council joins Mayor Miro Weinberger in stating unequivocally that anti-Palestinian, anti-Arab, and Islamophobic hate, Antisemitism, and hate of any kind will never be welcome in our community; and

BE IT FURTHER RESOLVED, That the Burlington City Council joins Mayor Miro Weinberger in calling upon the Burlington community to come together regardless of faith, and continue to stand united in our shared support for the victims and their families; and

¹ <https://governor.vermont.gov/press-release/re-governor-scott-calls-vermonters-participate-rays-kindness-initiative>

Resolution Relating to BURLINGTON’S UNWAVERING SUPPORT OF THE THREE YOUNG MEN OF PALESTINIAN DESCENT WHO WERE VICTIMIZED BY A SENSELESS ACT OF HATE

BE IT FURTHER RESOLVED, That the Burlington City Council appreciates the work of the Burlington Police Department; and their local, state, and federal partners for their rapid, professional response; and

BE IT FURTHER RESOLVED, That the Burlington City Council appreciates the work of the Burlington Fire department, the staff of UVM Medical Center, and the international team of medical experts for providing lifesaving care; and

BE IT FURTHER RESOLVED, That the Burlington City Council commends the community members who responded compassionately, courageously, and without hesitation to provide immediate care to the victims; and

BE IT FURTHER RESOLVED, That the Burlington City Council will ensure that these same community members, as well as Hisham Awartani, Kinnan Abdelhamid, and Tahseen Ahmed are nominated for Vermont’s Rays of Kindness recognition; and

BE IT FURTHER RESOLVED, That the Burlington City Council requests that the Chittenden County State’s Attorney and US Attorney for Vermont pursue every available path to bringing criminal Hate Crime charges against the attacker; and

BE IT FURTHER RESOLVED, That the Burlington City Council joins Mayor Miro Weinberger in demanding stronger “red flag” laws and other long-overdue, common-sense gun control reforms from our General Assembly and Governor, as well as our federal congressional delegation; and that copies of this resolution be sent to Vermont’s governor and congressional delegation upon adoption; and

BE IT FURTHER RESOLVED, That the Burlington City Council joins Senator Sanders in calling for the conditioning of US military aid to Israel to end Israel’s blockade and siege of the Palestinian people²; to ensure that a sufficient quantity of humanitarian aid reaches the people of Gaza with urgency; and

BE IT FURTHER RESOLVED, That the Burlington City Council joins Senators Sanders and Welch³, and Representative Balint⁴ in calling for a ceasefire for the people of Palestine and Israel; and

BE IT FURTHER RESOLVED, That the Burlington City Council and Mayor Miro Weinberger demand an immediate cessation of hostilities against innocent civilians in Israel, Gaza, and the West Bank; and call for a sustainable and lasting peace for the people of Palestine, Israel, and the diaspora;⁵ and

BE IT FURTHER RESOLVED, That the Burlington City Council is committed to taking timely and decisive action in order to remedy its failure of December 11, 2023; to prevent a single act of evil from dividing an otherwise united community; and to prove that the City of Burlington will always endeavor to do the right thing, especially when the eyes of the world are watching.

² [Press Release: Sanders Calls for Conditioning Aid to Israel Amidst the Growing Crisis in Gaza and the West Bank](#) (Nov 18, 2023)

³ [Senator Peter Welch Calls for Indefinite Ceasefire](#) (Nov 28, 2023)

⁴ [Becca Balint: What Is Needed Is An Immediate Break In Violence To Allow For A True Negotiated Ceasefire](#) (Nov 16, 2023)

⁵ [The American Public's Views on Israel Are Undergoing a Profound Shift](#) (July 19, 2023) in *Time Magazine*, by Yasmeen Serhan

Statement from Palestinian Members of the National Leadership of Standing Together

As Palestinian citizens of Israel, our daily existence is marked by systemic discrimination, persecution, neglect, and violence. We live in a state of constant tension, denied recognition of our Palestinian history, identity, and culture. Since the Hamas attack on October 7th, we have been facing a deeply traumatized Israeli society and a political leadership that capitalized on these atrocities to further incite against us. Our situation has become even more untenable, as we face collective trauma and the fear of a second Nakba, as well as deep grief and oppression within our society.

Our ability to speak, act, or effect change under a fascist government is already severely limited and seems to be diminishing further. The call to boycott Standing Together, an organization we are proud to co-lead with numerous elected Jewish and Palestinian partners, was infuriating. Efforts to silence and isolate Standing Together do not serve the Palestinian cause, they serve the interests of Israel's political establishment, which is also attempting to silence us.

Standing Together is the only organization that has provided us and tens of thousands of Palestinian citizens of Israel a safe political refuge during these challenging times, a place to demand a ceasefire, grieve safely, and organize for a future where we are free and equal in our homeland.

Standing Together also offers tens of thousands of Jewish Israelis an alternative vision. In a political reality where many support our government's attacks on civilians in Gaza, Standing Together has been a safe political haven for Jewish Israelis to resist dominant narratives and fight against the dehumanization and subjugation of Palestinians, out of allyship, solidarity, and self-interest.

The fight for Palestinian liberation is multi-faceted. As a movement operating within Israel, we took upon ourselves a specific role: to shift Israeli public opinion away from supporting policy that maintains and deepens the subjugation of Palestinians. Our strategy is not to morally lecture or attempt to shock Jewish Israelis with the ugly truth of our reality, to "force them into liberating Palestinians." This, historically, here and around the world, does not work on its own. Our role is to empower and develop joint leadership, shift public opinion, and create a shared, embodied struggle for liberation between Palestinians and Jewish Israelis.

We believe that all politics, whether we like it or not, begins from a place of self-interest. We believe that it is politically effective to argue that oppression, racism, and bigotry harms the people of the oppressor as well as the oppressed. The harm is by no means equal, though the role of self-interest in political organizing must not be underplayed. We work under the basic assumption that millions of Palestinians and millions of Jews live in this land today, and no one is going anywhere. Ending Israeli control over Palestinians and forging a society in which everyone is free and equal between the river and the sea is in the interest of both Palestinians and Jewish Israelis.

Palestinians have always paid the highest price for decades of Israel's systemic oppression, in the form of military occupation, siege, incarceration, and apartheid, and the Israeli public is already starting to understand that they are paying a price too. Since October 7th, it is more clear than ever that the security, freedom, and ultimate fate of Israelis and Palestinians will forever be linked and we must forge a politics of multiethnic solidarity grounded in our common humanity, pain, and purpose. Our role at Standing Together is to organize our society toward understanding this reality, toward recognizing that the majority of people who live in this land - not only Palestinians, but also most Jewish Israelis - are not benefiting from this reality, and need to rebuild the very foundations of our society for a different, sustainable and just future.

We actively campaign against Israel's oppressive regime and have made specific efforts to increase the visibility of the atrocities committed by Israel in Gaza, both to Israeli and international audiences, despite the risks involved in doing so within Israel. Standing Together was among the first organizations inside Israel to actively call for a ceasefire and is currently leading the movement to revive conversations about ending the occupation and striving for peace.

Our short-term goal is to reach a ceasefire agreement to save the lives of our people in Gaza and the West Bank and to secure a hostage deal so that people can return to their families alive and safe. Our long-term goal is to create a new majority in Israeli society, composed of both Palestinian and Jewish citizens, who are united in the fight to end the occupation and advance equality and justice, and ultimately, liberation — a sustainable and just peace.

We are part of the Palestinian people and we take on the collective demands for freedom and historic justice from all of our people - including the Palestinian diaspora and refugees. We welcome criticism and dialogue from other Palestinian groups with different realities, missions, organizing programs, audiences, and strategies.

It is disheartening to be silenced by other pro-Palestinian groups at a time when we are being silenced and persecuted by the Israeli government and Israeli institutions for fighting for the lives of our people, but it will not stop us from continuing to organize. We are proud to organize Palestinians and Jews together, we stand by our movement, our strategy, and our theory of change, and we will continue to organize until we are all equal and free.

In solidarity,

Palestinian National Leadership Members
Standing Together



City of Cambridge

0-6
Calendar Item # 2
FIRST IN COUNCIL
~~May 17, 2021~~
May 25, 2021

COUNCILLOR ZONDERVAN
COUNCILLOR SIMMONS
COUNCILLOR SOBRINHO-WHEELER
COUNCILLOR MCGOVERN
COUNCILLOR CARLONE
COUNCILLOR NOLAN

- WHEREAS: Cambridge aims to live its values and promote best practices and ethical behavior among the contractors and companies that do business with the City; and
- WHEREAS: The international stage on which Cambridge's universities, residents, and corporations act means that our City takes on a range of issues beyond the usual ones expected of a municipality, and has consistently tried to support vulnerable individuals and communities in their struggle against oppression, persecution, and violence; and
- WHEREAS: The City Council condemns the violence that is currently and has historically taken place between the Israeli government and Hamas, and that we mourn the deaths of innocent Palestinians and Israelis who have been victims of this violence; and
- WHEREAS: The City Council believes that it is possible and appropriate to condemn the actions and policies of a government or governments without being critical of those who reside within those countries and critiques of the Israeli and/or the Hamas governments should not be seen as condemning the Israeli or Palestinian people; and
- WHEREAS: The City Council affirms Israel's right to exist and to defend its citizens from attacks, such as those launched by Hamas, but the City Council also recognizes that the Netanyahu government has directed unconscionable, destructive attacks against the Palestinian people, and our community should not be willing to play even a minor role in allowing these actions to continue; and
- WHEREAS: The City council recognizes that violence and suffering is happening around the world in Israel as well as other countries; and
- WHEREAS: Cambridge has financial and political relationships with hundreds of companies around the globe, and there currently exists no review process to determine whether the practices of those entities comply with Cambridge's stated policies and values, or whether their products are used to perpetuate human rights violations; and

WHEREAS: Cambridge's policy on discrimination states: "Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, gender, marital status, family status, military status or source of income is of public concern, as such discrimination creates strife, hostility, and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society; now therefore be it

ORDERED: That the City Manager be and is hereby requested to work with the Purchasing Department to review Cambridge's corporate contracts and purchases to identify any vendors or manufacturers whose products are used to perpetuate violations of International Human Rights Laws and Cambridge's policy on discrimination; and further be it.

ORDERED: That the City Manager be and hereby is requested to report back to the Council on this matter as soon as possible.

In City Council May 25, 2021.

Order Adopted as Amended by a ye and nay vote:-

Yeas 9; Nays 0; Absent 0.

Attest:- Anthony I. Wilson, City Clerk

A true copy;

A handwritten signature in black ink, appearing to read "Anthony I. Wilson".

ATTEST:-

Anthony I. Wilson, City Clerk

Resolution Relating to
ETHICAL GUIDELINES FOR MUNICIPAL PROCUREMENT
PROCESSES

RESOLUTION _____
Sponsor(s): **Jake Schumann**
Introduced: **Jan. 22, 2024**
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, The City of Burlington has an annual municipal budget of approximately \$100 million¹; and
2
3 WHEREAS, Residents of Burlington should be able to trust that none of these funds will be used in a way that
4 is harmful, unethical, or contrary to our community’s stated values; and
5
6 WHEREAS, the municipal charter of Burlington tasks CEDO “to develop, coordinate, implement, and
7 administer economic and community development strategies and projects for the City;”² and
8
9 WHEREAS, the municipal charter of Burlington tasks CEDO “to coordinate and facilitate citizen participation
10 in economic and community development with community organizations, City commissions, and the
11 Neighborhood Planning Assemblies.”³
12
13 NOW, THEREFORE BE IT RESOLVED, that the City of Burlington shall convene a special Task Force
14 composed of Burlington residents to propose the creation and implementation of a code of ethical guidelines for
15 municipal expenditures, to be applied to all municipal procurement processes, and shall include
16 recommendations to the City Council for ensuring compliance (e.g. a permanent standing committee); and
17
18 BE IT FURTHER RESOLVED, that CEDO shall coordinate, supervise, and support the work of this Task Force;
19 and
20
21 BE IT FURTHER RESOLVED that CEDO shall facilitate a fair, impartial, inclusive, representative,
22 deliberative, participatory, and democratic process; and
23
24 BE IT FURTHER RESOLVED, that CEDO shall publish a request for proposals as soon as practical, with a
25 timeline for implementation that results in a final Task Force proposal submitted to the City Council by October
26 31, 2024; and
27
28 BE IT FURTHER RESOLVED, that \$20,000 shall be committed from the FY2025 municipal budget for the
29 facilitation of this process.

¹ <https://www.burlingtonvt.gov/sites/default/files/FY24-GF-BudgetMemo.pdf>

² 24 App. V.S.A. ch. 3, § 332

³ Ibid.

12/13/23

City of Burlington, VT

2021-2023 Dog Task Force

Executive Summary

The Dog Task Force was created in 2021 by a City Council resolution to address the growing number of dogs in Burlington and a perceived increase in conflicts. The Task Force included a broad representation of stakeholders. It met from 2022-2023 to carry out the tasks outlined in the resolution. This report includes details of the work of the Task Force, recommendations and rationale.



Key recommendations:

- 1) Modernize and update the city ordinances that relate to animals.
- 2) Improve the licensing process and dramatically increase the number of animals licensed in the city. Allocate a portion of the license revenues for programs and activities that support healthy and happy dogs and cats within the City.
- 3) Require cats to be licensed and prohibit at-large cats, with certain exceptions
- 4) Improve the reporting, compliance and enforcement of animal-related ordinances by creating the position of Animal Control Officer at the Police Department and adding professional experts to the Animal Control Committee.
- 5) Establish a policy for off-leash dogs that includes the management and creation of fenced and unfenced off-leash dog areas at a limited number of locations; and recommend BPRW conduct a pilot project to test unfenced off-leash areas for dogs.

-
- 6) Create and expand an annual calendar of education outreach, activities and parks-based events to reduce issues and conflicts around domestic animals while celebrating the joy they bring to Burlington’s residents.

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Fig. 1. A map showing that dog registrations appear to be evenly spread across the city, indicating both that dogs are located all over the city and that the low licensing numbers are pervasive and not restricted to any specific areas.

Findings and Recommendations

Ordinance Updates

Recommendation: Modernize and update the city ordinances that relate to animals

The City of Burlington ordinances related to animals (Chapter 5 “Animals and Fowl”) have not been updated on a regular basis, in some cases for 26 years. As a result, many of the ordinances are outdated with regard to current terminology and regulatory practices. The Task Force ordinance subcommittee conducted a comprehensive review of the ordinances and compiled a list of recommendations.

The recommendations, as follow, fall primarily into four categories: updates to language, improvements to animal shelter policy, licenses and other recommendations to improve the welfare of dogs and cats, and measures to strengthen enforcement. Please note that in the course of the review of Chapter 5, the Task Force has made recommendations that fall outside the four corners of the Resolution, such as revisions to the regulation of exotic animals, and these recommendations, while not noted below, are included in Appendix C. The Task Force requests that the City consider these additional recommendations as well in order to ensure that the ordinances better reflect current societal views of animals.

Language:

- Retitle Chapter 5 “Animals”
- Retitle Article II “Dogs and Cats”
- Replace the term “pound” with “animal shelter” throughout
- Replace the term “owner” with “guardian” throughout
- Replace the term “pet” with “companion animal” throughout
- Replace the term “vicious” with “dangerous” throughout
- Replace “it” with “they” when used in reference to an animal throughout

Animal shelter:

- Provide an animal shelter for all species of companion animals in need
- Remove option for animal shelter to sell or give away unredeemed animals, and restrict options to offer for adoption or transfer to cooperating animal shelter

Dogs and cats:

- Require that dogs and cats wear identification
- Require that cats be licensed
- Increase license fees and review the fee structure at least every 5 years
- Dedicate license fees to education and other services pertinent to improved welfare of resident dogs and cats
- Prohibit at-large cats

Enforcement:

- Provide a dedicated, certified animal control officer with investigative resources
- Increase fine for violations of Chapter 5 and include restorative justice as a supplemental option for offenders
- Require impoundment of any animal suspected of being a stray
- Increase impoundment fee
- Require boarding fee to reflect actual expenses
- Increase fine for cruelty to animals
- Add a licensed veterinarian and a certified animal behavior professional to the animal control committee
- Allow any person to use reasonable force to remove an animal whose health or safety is at risk from a motor vehicle if designated officials are unavailable
- Prohibit any person from leaving the scene of an accident for which they have reason to believe that they have caused the injury or death of an animal

Appendix C includes a copy of Articles I, II, and III of Chapter 5 and Section 22-13 of Chapter 22 as well as a detailed discussion of the bases for the recommendations.

Licensing Programs and Policy Updates

Recommendation: Improve the licensing process and dramatically increase the number of animals licensed in the city. Allocate a portion of the license revenues for programs and activities that support healthy and happy dogs and cats within the City.

The Task Force found that Burlington was under licensing dogs compared to neighboring communities. Licensing is an important means of monitoring the overall health of the City's dogs with respect to rabies, and thus reducing transmission of this virus. Rabies, once symptoms appear, is fatal to humans and animals. In addition, treatment is expensive, painful and occurs over multiple visits. Further, licensing facilitates returning animals to their guardians quickly and efficiently, which reduces stress on the animals and saves City resources for other needs.

The Task Force performed a detailed review of licensing data and trends and found that licensing rates in Burlington are very low compared to neighboring cities with smaller populations. The 2022 rate of licensing in Burlington is estimated at 11%. The practices of the neighboring community of South Burlington, which has an estimated 35% licensing rate for dogs, were compared with Burlington's practices.

In the course of the Task Forces research, it was apparent that there are no dedicated funds for the development of parks resources for animals and their guardians. With some effort to improve licensing numbers, revenue increases for the city could be significant enough to fund additional programs and activities that support healthy and happy dogs and cats within the City. Examples of these programs are listed below.

The Task Force overwhelmingly recognized the importance of improving and expanding licensing within Burlington. The Task Force recommends that the City's licensing programs be strengthened and expanded as follows:

Improve licensing compliance

- Expand outreach and awareness to increase the number of animals licensed
- Educate the community about how the licensing funds are used, and the benefits of licensing (e.g. community health - rabies vaccination ensured)
 - This information should be provided when an animal is licensed
- Require cats to be licensed (see next recommendation)
- Expand the consequences for not licensing dogs and cats
 - Increase penalties (see Appendix C, Chapter 5 Article III)

-
- Work with landlords and housing associations to encourage licensing requirements in lease/HOA agreements. Less funding for resident companion animal programs
 - Require at-large animals be licensed before they are returned to their guardian
 - Require animal control officers to verify licenses when responding to incidents and record that information in the incident report
 - Grant the police real-time access to licensing information to increase the ease of rabies verification in the event of a bite.

Use the resulting increase in licensing revenues to create a special fund

The fund would support:

- Annual licensing efforts
- Development of a streamlined process to share licensing data
- Improved incident reporting and data tracking and improved responsiveness from police
- Additional companion animal programs and education
- Low-cost spay/neuter services
- Additional park facilities for animals

Appendix D includes detailed research and discussion of the bases for these recommendations.

Cats: Licensing and Prohibition of At-Large Cats

Recommendation: Require cats to be licensed and prohibit at-large cats.

The Task Force recommends that the City of Burlington require cats be licensed for their own welfare and that of other animals, to aid in identification for animal control purposes, and to better ensure public safety.

Burlington would not be the first to do so, as both South Burlington and Shelburne require cats to be licensed. The many benefits of licensing are enumerated in Appendix C under the [discussion of Article II, sections 5-16 and 5-14](#), and include improving the health of cats

and reducing the number of cats who are lost with no way to identify the guardian. Increased revenues from licensing could also help support better responsiveness to cat-related incidents, as well as support affordable spay/neuter options for low-income residents.

The Task Force also recommends that the City prohibit at-large cats, that is cats that are off-premise and not restrained by their guardian. Free roaming cats are more likely to experience disease and both accidental and intentional injuries as well as fatalities, and thus have shorter life spans (this is reflected in City data where 50 percent of reports about cats pertained to cats who had been found deceased, and of those, 75% were found in roadways). Cats permitted to roam off-premises can easily become nuisances on both public and private property and are classified as such in some neighboring municipal ordinances. Further, free-roaming cats are well documented in the scientific literature as immensely destructive to wildlife, particularly birds.

- Implement ordinance recommendation regarding licensing cats and prohibiting at-large cats as per the Ordinance Update recommendation

For a more detailed discussion, see Appendix C, Article II, Discussion.

Reporting, Enforcement & Compliance

Recommendation: Improve the reporting, compliance and enforcement of animal-related ordinances by creating the position of Animal Control Officer at the Police Department and adding professional experts to the Animal Control Committee.

The Task Force reviewed reporting, compliance and enforcement of dog related ordinances.

This included reviewing reporting mechanisms, social media, Front Porch Forum, and police department data for incidents such as off-leash dogs, aggressive dogs, attacks by dogs, as well as responses by the Burlington Police Department (BPD). Data obtained from the BPD likely reflects only a small portion of the actual incidents that involve animals in the community. Because residents may be aware of the narrow scope of the Department's

work on these issues, as detailed below, it can be assumed that many residents do not bother to report animal incidents and thus there is no record created.

Currently the City's Community Service Officers (CSO) respond to dog and rabies vector related calls for service. Incidents that are called in are responded to and are documented in incident reports. Depending upon the follow-up required, incidents may be responded to over several shifts. CSOs have many other responsibilities besides responding to animal incidents. If there is a higher priority incident such as a car accident, their attention may be focused on those. Additionally CSOs' responsibilities are limited to responding to dog-related reports and to reports about rabies vectors. Therefore concerns about cats or other animal types besides dogs are referred to other organizations such as the Humane Society of Chittenden County or to a wildlife removal service.

The Task Force recognizes the work that the CSOs perform everyday, but strongly recommends that a part- to full time animal control officer be hired by the City.

An animal control officer (ACO) also responds to incidents, but in addition proactively enforces ordinances (such as leash laws) and oversees the overall health and safety of animals within the City. An ACO would have specific and ongoing training and certification in the handling and welfare of animals, be able to perform inspections on and monitor facilities that shelter animals, educate the public on how to care for animals, and investigate trends and repeat problems or animals, conduct in-depth investigations and overall be a point person and resource for the Burlington community.

To improve compliance and enforcement of ordinances, the Task Force recommends the following:

- Create a position at the Police Department of Animal Control Officer
- Ensure personnel that are involved in animal welfare & enforcement of the Animals Ordinances have proper training and access to updated licensing information
- Increase education to improve community awareness on how to report incidents effectively
- Expand online incident reporting categories to include animal issues and ensure issues are assigned to responsive entities within City operations

-
- Recommend adding licensed veterinarian and certified animal behavior professional to animal control committee
 - Improve organization and categorization of data as it relates to incident reporting/tracking

See [Appendix I](#) for a summary of animal incidents reported to police and how they were typically addressed/resolved, per the report data available.

Off Leash Areas

Recommendation: Establish a policy for off-leash dogs that includes the management and creation of fenced and unfenced off-leash dog areas at a limited number of locations; and recommend BPRW conduct a pilot project to test unfenced off-leash areas for dogs.

Currently, it is against City ordinances to allow a dog off leash anywhere in the city, except in two fenced-in dog parks and one unfenced beach area. Areas in which dogs may be off-leash comprise a total of 3.5 out of the 520 acres of City Parks (less than 1% of all park land). Many Burlington dog guardians allow their dogs off leash indiscriminately on Burlington's trails and in parks and the City's enforcement of current leash laws is weak to non-existent. The committee researched potential locations, looked at programs in jurisdictions throughout the US for best practices and conducted a City-wide survey. There is a strong desire from dog guardians to have easy access to off-leash areas.

Our parks are a limited resource, and while more areas could be fenced in for dogs, this would exclude regular park goers from this valuable space.

The Off-Leash Areas recommendations, as follow, satisfy the need to create space in our urban environments where dogs may play freely and the desire not to fence off all of our parks for dogs, while providing a mechanism to better regulate and manage spaces where dogs are off-leash. By providing sufficient sanctioned off-leash spaces for dogs to play, explore, and run, the City may focus on the enforcement of regulations requiring dogs be on a leash otherwise within the City's system of parks and recreation paths, protecting all users and our urban wildlife.

The Task Force recommends increasing designated off-leash spaces while simultaneously increasing the enforcement of leash laws in the rest of the city. The goal is to ensure healthy and safe access to appropriate outdoor space for dogs across the City and to support enforcement of inappropriate spaces where dogs should not be off leash.

- Update the City ordinances with a new [Section 7 of Appendix D](#) which will add one fenced off-leash dog area to Oakledge, formalize the two existing off-leash fenced dog areas, and provide the parks department with regulations and the ability to enforce these regulations.
- Establish an [Off-Leash Dog Policy](#) with oversight by the Parks Commission
- Create a pilot program of off-leash dog areas, as drafted in the [Off-Leash Dog Policy](#) in Appendix F

The list of pilot areas in the [Off-Leash Dog Policy](#) came from a review of prior committee work (see Appendix K), current parks programming and usage, and survey results (Appendix I). Considerable thought was given to how to avoid clashes, including the following:

- Clear signage indicating designated off-leash areas & rules for using these spaces.
- A landing page on Burlington Parks Recreation Waterfront (BPRW) website showing where dogs can and can't go, and where they must be kept on-leash.

Education Campaign

Recommendation: Create and expand an annual calendar of education outreach, activities and parks-based events to reduce issues and conflicts around domestic animals while celebrating the joy they bring to Burlington's residents.

The Burlington Dog Task Force worked with the Parks & Recreation Department to support the education campaigns and events, including:

- ❖ Barking contribution to noise pollution, and solutions to unwanted barking, posted on 2/16/2023
- ❖ On leash in natural areas, posted on 5/18/22

- ❖ Scoop the Poop campaign, posted on 4/1/22
- ❖ Dog License education, posted 3/22/23
- ❖ Wag the Waterfront event

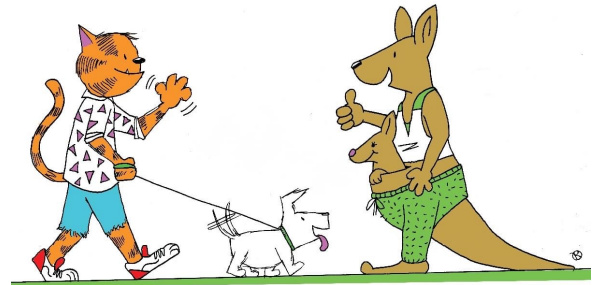
The Burlington Dog Task Force has created a draft calendar with suggested educational posts for social media and Front Porch Forum, as well as sample campaigns, as included in [Appendix H](#). Additional educational ideas included the following:

- ❖ “Having a dog in Burlington” literature handed out when a license is first issued
- ❖ More signage similar to what BPRW posted on the bike path during the summer of 2023 (see image on the right).
- ❖ Recommend that a web page on the city’s website is developed that goes over everything to do with dogs and cats: rules, how and why to license, off leash rules, off leash areas. Then this site can be referenced and linked to. (signs have QR codes leading to this page)
- ❖ How/when to report issues
- ❖ Impact of outdoor cats on wildlife
- ❖ Low cost spay/neuter options

The Task Force recommends the following educational steps be taken by the City:

- Follow an annual calendar of automatic social media posts/news releases (see appendix for content subjects)
- Hold annual programs in parks such as the recent “Wag the Waterfront”.
- Provide behavioral learning opportunities to animals and their companions

Be Friendly Keep Dogs on a Short Leash



-
- Provide resources for new arrivals (either new residents of Burlington who have dogs, or current residents who get a new dog) on on and off leash areas, regulations, general “good neighbor” guidelines and wellness resources
 - Install signage on guidelines for behavior of dogs in designated off-leash areas
 - Distribute education/information/tips annually on the cards that accompany dog license tags
 - Develop a curriculum for the community justice center, should a restorative justice approach be adopted for resolving violations of dog policies & ordinances

Appendices

Appendix A: Council Resolution

On March 30, 2021 the New North End City Councilors (Barlow, Carpenter, and Dieng), South End City Councilor Shannon, and Parks, Recreation and Waterfront Director Wight hosted an informative and constructive meeting with city residents to better understand pet issues beyond complaints shared on social media. This led to a Burlington City Council resolution on June 28 to create a Burlington Dog Task Force to address these issues. Dog Task Force members were officially appointed on November 17, 2021 by the PAC and the first meeting of the Task Force convened on January 27, 2022. The original resolution is copied below.

The scope of work included a mix of actions for implementation and policy recommendations.

HRB/Resolutions 2021/BURLINGTON PARKS ARTS AND CULTURE COMMITTEE TO CREATE A DOG TASK FORCE 7/8/2021

CITY OF BURLINGTON

In the year Two Thousand Twenty-one

Resolved by the City Council of the City of Burlington, as follows:

BURLINGTON PARKS ARTS AND CULTURE COMMITTEE TO CREATE A DOG TASK FORCE

That WHEREAS, According to the City Charter, a dog is defined as the following: Dogs shall include both male and female of the canine species. Dog shall also mean any animal which is considered to be a wolf-hybrid as defined in 20 V.S.A. § 3541(6).

WHEREAS, Dogs are considered an integral part of our society, playing different roles and providing services in the daily lives of humans, such as for accessibility, companionship, exercise, security and more.

WHEREAS, Under the Americans with Disabilities Act (ADA), a service animal is a dog that has been individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

WHEREAS, According to the American Society for the Prevention of Animal Cruelty (ASPCA), dog adoptions are up 700% nationally during the pandemic.

WHEREAS, According to the City of Burlington Parks, Recreation and Waterfront website, "The State of Vermont has one of the highest rates of pet ownership around the nation, the City of Burlington has made possible for community members to share their experiences in many different locations in the greater Burlington Area."

WHEREAS, The City of Burlington issued 755 dog licenses and collected over \$23,000 in dog license revenue for the 2020 fiscal year.

WHEREAS, The City of Burlington via the Department of Parks, Recreation and Waterfront has made a substantial investment in the renovation of the Starr Farm Dog Park located in the New North End.

WHEREAS, Over the past few months, residents of the New North End alongside other residents of the city have shared via social media (Front Porch Forum, Facebook) a growing number of incidents involving dogs or dog owners. The incidents were reported by both dog owners, former dog owners or nondog owners.

WHEREAS, Most of those incidents are similar in nature; some are unique incidents that resulted in a decreased quality of life and have caused tensions between neighbors. Those incidents include but are not limited to the following:

- Off leash dogs in city parks, natural areas or beaches
- Dogs attacking people or other dogs
- Dog feces not being picked up
- Policies not being enforced
- Unlicensed dogs
- Dog barking contributing to noise pollution

WHEREAS, Several other issues involving other types of pets in the city were also shared by community members.

WHEREAS, On Tuesday, March 30th the New North End City Councilors, Barlow, Carpenter and Dieng, hosted an informative and constructive community meeting alongside South End District City Councilor Shannon and Parks, Recreation and Waterfront Director Wight in order to better understand the pet issue beyond the complaints shared on social media.

WHEREAS, The Community meeting was well attended and received by the community. The attendance ranged from people of the South End, Old North End and New North End. Most attendees were dog owners or former dog owners as well as non-dog owners, nature lovers, dog park volunteers and professionals working with pets.

WHEREAS, Residents who attended the community meeting brainstormed ideas and best practices related to these issues and are willing to formally help the city in an ongoing way.

WHEREAS, The Burlington City Council, via a resolution, respectfully tasked the Parks, Arts and Culture Committee to make a recommendation via a resolution by June 28th to the Council regarding the creation of a Burlington Dog Task Force to address the issues raised in this resolution and possibly other issues.

WHEREAS, The Parks, Arts and Culture Committee, in consultation with the Director of Parks, Recreation and Waterfront and the Starr Farm Dog Park Volunteer Coordinator, developed the following recommendations for a nine (9) member task force and their scope of work.

NOW THEREFORE BE IT RESOLVED, The nine-member Dog Task Force shall be composed of the following members:

- 1) Starr Farm Dog Park Volunteer Coordinator
- 2) Representative of a dog shelter, dog rescue group or other dog group to be appointed by PACC
- 3) Dog trainer to be appointed by PACC
- 4) Veterinarian or animal health professional to be appointed by PACC

-
- 5) Burlington Police Department Community Resource Office representative to be designated by the Chief of Police
 - 6) Burlington Parks, Recreation and Waterfront representative (staff with land use or event planning expertise) to be designated by the BPRW director
 - 7) At large Burlington community member who is a non-dog owner to be appointed by PACC
 - 8) At large Burlington community member who is a dog owner to be appointed by PACC
 - 9) A representative of the Parks Commission to be appointed by the Parks Commission Chair

BE IT FURTHER RESOLVED, Parks Director will create an application for task force membership.

Applications will be received by the Clerk/Treasurer's Office until August 31, 2021. PACC appointed members shall be selected by the Parks, Arts and Culture Committee at their September meeting

BE IT FURTHER RESOLVED, The Parks, Art and Culture Committee recommends the following:

- A. That the Dog Task Force members elect a Chair as their first order of business in their first meeting; and the Director of Burlington Parks and Receptions and Waterfront to identify an administrative staff to the taskforce
- B. That the following be within the Dog Task Force's scope of work:
 - 1) Review current city programs and policies including other dog task force work.
 - 2) Conduct an Education Campaign:
 - a) Off leash dogs in city parks, natural areas or beaches
 - b) Dogs attacking people or other dogs
 - c) Dog feces not being picked up
 - d) Dog barking contributing to noise pollution
 - 3) Review licensing rules and make recommendations
 - a) Review licensing fees and make recommendations
 - b) Explore modernizing license fee applications

-
- c) Consider the question of licensing of outdoor cats
 - 4) Review compliance and policy enforcement and make recommendations
 - 5) Plan Pet/Dog Events, Activities and Celebrations, i.e., National Pet Day or National Dog Day Celebration
 - 6) Review current funding allocated to our municipal dog/pet resources and make recommendations
 - 7) Provide quarterly updates to the Parks, Arts, and Culture Committee
 - 8) Generate a final report to be presented to the City Council by April 29, 2022

Appendix B: Committee Members & Staff Participants

The full Task Force met monthly, with subcommittees and working groups collaborating in additional meetings as-needed.

Table 1. Appointed Members and City Staff

Appointed Members	City Staff
Jake Schumann, Chair through 10/24/2022 (Position 1)	Cindi Wight, BPRW Director
Lori Kettler (Position 2)	Meghan O'Daniel, BPRW Staff
Maria Karunungan, Chair 10/24/2022 forward (Position 3)	
Nina Hurley (Position 4)	
Dominic Tenan (Position 5, Reassigned) Yusuf Abdi (Position 5, Reassigned) Thomas Young (Position 5)	
Alec Kaeding (Position 6)	
Ilona Blanchard (Position 7)	
Ute Montensen (Resigned, Position 8) Joanne Kalisz (Replaced, Position 8)	
Abbey Duke (Position 9)	

Appendix C: Proposed Amendments to City Ordinances

Proposed Amendments to Article I of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE I. IN GENERAL

5-1 ~~Pound established~~ Animal shelter provided.

There shall be ~~established~~ provided by the city council ~~a pound an animal shelter for the impounding of all beasts~~ all domestic and exotic animals in need ~~liable to be impounded.~~

(Ord. of 6-23-97)

5-2 Appointment of ~~poundkeepers; compensation~~ animal shelter personnel.

It shall be the duty of the mayor to appoint such ~~poundkeepers~~ persons as may be required to ~~take care of and keep such pound as may be~~ manage and maintain the animal shelter that is established pursuant to section 5-1. Their compensation shall be the same as provided by the laws of this state for ~~poundkeepers in towns.~~

(Ord. of 6-23-97)

Cross reference—Duties of officers of the city, § [2-4](#).

5-2a Appointment of animal control officer

It shall be the duty of the mayor to appoint an enforcement officer(s), in accordance with section 122 of the city charter, who shall be a member of the Burlington Police Department. Such enforcement officer(s) shall be a certified animal control officer.

5-3 Animal bites.

It shall be the duty of every person bitten, or his or her parent or guardian, and the attending physicians to report to the ~~city health officer~~ animal control officer, who shall report to the city health officer, within twenty-four (24) hours the name, address and telephone number of the ~~owner~~ guardian or keeper of the animal ~~which~~ who bit the person and the complete circumstances, to the extent known.

5-4 Nuisance animals.

(a) No ~~owner guardian~~, keeper or other person having control shall permit an animal to be a nuisance animal. For the purposes of this section, nuisance animal means any animal or animals ~~which~~ who:

- (1) ~~Molests Attacks~~ or harasses passersby or passing vehicles, or otherwise creates a public safety hazard;
- (2) Attacks other animals, including but not limited to wildlife;
- (3) Damages property other than that of ~~their~~ its owner guardian;
- (4) Defecates off the premises of the animal's ~~owner guardian~~, and the ~~owner guardian~~, or other individual in control of the animal, fails to remove such deposit immediately;
- (5) Roams off the premises of the guardian while not under control of the guardian, or the guardian's agent, by leash or other similar means of physical restraint at all times; or
- (5 ~~6~~) Barks, whines, howls, cries, or makes a noise commonly made by such animals in an excessive and continuous fashion so as to disturb the peace and quiet of any other person.

(b) Any dog or cat found to be a nuisance animal by an animal control officer shall be impounded if the guardian, or the guardian's agent, is not present and cannot be located immediately.

(Ord. of 6-23-97; Ord. of 10-23-06, eff. 11-22-06)

5-5 Exotic animals.

~~(a) Purpose and findings: The purpose of this section is to enhance the public safety of persons who are present on the district known as the Church Street Marketplace (the Marketplace) and in the city's parks by regulating the presence of "exotic" animals on the Marketplace and in the city's parks. The council finds that such pets can pose a threat to the public health, safety, and welfare if present on the Marketplace and in city parks. Such pets are unlicensed and are not typically leashed, as is required of domestic dogs.~~

~~(b) Definitions: "Exotic pet" means all animals except domestic dogs, domestic cats and the European ferret (*Mustela putorius furo*).~~

~~(c) General prohibition: No person shall have an exotic pet or permit their exotic pet to be on or about the Marketplace or within a city park unless expressly approved by the Marketplace Director or Parks Department respectively or exempted under the terms of this section.~~

(d) Exemptions: A person may have or permit an exotic pet to be on or about the Marketplace or within a city park when done to transport the pet directly from a pet store in the vicinity of the Marketplace or city park after purchase of such pet or to return such pet to said pet store. The person must retain a receipt for the purchase of such pet and shall display the receipt upon demand from any animal control officer, law enforcement officer, or other person duly authorized to enforce animal control ordinances.

(a) Purpose and findings: The city recognizes that the keeping of exotic animals raises animal welfare concerns and public health and safety concerns not commonly associated with domesticated animals. This section is intended to prevent mistreatment of exotic animals, reduce the risk of harm to the public from contact with exotic animals as well as accidents and other incidents involving such animals, and reduce the public health risk associated with diseases and pathogens carried by such animals.

(b) Definitions: "Exotic animal" means all animals except domestic dogs, domestic cats, domestic mice, domestic rats, domestic rabbits, gerbils, hamsters, guinea pigs, the European ferret, and livestock as defined by Title 6, section 791 of the Vermont Statutes.

(c) Prohibition: The offer for sale, sale, purchase, possession, or public display of any exotic animal within the corporate limits of the city is prohibited.

(d) Exemptions: Any exotic animal possessed on the date of the enactment of this ordinance is exempted from the prohibition on possession set forth in subsection (c) upon registration of the animal with the Board of Health. The exemption applies only to the individual animal so registered, and does not apply to any animal of the same species subsequently acquired. The prohibition set forth in subsection (c) shall not apply to registered 501(c)(3) organizations whose primary purpose is education, animal rescue, or animal rehabilitation.

(Ord. of 10-27-03, eff. 12-3-03)

~~5-6 Use of non-domesticated animals for public display prohibited.~~

(a) Purpose. This section is intended to assist in the prevention of the mistreatment of non-domesticated animals used in any public display, to reduce risk of harm to the public from accidents and incidents involving such animals, and to reduce the public health risk associated with diseases and pathogens carried by such animals.

(b) Definitions.

(1) Non-domesticated animals are defined as *Felidae* (all wild cats and hybrids thereof), *Ursidae* (all bears), *Proboscideae* (all elephants), and Non-human Primates and *Prosimians*.

(2) Public display shall mean the exhibition, presentation or showing of live non-domesticated animals to the general public regardless of whether for profit, on a not for profit basis or without charge.

~~(c) — *Prohibition.* The public display of live non-domesticated animals within the corporate limits of the city is prohibited.~~

(Ord. of 9-7-04; eff. 10-13-04)

5-7 6—5-12 Reserved.

Discussion

Section 5-1

The current language of section 5-1 requires the city to provide an animal shelter that accepts “all beasts liable to be impounded.” It is the Task Force’s understanding that the city has previously contracted only for the impoundment of dogs in need. The Task Force recommends that the city provide a shelter for all domesticated and exotic animal residents in need.

Section 5-2a

Section 5-2a is a new section that requires the appointment of a dedicated, certified animal control officer, or officers, within the Burlington Police Department (“BPD”).

Currently, limited animal control functions are performed by the community service officers at the BPD. Community service officers are not required to have experience or training specific to animal control functions, such as animal handling, care, and welfare.¹ The Task Force recommends that the city retain an officer, or officers, whose sole duty is to respond to animal-related issues and to expand the program so that the city’s animals and citizens are better served in this regard. To achieve that goal, the Task Force recommends that animal control officers obtain certification in animal control and be required to participate in continuing education courses, through a national professional training program.

¹ See City of Burlington, Community Service Officer Job Description, <https://www.governmentjobs.com/careers/burlingtonvt/jobs/3045625/community-service-officer..>

The National Animal Care and Control Association (“NACA”) recognizes the difficulty in determining the optimum number of animal control officers for any particular locality.² The calculation is affected by a number of factors such as the number of calls for service, officer safety, citizen safety, types of services provided, population density and diversity, and coverage area.³

Assessment of the number of officers required to address the animal control needs in Burlington is further complicated by the fact that calls for service may not accurately reflect the need for an animal control officer. For example, residents may be aware that the BPD does not respond to calls regarding free-roaming cats and, as a result, they do not place such calls for service.

Studies and other evidence suggest that most cities with a population similar to that of Burlington (approximately 44,000 residents) employ or contract with at least one animal control officer.⁴

In Vermont, an online search reveals that many smaller and less diverse municipalities have at least one animal control officer who may be part- or full-time, employed, contracted, or in a few instances a volunteer. A partial list includes Barre, Bolton, Brattleboro, Castleton, East Montpelier (2 officers), Fairfax, Guilford, Hartland, Highgate, Hyde Park (2 officers), Newfane, Putney, Randolph, Readsboro, Rockingham, Sharon, Shelburne, Shaftsbury, Waterbury, and Windham.

Section 5-4

Section 5-4 expands the definition of “nuisance animals” to include free-roaming animals. It also authorizes law enforcement to impound a “nuisance animal” if the animal’s guardian, or the guardian’s agent, is not present or readily located, and it requires impoundment of free-roaming animals under such conditions.

²National Animal Care and Control Association, “Determining Field Staffing Needs,” <https://www.nacanet.org/determining-field-staffing-needs/>.

³ *Id.*

⁴ For example, a study conducted by NACA found the average ratio of field animal control officers to citizens was one officer for every 16,000 to 18,000 persons. https://www.sheltertrak.com/downloads/kern/kcac_audit/4.pdf. Private online discussion groups for animal control officers across the country suggest similar statistics. Printouts on file with the author.

Section 5-5

Section 5-5 replaces the ban on exotic animals on Church Street Marketplace and in city parks with a city-wide ban on the offer for sale, sale, purchase, possession, or public display of exotic animals, with a grandfather clause for animals currently possessed, and exceptions for certain 501(c)(3) organizations.

The Task Force recognizes that the proposed amendment falls outside the scope of its mandate but wishes to take this opportunity to point out that societal views on the keeping of exotic animals have changed markedly in the last decade as we have learned more about these animals. It is now well accepted that the complex needs of exotic animals cannot be met in captivity, even by the most well-meaning guardians,⁵ and that the exotic animal trade itself is a source of much suffering.⁶

The environmental impact of the exotic pet trade can be severe as well, often having a devastating effect on wild populations of the species traded. For example, it is estimated that every year 21% of the wild population of African Grey parrots, a popular “pet” and an endangered species, are poached.⁷

Exotic pets released into the wild when their novelty wears off, or when they become too expensive or too difficult to handle, can wreak havoc on native flora and fauna. Perhaps the most well-known examples of this problem are the Burmese pythons and green iguanas in Florida.⁸ Vermont is not immune to invasive species, and it is projected that as the climate continues to warm some invasive species, such as red-eared slider turtles commonly sold in local pet stores, will survive and establish breeding populations in the state.⁹

⁵Exotic animals, even those bred in captivity, still possess innate social and physical needs, and require mental stimulation that cannot be provided in private homes. See, Progressive Animal Welfare Society, “Exotic Pets,” <https://www.paws.org/resources/exotic-animals/>.

⁶ E.g., World Animal Protection, “7 Reasons Why You Shouldn’t Keep Wild Animals as Exotic Pets,” <https://www.worldanimalprotection.ca/news/7-reasons-why-you-shouldnt-keep-wildlife-pets>; Born Free U.S., “The Dangers of Keeping Exotic Pets,” <https://www.bornfreeusa.org/campaigns/animals-in-captivity/the-dangers-of-keeping-exotic-pets/>.

⁷ *Id.*, World Animal Protection.

⁸ Florida Fish and Wildlife Commission, “Burmese Python,” <https://myfwc.com/wildlifehabitats/profiles/reptiles/snakes/burmese-python/>; Florida Fish and Wildlife Commission, “Green Iguana,” <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/>.

⁹ Vermont Reptile & Amphibian Atlas, “Pond Slider,” <https://www.vtherpatlas.org/herp-species-in-vermont/trachemys-scripta/>.

Aside from the animal welfare and environmental concerns, many species of exotic animals carry zoonotic diseases, and there are frequent reports of injuries and deaths from exotic animals kept as “pets,” who can retain their wild instincts even after decades of captive breeding.¹⁰

All states prohibit or restrict the possession of certain exotic animals, and the latter often involves a permit, license, or registration requirement.¹¹ Vermont allows unrestricted possession of many exotic animals, such as certain species of pythons and boas, but requires a permit to possess other species, such as anacondas and black widow spiders.¹²

As the private “ownership” of exotic animals has increased, a growing number of counties and municipalities across the nation have enacted ordinances to prohibit or further restrict the presence of exotic animals in their communities, for the safety of residents and the welfare of the animals.¹³ For example, Rainsville Alabama’s Responsible Pet Ownership Ordinance prohibits the keeping of any non-domesticated, wild animal.¹⁴ Richmond Virginia has a comprehensive ban on the ownership, breeding, purchase, sale, offer for purchase or sale, keeping or maintenance of all exotic or wild warm-blood animals, venomous reptiles and amphibians, and members of the crocodilian family, with exceptions for a limited number of identified species who are in captivity and have never seen the wild, or who have been domestically bred or legally imported.¹⁵

⁹ *E.g.*, Bruno B. Chomel, Albino Belotto, and François-Xavier Meslin, “Wildlife, Exotic Pets, and Emerging Zoonoses,” *Emerg Infect Dis*, v.13(1); 2007 Jan., available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2725831/>, last accessed Sept. 23, 2023.

¹⁰ *E.g.*, People for the Ethical Treatment of Animals, “Reptile Incidents,” <https://www.peta.org/wp-content/uploads/2022/06/reptile-incidents-factsheet.pdf>.

¹¹ Findlaw, “Exotic Animal Laws by State,” <https://www.findlaw.com/injury/torts-and-personal-injuries/exotic-animal-laws-by-state.html>.

¹² Vermont Fish and Wildlife Department, “Unrestricted Wild Animal List” and “Restricted Wild Animal List,” https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Learn%20More/Living%20with%20Wildlife/Importation/Unrestricted_Wild_Animal_List.pdf.

¹³ See Humane Society of the United States, “Where the Wild Things Shouldn’t Be,” <https://humanepro.org/magazine/articles/where-wild-things-shouldnt-be>.

¹⁴ City Of Rainsville, Alabama, “Non-Domesticated, Wild Animals,” Ord. No. 5-23-13-A, sec. 10, <http://www.rainsvillealabama.com/ordinances/Ordinance-5-23-13-A-amendment.pdf>.

¹⁵ City of Richmond, Virginia, Ord. No. 2023-130 - Amended 20230626, https://library.municode.com/va/richmond/ordinances/code_of_ordinances?nodeId=1228386.

The Task Force recommends that the city consider the proposed revisions to section 5-5 for the reasons stated herein.

Section 5-6

Section 5-5, if adopted, makes the prohibition on public display of certain non-domesticated animals in section 5-6 duplicative and thus unnecessary.

Proposed Amendments to Article II of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE II. DOGS AND CATS¹

5-13 Definitions.

The following definitions shall apply to this article:

"At-large" shall mean not under the control of the ~~owner~~ guardian, a member of the guardian's immediate family, or the guardian's agent or another individual either by leash, ~~cord, chain~~ or other similar means of physical restraint.

"Dog" shall include both male and female of the canine species. Dog shall also mean any animal ~~which~~ who is considered to be a wolf-hybrid as defined in 20 V.S.A. § 3541(6).

"Cat" shall include both male and female of the feline species.

"Enforcement official" when used herein shall mean any animal control officer, police officer, ~~poundkeeper~~ shelter manager, urban park ranger or other individual specifically designated by the city council to enforce the provisions of this chapter.

~~"Owner~~ Guardian" shall include any person or persons, firm, association or corporation owning, keeping or harboring a dog or cat.

~~"Vicious Dangerous dog"~~ shall mean a dog ~~which that~~ attacks or bites a person or other ~~domestic pet~~ companion animal while the dog is off the premises of the ~~owner~~ guardian or keeper, and the person or ~~pet~~ companion animal attacked or bitten requires medical attention. ~~Vicious Dangerous dog~~ complaints shall be investigated pursuant to section 5-27(b).

(Ord. of 6-23-97; Ord. of 4-17-00; Ord. of 4-17-23(1))

5-14 Identification required.

Identification that includes the name and contact information for the guardian of the dog or cat shall be securely attached to a collar or harness and worn at all times.

5-14 15 At-large prohibited.

(a) *Prohibition.* Except as exempted below, no person shall permit a dog or cat for whom they are the guardian ~~him or her~~ or who is ~~under his or her~~ their control to be at-large as defined in section 5-13 or to trespass upon the property of another, public or private.

(b) *Public Safety.* Should an at-large dog or cat be deemed to pose an imminent public safety risk, said animal may be killed by the Police Department or their designee. Such an act shall occur where other reasonable means to control the animal have been unsuccessful or deemed not practicable under the circumstances.

(c) *Exemptions.* A dog or cat ~~may be~~ is not at-large if ~~it is~~ they are:

- (1) On the premises of the dog's or cat's ~~owner~~ guardian;
- (2) On the premises of the person under whose control the dog or cat is under; or
- (3) On the premises of another person as long as that person has given permission for the dog or cat to be at-large;
- (4) A dog is not at-large if they are in a designated off-leash dog area managed and regulated by the board of parks and recreation commissioners.

(Ord. of 6-23-97; Ord. of 4-17-00; Ord. of 9-10-12(1))

5-1516 License and rabies vaccination required.

(a) *Licensing.* Every ~~owner or keeper~~ guardian of a dog or cat more than six (6) months old who has resided in the city for more than 90 days, shall be required to ~~annually~~ register and license the animal, in the manner prescribed by the city, with the city clerk's office and to do so annually provided that no guardian shall be required to register a dog or cat more than once in any calendar year. The license shall expire on the first day of April next after its issuance. Upon issuance of such license and payment of the license fee as required in section [5-17](#) of this chapter, each ~~dog owner~~ guardian shall receive a ~~dog~~ license tag.

(b) *Rabies vaccination.* Proof of a current rabies vaccination, as required by state law, shall be required for the licensing of any animal.

(c) *Fixture of tag.* The ~~dog~~ license tag issued to any person as provided herein shall be securely attached to a collar or harness on such licensed dog or cat and worn at all times.

(Ord. of 6-23-97; Ord. of 8-14-00; Ord. of 6-4-07, eff. 7-4-07)

State law reference—Control of rabies [20](#) V.S.A. § [3801](#) et seq.; immunization required, [20](#) V.S.A. § 4003.

5-1617 License fees.

(a) In addition to the license fee and any penalty fee required by state law, the municipal fee for each license required by this article shall be ~~twenty dollars (\$20.00) for each neutered/spayed dog and forty dollars (\$40.00) for each non-neutered/non-spayed dog~~ recommended by the city clerk's office and approved by the city council, provided that the fee for an intact dog or cat shall be greater than that for a neutered or spayed dog or cat. The fees established under this section shall be reviewed not less than every five years.

(b) The municipal fees collected under this section shall be used for education and other services pertinent to the improved welfare of dogs and cats who reside in the city.

~~(b)~~ (c) The ~~owner or keeper~~ guardian of a neutered/spayed dog that serves as the person's service animal under the Americans with Disabilities Act may request waiver of the municipal license fee (but not the state fee) by providing to the city clerk's office adequate responses to the following questions in writing:

- Is the dog a service animal required because of a disability?
- What work or task has the dog been trained to perform?

(Ord. of 6-23-97; Ord. of 6-25-01; Ord. of 6-4-07, eff. 7-4-07; Ord. of 2-16-21)

State law reference—Similar provisions, 20 V.S.A. § 3581.

5-1718 Removal of dog waste required.

The ~~owner, keeper~~ guardian or person in control of any dog or cat shall be responsible for the removal of any defecation deposited by such dog or cat on any public or private property.

(Ord. of 6-23-97)

5-1819—5-23 Reserved.

Discussion

The title of Article II is revised to reflect the recommended addition of cats to specified sections of the Article.

Section 5-13

Section 5-13 adds a definition of “cat” and updates the definition of “guardian” accordingly.

Section 5-14

Section 5-14 is a new section that requires dogs and cats to wear identification that includes the name and contact information for the guardian. This requirement serves to protect companion animals, and benefits animal control efforts and public safety as well.

Rhode Island summarizes the benefits of such an ordinance in the preamble to a state law that requires identification for cats.¹⁶ Specifically, the Rhode Island legislature determined that:

- (1) Cat identification would provide cats protection under the law, equal to that afforded dogs, by establishing ownership which, in turn, would encourage cat owners to take full responsibility for their pets' welfare.
- (2) [Already required in Vermont] Cat identification would protect cats, as dogs are now protected, by establishing minimum holding periods for cats released to and/or impounded by municipal animal control facilities and private animal shelters.
- (3) A program to require cat identification should facilitate the return of lost, owned cats.
- (4) Cat identification would provide a method to help distinguish between owned and unowned cat populations thus assisting animal control officers and animal shelters in carrying out their mission.
- (5) Cat identification would advance the reduction of the untold suffering of cats at-large in our state by helping to insure the quick return of injured and sick animals to their owners.
- (6) Passage of this bill would reduce the number of unowned cats and increase education to owners as to the need for sterilization of cats, thereby reducing unwanted litters, eliminating cat over-population problems, and reducing the costs to cities and towns for euthanizing at-large or unowned cats.
- (7) Cat identification would help support public health and safety in the control of rabies.¹⁷

These same public purposes are advanced when dogs are required to wear identification.

Section 5-15

Section 5-15 as currently written prohibits at-large dogs. The proposed amendment includes cats in this prohibition. The Task Force recognizes that this recommendation falls outside the scope of its mandate but considers the amendment necessary for the welfare of cats, the protection of wildlife, and public safety. The American Veterinary Medical Association ("AVMA") provides a Model Dog and Cat Control Ordinance that requires all dogs and cats "be kept under restraint" for these very reasons.¹⁸ A number of municipalities

¹⁶ R.I. Gen. Laws § 4-22-1.

¹⁷ *Id.*

¹⁸ American Veterinary Medical Association, "Model Dog and Cat Control Ordinance," sec. V(a), <https://www.avma.org/sites/default/files/resources/Model-Dog-Cat-Control-Ord-Policy.pdf>; American Veterinary Medical Association, "Free-roaming, owned cats," <https://www.avma.org/resources-tools/avma-policies/free-roaming-owned-cats>.

in Vermont, for example South Burlington, Shelburne, and Stowe, have followed the AVMA's lead and prohibit at-large cats and/or include at-large cats in the definition of "nuisance animal," and impose fines and/or permit their impoundment.¹⁹

The Welfare of Cats: As the AVMA and other authorities recognize, free-roaming cats are likely to have a reduced life span and may be exposed to injury, suffering, and death from vehicles, attacks from other animals, disease, cruel acts by humans, poisons, traps, and weather extremes.²⁰ Burlington's resident cats have not escaped these harms.²¹

The Protection of Wildlife: The American Bird Conservancy succinctly summarizes the detrimental and deadly impact of free-roaming cats on native species of wildlife:

Outdoor domestic cats are a recognized threat to global biodiversity. Cats have contributed to the extinction of 63 species of birds, mammals, and reptiles in the wild and continue to adversely impact a wide variety of other species, including those at risk of extinction, such as Piping Plover ...The ecological dangers are so critical that the International Union for Conservation of Nature (IUCN) lists domestic cats as one of the world's worst non-native invasive species.²²

In the United States, it is estimated that outdoor cats kill approximately 2.4 billion birds every year, earning the distinction of the number-one direct, human-caused threat to birds.²³ Between 6.9 to 20.7 billion small mammals are killed by cats each year, and researchers

¹⁹ South Burlington, Vermont, "Care & Control of Dogs & Cats Ordinance," Town Ordinance, Vol. 1, pg. 159-165, sec. 3, https://cms6.revize.com/revize/southburlington/document_center/city%20regulations/Care_and_Control_of_Dogs_and_Cats_Ordinance.pdf; Town of Shelburne, "An Ordinance for the Care and Control of Animals," Town Ordinance, Vol. 1, pg. 3-32, sec. 2(g) and sec. 4(a), <https://www.shelburnevt.org/DocumentCenter/View/103/Animal-Control-Ordinance>; Town of Stowe, Vermont, "Animal Control Ordinance," Municipal Code, Chapter 2, Article III, https://www.townofstowevt.org/vertical/Sites/%7B97FA91EA-60A3-4AC6-8466-F386C5AE9012%7D/uploads/Animal_Control_Ordinance_Final_2015_SIGNED.pdf.

²⁰ E.g. AVMA, "Free-roaming, owned cats," *supra*, n. 1.

²¹ E.g., New England Cable News, "Boy Cited After Allegedly Hanging Cat From Tree in Burlington, Vermont," Nov. 17, 2016, <https://www.necn.com/news/local/vermont/boy-cited-after-allegedly-hanging-cat-from-tree-in-burlington-vermont/41056/>; Burlington Vermont Police Department Incident Reports document an instance in which a cat was injured in a leghold trap and left to stagger off and suffer after their release.

²² American Bird Conservancy, "Indoor Cats," <https://abcbirds.org/program/cats-indoors/cats-and-birds/> (also providing links to scientific literature on the issue); see also, Wildlife Center of Virginia, "Untamed - The Case for Indoor Cats," <https://vermont.pbslearningmedia.org/resource/case-for-indoor-cats-video/untamed-the-wildlife-center-of-virginia/> (also addressing the welfare of cats, zoonotic diseases, and ways to transition free-roaming cats to the indoors).

²³ *Id.*, American Bird Conservancy.

believe that between 258 to 822 million reptiles and 95 to 299 million amphibians may suffer the same fate.²⁴

Burlington is an environmentally conscious community, and the Task Force suggests that a prohibition on free-roaming cats is simply good environmental stewardship.

Public Safety: The scientific literature documents that free-roaming cats pose a significant threat to public health because they can carry and transmit a number of zoonotic viruses, bacteria, and parasites, such as rabies and toxoplasmosis.²⁵ Notably, according to Peter Marra, a professor of biology and the environment at Georgetown University, “[d]ogs used to be the primary way humans picked up rabies from domestic animals ... [b]ut we started licensing dogs and requiring leash laws and rabies vaccines. Now, dogs are not the problem at all—it’s primarily cats.”²⁶

The Task Force recommends that the city prohibit free-roaming cats for the reasons stated herein.

Section 5-16

Section 5-16 extends the requirement for a license to cats. Such requirements have been shown to improve the welfare of cats, increase public safety, and enhance the quality of life in their communities, much like the identification requirements discussed above.

Municipalities across the country have implemented cat-licensing requirements, including jurisdictions in Vermont such as South Burlington and Shelburne.²⁷

The Task Force recommends that the city require licenses for cats for the reasons stated herein.

Section 5-17

²⁴ Smithsonian Magazine, “Feral Cats Kill Billions of Small Critters Each Year,” Jan. 29, 2013, <https://www.smithsonianmag.com/science-nature/feral-cats-kill-billions-of-small-critters-each-year-7814590/#:~:text=Based%20upon%20data%20taken%20from,needed%20to%20verify%20those%20extrapolations>

²⁵ E.g., R. W. Gerhold and D. A. Jessup, “Zoonotic Diseases Associated with Free-Roaming Cats,” *Zoonosis and Public Health*, 2012, <https://abcbirds.org/wp-content/uploads/2015/07/Gerhold-and-Jessup-2012-Zoonotic-diseases-and-free-roaming-cats.pdf>.

²⁶ Kristine Liao, “Outdoor cats are deadly—and not just for birds and squirrels,” *Popular Science*, May 31, 2022, <https://www.popsci.com/environment/outdoor-cats-spread-diseases/>.

²⁷ South Burlington Town Ordinance, *supra* n. 4, sec. 4(A); Town of Shelburne Ordinance, *supra* n. 4, sec. 12(a).

Section 5-17 requires fees for dog and cat licenses to be reviewed no less frequently than every five years, and for the revenue to be used for education and other services pertinent to the improved welfare of dogs and cats who reside in the city. Anecdotal evidence suggests that more residents will comply with the licensing requirement if the fees are used to provide companion animal-related services.

Adequate low-cost spay/neuter options

There is consensus among those knowledgeable about companion animal overpopulation that communities must take the important step to provide adequate safe, affordable, voluntary spay/neuter programs that are readily accessible to the community, and that focus on education and incentives to encourage participation by those sectors of the community most in need of the service.²⁸

The Humane Society of Chittenden County's (HSCC) Community Pet Clinic provides a low-cost spay and neuter service and administers a fund to assist residents who cannot afford the service.²⁹ Task Force member Nina Hurley, who serves on the HSCC's Board of Directors, advises that the clinic is at capacity. The Task Force recommends that the City consult with the HSCC to assess whether the City should provide support to the clinic and/or establish an additional, independent spay/neuter program.

²⁸ See, e.g., American Society for the Prevention of Cruelty to Animals, "Position Statement on Mandatory Spay/Neuter Laws," <https://www.asPCA.org/about-us/asPCA-policy-and-position-statements/position-statement-mandatory-spayneuter-laws#:~:text=ASPCA%20Position,means%20to%20reduce%20shelter%20intake>.

²⁹ Humane Society of Chittenden County, "Spay-Neuter at the Community Pet Clinic," <https://www.hscCVt.org/SNClinic>.

Proposed Amendments to Article III of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE III. ENFORCEMENT AND IMPOUNDMENT

5-24 Penalties.

An offense of any provision of this chapter by any person shall be deemed a civil ordinance violation and shall be punishable by the following penalties:

- (1) *First offense.* A first offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~one~~ two hundred dollars (\$~~1~~ 200.00) and no more than ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00). The waiver fine shall be ~~one~~ two hundred dollars (\$~~1~~ 200.00).
- (2) *Second offense.* A second offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00) and no more than ~~two~~ three hundred fifty dollars (\$~~2~~ 350.00). The waiver fine shall be ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00).
- (3) *Third and subsequent offenses.* A third or subsequent offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~two~~ three hundred fifty dollars (\$~~2~~ 350.00) and no more than ~~five~~ six hundred dollars (\$~~5~~ 600.00). The waiver fine shall be ~~two~~ three hundred fifty dollars (\$~~2~~ 50.00).

In addition to the penalties provided in this section,;

- (1) Any person found in violation of this chapter may be subject to a restorative justice process with the Burlington Community Justice Center at the discretion of the animal control committee.
- (2) ~~a~~Any animal found in violation of this chapter may be impounded as provided in section 5-25 of this chapter.

(Ord. of 6-23-97; Ord. of 6-4-07, eff. 7-4-07)

5-25 Impoundment.

(a) *Authority to impound.* ~~Dogs~~ Any animal in violation of any provision of this chapter or suspected of being diseased or injured may be taken by the enforcement officer and impounded in the city ~~pound~~ animal shelter and there confined in a humane manner, except that any animal suspected of being a stray shall be impounded. ~~The enforcement officer may, in lieu of boarding and when in the public interest and consistent with the public safety, allow an impounded dog to remain confined in the custody of its owner on the owner's recognizance that the dog shall remain confined to the owner's property, follow the terms of impoundment set by the enforcement officer and shall not be in violation of any provision of this chapter.~~

Confinement in lieu of boarding shall continue until such time as the violation or condition authorizing impoundment has been abated.

(b) *Impoundment fees.* Any ~~dog~~ animal impounded under the provisions of this chapter shall be released only on payment of a ~~seventy-five~~ one hundred dollars (\$~~75~~100.00) impoundment fee.

(c) *Boarding fee.* In addition to the impoundment fee charged herein there shall be an additional charge of ~~ten dollars (\$10.00)~~ actual expenses per day for board for each day the period that the ~~dog~~ animal is impounded, except that if an animal is claimed up to three (3) hours after impoundment, the owner will be responsible for one half (1/2) day's boarding fee. If an animal is claimed within two (2) hours of opening business hours on the following business day, the owner will not be charged for that day's boarding fee.

(d) *City clerk to collect fees before releasing ~~dog~~ animal.* It shall be the duty of the city clerk to collect all impound and boarding fees before releasing an ~~dog~~ animal.

(e) *Unlicensed dogs and cats to be licensed before release.* If an impounded dog or cat is unlicensed, in addition to the impoundment and boarding fees set forth herein, the dog or cat shall not be released without the payment of the license fee required by section 5-17, except that if the impounded dog or cat has not had its proper vaccinations to be registered a ~~forty-five~~ one hundred dollar (\$~~45~~100.00) cash deposit shall be posted with the city clerk or ~~his~~ or her their designated agent(s) until proof of registration is presented. A dog or cat released under cash deposit shall be registered within two (2) working days after its release. If the dog or cat is not registered within the time period set forth herein, the cash deposit shall be forfeited and the ~~owner~~ guardian of the animal shall be subject to additional penalties under the provisions of 20 V.S.A. Chapter 193

(f) *Disposition of unredeemed ~~dogs~~ animals.* If any impounded ~~dog~~ animal with a current and effective license established by proof of a dog license tag, is not redeemed within (7) days of its impoundment, ~~it~~ the animal shall be ~~sold or given away~~ offered for adoption at the city animal shelter or transferred to a cooperating animal shelter as defined in 20 V.S.A. § 3901. If any impounded dog without a current and effective license established by proof of a dog license tag, is not redeemed within (5) days of its impoundment, it shall be sold or given away. Any proceeds from the sale of any impounded dog shall first be allocated to taxes, fees and other charges related to the impoundment. Any balance then remaining shall be paid to the owner if any is found. If proceeds from the sale of the unredeemed dog do not cover the costs associated with the impoundment, the balance of sums owed under this chapter may be collected in a civil action brought under this section. If any unredeemed ~~dog~~ animal is not sold or given away adopted because of disease, temperament or other cause, it shall be destroyed in a humane way euthanized. The impoundment period may be waived by the poundkeeper director of the animal shelter in the case of a severely injured animal whose ~~owner~~ guardian cannot be located or is unwilling to claim the animal.

(g) *Interference with impoundment.* Any person who interferes with the impounding of an ~~dog~~ animal under provisions of this article or releases, or who attempts to release, an impounded ~~dog~~ animal contrary to this article shall be in violation of this chapter.

(h) *Notice of impoundment.* Within twenty-four (24) hours of the impoundment of any ~~dog animal~~ under this chapter, the enforcement officer shall make every reasonable attempt to notify the ~~owner guardian~~ of the impounded ~~dog animal~~ of such impoundment. Such notice shall include either personal contact with the ~~owner guardian~~ or a written notice posted at the dwelling house of the ~~owner guardian~~.

(Ord. of 6-23-97; Ord. of 6-4-07, eff. 7-4-07)

State law reference—Notice by impounder, [20 V.S.A. § 3413](#).

5-26 Cruelty.

Any person who shall torture, torment or cruelly neglect to provide with necessary sustenance or shelter, or shall cruelly beat or needlessly mutilate or illegally kill any animal, or any person who shall cause any animal to be tortured, tormented, or fight with other animals, or deprived of necessary sustenance or to be cruelly beaten or needlessly mutilated or illegally killed shall be guilty of a misdemeanor offense and shall be punishable by a fine of from ~~one three~~ hundred dollars (\$~~1300.00~~) to ~~five six~~ hundred dollars (\$~~5600.00~~).

(Ord. of 6-23-97)

5-27 Animal control committee.

(a) *Animal control committee established.* For purposes of this section, an animal control committee is established. The animal control committee will be a subcommittee of the Burlington Police Commission and shall consist of three (3) commission members, one (1) licensed veterinarian, and (1) certified animal behavior professional to be appointed on an as needed basis by the chair of the Burlington Police Commission. The designated animal control officer shall be the prosecuting officer for any violation brought before the committee.

(b) *~~Vicious Dangerous~~ dogs.* Upon written complaint by a city resident that a dog is alleged to be ~~vicious dangerous~~ as defined in section [5-13\(e\)](#), the animal control committee may hold a hearing on the facts of the complaint and, if the dog is found to be ~~vicious dangerous~~, make such order as necessary to protect the public. Such order may include, but is not limited to, any of the following: confinement in a secure enclosure or other similar restriction, muzzling adoption, or ~~destruction in a humane manner~~ euthanasia. In addition, the animal control committee may revoke the privilege of any ~~owner guardian~~ to keep, harbor or have custody of any animals while in the city and that no new privileges be granted.

(c) *Repeated impoundment.* In the event that any dog shall be impounded three (3) or more times in a twelve-month period, the animal control committee may, at the request of an enforcement officer, or in their discretion, hold a hearing after which they may make such order as is necessary to protect the public. Such order may include, but is not limited to, any of the following: confinement in a secure enclosure or other similar restriction, muzzling adoption, or ~~destruction in a humane manner~~ euthanasia. In addition, the animal control committee may revoke the privilege of any ~~owner guardian~~ to keep, harbor or have custody of any animals while in the city and that no new privileges be granted.

(d) *Penalty for violation of orders.* Any person who violates any provision of any order of the animal control committee shall be guilty of a misdemeanor offense and shall be punishable by a fine of from ~~one~~ three hundred dollars (\$~~1~~300.00) to ~~five~~ six hundred dollars (\$~~5~~600.00).

(Ord. of 6-23-97; Ord. of 8-14-00)

5-28 Confinement of animals in vehicles.

(a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.

(b) Any ~~humane~~ animal control officer, law enforcement officer, or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer may not be subject to criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section. If the aforementioned officers are unavailable, a person who forcibly enters a motor vehicle for actions taken under subsection (a) of this section shall not be subject to criminal or civil liability for damage resulting from the forcible entry if the person: (1) determines the motor vehicle is locked or there is otherwise no reasonable method for the animal to exit the vehicle; (2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the animal is in imminent danger of harm; (3) notifies a humane officer, law enforcement officer, or member of a fire and rescue service prior to forcibly entering the vehicle; (4) remains with the animal in a safe location reasonably close to the motor vehicle until a humane officer, law enforcement officer, or member of a fire and rescue service arrives; (5) places a notice on the vehicle that the authorities have been notified and specifying the location of the animal; and (6) uses no more force to enter the vehicle and remove the animal than necessary under the circumstances. ~~The An~~ officer shall deliver the animal to a humane society, veterinarian or ~~the city town or municipal pound~~ animal shelter. If the ~~owner~~ guardian of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the ~~department and~~ address where the animal may be claimed. The ~~owner~~ guardian shall be liable for reasonable expenses associated with the removal, delivery, boarding and disposition of the animal and a lien may be placed on the animal for these expenses. (c) A violation of this section shall be a civil violation subject to the penalties imposed by Section [5-24](#).

5-29 Abandonment of injured animal

(a) A person shall not leave the scene of an accident in which such person has reason to believe that they have caused the injury or death of a domestic animal. Such person shall immediately contact an enforcement officer, and make a reasonable effort to immediately contact the guardian of the animal. If the animal is injured wildlife, the person shall contact a humane officer or a licensed wildlife rehabilitator for assistance.

(b) A violation of this section shall be a civil violation subject to the penalties imposed by Section 5-24.

Discussion

Section 5-24

Section 5-24 increases penalties for civil violations of the Chapter 5 and adds restorative justice measures as permissible additional penalties.

Section 5-25

Section 5-25(a) extends the authority to impound to any animal in violation of the chapter or suspected of being diseased or injured, and requires impoundment of any animal suspected of being a stray.

Section 5-25(b) increases the impoundment fee.

Section 5-25(c) replaces the specified boarding fee with the requirement that the fee reflect actual expenses.

Section 5-25(d) extends the city clerk's authority to collect impoundment and boarding fees regardless of the species involved.

Section 5-25(e) requires unlicensed cats, as well as dogs, to be licensed before release.

Section 5-25(f) removes the authority to sell or give away unredeemed animals and replaces it with the authority to offer these animals for adoption through a shelter.

Sections 5-25(g) and (h) extend the prohibition on interference with impoundment and the requirement for notice of impoundment to all animals regardless of species.

Section 5-26

Section 5-26 increases the fines for cruelty to animals.

Section 5-27

Section 5-27(a) adds a licensed veterinarian and a certified animal behavior professional to the animal control committee to be appointed to serve on an as-needed basis. This will ensure that the committee has access to the expertise needed to properly resolve the cases that come before it, such as dangerous dog hearings.

Section 5-27(d) increases the penalty for violations of an order of the animal control committee.

Section 5-28

Section 5-28 authorizes any person to use reasonable force to remove an animal from a vehicle when the health and safety of the animal is at risk, but only when a humane officer, law enforcement officer, or member of a fire and rescue service is unavailable. The Task Force views this amendment as necessary to address situations in which the animal may be in distress and officials are not immediately available. The language of the amendment tracks the language of the similar state law.

Section 5-29

Section 5-29 is a new section that requires a person who has injured or caused the death of an animal to remain at the scene and to contact an enforcement officer. It further requires such person to make a reasonable effort to contact the animal's guardian should it appear that the animal has a guardian, and to contact a humane officer or wildlife rehabilitator if the animal is injured wildlife.

Proposed Amendments to Section 22-13 of Chapter 22

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

Chapter 22 - Sec. 22-13. - Animals prohibited; exception

No domestic animals, except dogs and cats, shall be permitted in any park. Dogs shall be leashed or controlled by other similar means of physical restraint at all times, except in off-leash areas designated in the Off-Leash Dog Policy. Cats shall be leashed or confined in a carrier at all times.

Discussion

Section 22-13

If Chapter 5, Article II, section 5-15 is amended to prohibit at-large cats, as recommended, section 22-13 would provide an alternative means for guardians to provide an outdoor experience for the cats under their care.

Appendix D: Detailed Licensing Information

Licensing Program: The Task Force performed a detailed review of licensing data and trends and found that licensing rates in Burlington are low compared to neighboring cities with smaller populations. In 2022, for example, Shelburne was estimated to have a population of 7871, with 763 licensed dogs (9.68%) in FY2022. Burlington, by comparison, was estimated to have a population of 44,595 and 912 licensed dogs (2.04%) — a difference of 7.64%.

The Task Force also compared licensing trends over time in Burlington. In 2012, Burlington had 1255 dogs licensed, while in 2022 it was only 826 despite the fact that the population in Burlington has increased over that time, from 42671 to 44595³⁰.

The American Veterinary Medical Association (AVMA) tracks dog guardianship trends³¹ and estimates that 45% of US households have at least 1 dog, and the percentage owning at least one dog increased from 38% to 45% between 2016 and 2020 (and leveled off by 2022). Home ownership and household income impact the rate of dog guardianship and dog populations are essentially being influenced by the overall economy. With 17,174 households in Burlington between 2017-2021³², the number of dogs in Burlington may be estimated at 7728 using the national rate of 45%. This is likely to be a conservative estimate, as many Burlington homes have more than one dog.

The AVMA also indicates that cat guardianship is on the rise as well: “The percentage of households that own at least one cat increased slightly between 2016 and 2020, from 25% to 26%, and then increased to 29% in 2022.” Based on this, we estimate that there may be at least 4980 companion cats in Burlington (not including feral cat colonies).

If all estimated cats and dogs in Burlington were licensed, the revenues at current licensing fee of \$27 per dog would be \$276,996.51 per fiscal year. Assuming 100% is unattainable, we looked at how much could be raised if we made an effort to increase licensing numbers similar to area communities such as South Burlington.

³⁰ 2012 and 2022 population estimates for the City of Burlington, VT came from census.gov

³¹ <https://www.avma.org/news/pet-ownership-rate-stabilizes-spending-increases>

³² <https://www.census.gov/quickfacts/fact/table/burlingtoncityvermont/HSD410221#HSD410221>

Table 2. Comparison of FY2022 Actual Licensing Revenues in Burlington to Projected increased revenues from increasing licensing numbers, based on the estimated numbers of dogs and cats in Burlington.

	Projected revenues from successfully licensing 100% dogs and cats	Projected revenues from licensing 35% dogs 15% cats ("realistic")*	FY 2022 Revenues from Dog Licenses (11.8% dogs and 0% cats)	Projected Revenue increase ("realistic")
Dogs (7728)	\$ 208,664.10	\$ 74,180.09	\$ 24,624.00	\$ 49,556.09
Cats (3927)	\$ 68,332.41	\$ 20,614.62	\$ 0.00	\$ 20,614.6
Total \$	\$ 276,996.51	\$ 94,794.71	\$ 24,624.00	\$ 70,170.71

*South Burlington has an estimated 35% licensing rate for dogs and 15% licensing rate for cats

Below is more detailed information on licensing trends in neighboring cities from FY2018 – FY2022, showing how Burlington's numbers have decreased compared to those of neighboring cities. We also show licensing numbers in comparison to population estimates and estimated numbers of dogs and cats, as well as detailed information on neighboring communities' efforts to increase education/outreach concerning dog and cat licensing.

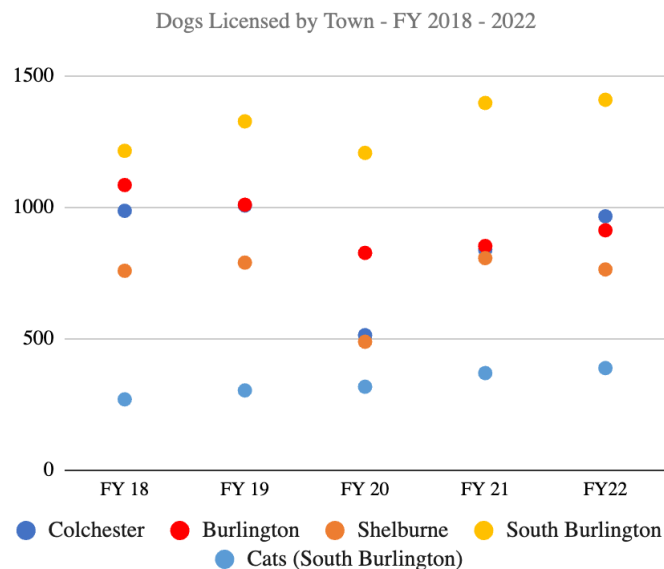


Fig. 2 Burlington's licensing numbers have fallen while its population has increased.

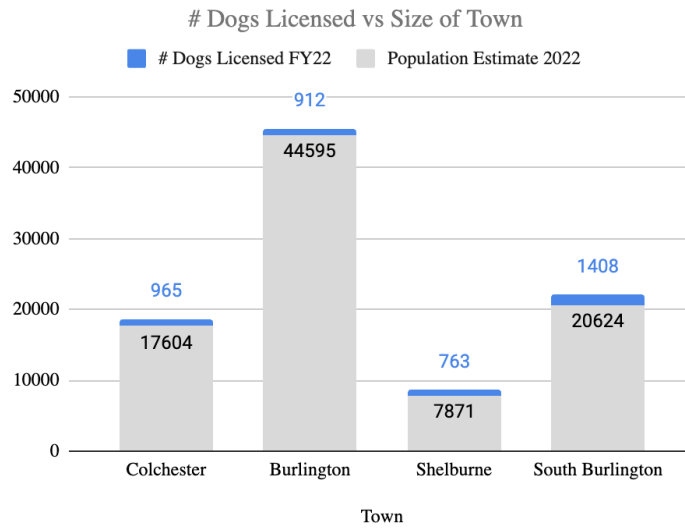


Fig. 3 Comparison of Licensing Numbers to Town Size. In FY 2022 Burlington had the lowest proportion of licenses (912) to its population (44,595), compared to neighboring towns. Shelburne had the highest (9.69%), followed by South Burlington (6.83%) and Colchester (5.48%).

Appendix E: Compliance, Reporting, and Enforcement Challenges

The Task Force recommends the City appoint a dedicated, certified animal control officer, or officers, within the Burlington Police Department (“BPD”). Burlington has not had an Animal Control Officer since 2008³³. Currently, limited animal control functions are performed by the community service officers (CSOs) at the BPD. CSOs are not required to have experience or training specific to animal control functions, such as animal handling, care, and welfare.³⁴ They are not tasked with handling cat-related incidents (except for removing deceased cats and checking for rabies vectors), and are not adequately able to address the increasing number of dog incidents. For example, residents who are bitten by an unfamiliar dog bear the burden of identifying the guardian of that dog in order to get any action from the police, even if that person fled the scene. Without investigative resources and training, CSOs are not positioned to be a resource to help those residents.

Another issue the Task Force found was in both a lack of accessibility to effective reporting, and an understanding of how and what to report:

- *Inaccessibility of reporting.*
 - *Phone limitation for in-progress incidents.* Reports are typically called into the Police Department. If any other means of reporting is used (contacting CSO email address (csobpdvt.org), See Click Fix, Burlington Police website’s online incident report form), the CSOs might not see these as quickly as they would if they are managed by Dispatch responding to a phone call. Thus reporting an emergent animal issue or incident is inaccessible to anyone who cannot use a phone (hearing impaired, Deaf, doesn’t have a phone, etc).
 - No clear category for animal-related incidents exists on the BPD website
 - No clear category for animal-related incidents exists on See Click Fix, which is commonly used by residents to enable other city departments to quickly resolve issues.
- *Reports not made by residents because*
 - Fear of getting neighbors in trouble

³³ Source: Shannon Trammell, executive manager, Burlington Police Dept

³⁴ See City of Burlington, Community Service Officer Job Description, <https://www.governmentjobs.com/careers/burlingtonvt/jobs/3045625/community-service-officer..>

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- Distrust that the police can help or can be a resource to help
 - Lack of awareness of where to complain
 - Knowledge that currently BPD is not fully empowered to address these problems to residents' satisfaction (for example, incidents involving free-roaming cats are not currently addressed by BPD).
 - *Hindrances to enforcement responsiveness.*
 - *Other (higher) priorities.* Other issues are prioritized for CSOs (e.g., car accidents), so even if the report is called in to be dispatched, they are still not always able to respond quickly. 62 reports were reported resolved with the response "gone on arrival"
 - *Not enough information.* Residents who do report issues don't always provide enough information or details for CSOs to be able to follow through and resolve the problem.
 - *Lack of investigative resources.* Residents who are bitten by an unfamiliar dog or cat bear the burden of identifying the guardian of that dog in order to get any action from the police, even if that person, cat or dog fled the scene. The Task Force learned from its BPD representative that BPD is not empowered to take the time and resources to find the guardian if the name and address are not known to the victim.
 - *Legal limitations.* Some problems or incidents that are reported by residents cannot be addressed by CSOs because the issue being reported (e.g., a welfare issue) may not actually comprise an ordinance violation, or because the individual responsible doesn't answer the door to respond to the CSO.

The Task Force recommends that the city retain an officer, or officers, whose sole duty is to respond to animal-related issues so that the city's animals and citizens are better served. The Task Force recommends that City animal control officers obtain certification in animal control and be required to participate in continuing education courses, through a national professional training program. In looking at available literature, Burlington is now of the size that it merits a full time animal control officer. The Task Force notes that some residents do not contact the Burlington Police Department as they may not be aware this is where complaints go, free-roaming cats are not addressed, and that people may not be

comfortable with calling the police with concerns about their neighbors or may be reluctant to report incidents. Please see additional [discussion under the ordinance for Section 5-2a](#)

In addition to the recommendation of a full-time animal control officer or officers, at times the City is not in compliance with the requirement to house stray companion animals due to space issues. Currently companion animals except birds, reptiles, and dogs are taken to the Humane Society of Chittenden County (HSCC). It is unclear if the City's current contractor for dogs, Lucky Puppies, will provide services in the future or have enough space in the future for the City's stray dogs. Because the HSCC and Lucky Puppies take in companion animals from other cities as well, space is an issue. The Task Force recommends that an animal shelter be within Burlington or close so that the shelter may be easily monitored and inspected by the Animal Control Officer.

The Task Force also recommends that the animal shelter follows the standards of care³⁵ set forth by the Association of Shelter Veterinarians. These standards include provisions of adequate shelter, population management, standards for animal handling, sanitation, prevention of pathogen spread, and attention to medical and behavioral health. Given that the City would be responsible for animals in its care, if the City does not have its own shelter it should still ensure that contracted providers follow these guidelines.

³⁵ [The Association of Shelter Veterinarians' Guidelines for Standards of Care in Animal Shelters - Second Edition - December 2022](https://jsmcah.org/index.php/jasv/issue/view/2): <https://jsmcah.org/index.php/jasv/issue/view/2>

Appendix F: Proposed Off-Leash Dog Ordinance and Off-Leash Dog Policy

Proposed Addition of Section 7 to City Ordinance Appendix D

In 2000 the City established a pilot program pertaining to off-leash dog areas that expired in 2003 with no apparent further action by the City.³⁶ The Task Force recommends that a new Section 7 of Appendix D be enacted to reflect current practices:

Appendix D

Sec. 7. - Off-leash dog opportunities

- (A) *Off-Leash Dog Policy.* The Parks, Recreation and Waterfront Department (PRW) shall maintain an Off-Leash Dog Policy (OLDP) as approved by the Parks Commission. The policy may be modified by PRW with the approval of the Parks Commission. The OLDP shall govern the establishment of off-leash dog opportunities, except that permanent fenced dog parks shall be established by ordinance. The OLDP shall govern operations of off-leash dog opportunities and share enforcement authority with the animal control officer(s) as enumerated in this section.
- (B) *Designation of Areas.* Areas shall be designated for the purpose of allowing dogs to be under control of the guardian or guardian's agent by means other than physical restraint. Opportunities shall include: fenced dog parks, water access, and field use on an hourly, seasonal, or year-round basis within reasonable walking distance of neighborhoods. Opportunities, where possible, shall be dispersed across the city. .
 - (1) Permanent off-leash fenced dog parks shall be located at:
 - (a) Oakledge Park
 - (b) Starr Farm Dog Park
 - (c) Urban Reserve
 - (2) Off-leash dogs are prohibited at the following parks. Dogs in these parks must be leashed at all times:
 - (a) Appletree Park
 - (b) Arms Park
 - (c) Baird Park
 - (d) Battery Park
 - (e) Bike path
 - (f) Champlain Street Park
 - (g) City Hall Park
 - (h) Dewey Park
 - (i) Ethan Allen Park

³⁶ City of Burlington, Vermont, Ord. of 9-23-02

<https://www.codepublishing.com/VT/Burlington/#!/BurlingtonAxD/BurlingtonAxD.html> (Pilot program. The rules of this section shall be in full force and effect for eighteen (18) months. The director of parks and recreation shall review the impacts of the designated off-leash areas and shall make a report to the city council after twelve (12) months of operation. Unless directed otherwise by the city council, these rules shall expire upon the end of the 18th month in which the rules were in effect.)

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- (j) Kieslich Park except for the portion known as "Texaco Beach"
 - (k) Lakeside Park
 - (l) Little Park
 - (m) MacKenzie Park
 - (n) North Beach
 - (o) Pomeroy Park
 - (p) Potvin Park
 - (q) Roosevelt Park
 - (r) Schifilliti Park
 - (s) Starr Farm Park except for the portion known as "Starr Farm Dog Park"
 - (t) Water Works Park
 - (u) Waterfront Park

(C) Public Information.

- (1) PRW shall provide information about off-leash dog opportunities to include maps, hours, and references to rules & policies with onsite signage and through its website.
- (2) PRW shall annually conduct a targeted campaign to educate the community about the City ordinances that pertain to off-leash dogs in general, and the the off-leash dog opportunities and associated rules and policies..
- (3) Funds to implement Section C shall be made available to PRW from the fees collected pursuant to Article II Section 5-17.

(D) General Rules for All Areas Designated as Off-Leash Dog Areas.

- (1) A person taking a dog into an off-leash area shall have the dog held on leash when entering and exiting the off-leash area.
- (2) A person taking a dog into an off-leash area shall maintain voice, hand, or leash control over the dog at all times while the dog is in the off-leash area. Such person shall have in their possession a leash at all times.
- (3) A person taking a dog into an off-leash area is responsible for all actions of the dog, shall keep the dog within their vision at all times, and shall remove the dog when their behavior is in violation of the City of Burlington Code of Ordinances, including but not limited to Appendix D Secion 7, or the PRW OLDP.
- (4) The following are prohibited in off-leash dog areas:
 - (a) Glass containers.
 - (b) Female dogs in heat.
 - (c) Excessive barking, howling, or other noise.
 - (d) Bullying of other dogs.
 - (e) Failure to remove feces; All feces shall be removed from the off-leash area and placed in the appropriate receptacle.
 - (f) Unlicensed dogs; All dogs shall be licensed and display valid license tags.
 - (g) Dangerous dogs as defined by Burlington Code of Ordinances, Article II, Section 5-13.
 - (h) More than 3 dogs per person.
 - (i) Children under 12 years of age unaccompanied by an adult.

(E) Enforcement.

- (1) In addition to the penalties provided for by ordinance, a person or dog that violates the rules of this section is subject to ejection from the off-leash area as defined in the OLDP.

-
- (2) In addition to the penalties provided for by ordinance, a duly authorized enforcement officer may impound a dog for a violation of the rules of this section or for activities determined to be a nuisance.
 - (3) In addition to the penalties provided for by ordinance, all violations of Appendix D and the OLDP include a restorative justice process with the Burlington Community Justice Center.
- (F) *Administration.*
- (1) Commercial Use of Parks. The PRW may issue a permit and charge a fee to allow for commercial use of off-leash dog areas by professional trainers, and for-profit and not-for-profit animal organizations. Portions of the off-leash dog areas shall remain available for unencumbered use by the public as off-leash areas during these events. Fees collected by PRW for commercial use shall be used for the establishment, operations, or improvements of designated off-leash dog areas. Commercial use of off-leash dog areas without a permit shall result in a fine as set for in Chapter 22 section 23 of the Burlington Code of Ordinances. Commercial use of off-leash dog areas may be further defined or modified by the OLDP.

Proposed Off-Leash Dog Policy (OLDP)

The following text has been drafted by the Dog Task Force as a proposed Off-Leash Dog Policy to be reviewed by the Parks Commission, and once an official OLDP is established, to be revised by the Parks Commission as needed.

OFF-LEASH DOG POLICY

Purpose:

This policy incorporates by reference all rules set forth in Appendix D of the Burlington Code of Ordinances.

Areas of Policy:

- 1) *Designation of Areas and Times of Operations*
 - 2) *Additional Rules for Use of Off-Leash Fenced Dog Areas*
 - 3) *Rules for Commercial Use of Off-Leash Dog Areas*
 - 4) *Signage*
 - 5) *Public Outreach & Enforcement*
 - 6) *Operations*
-
- 1) *Designation of Areas and Times of Operations.*

The following areas are off-leash areas, as designated herein or on site:

 - a) *Fenced Dog Parks*
 - i) *Starr Farm Park (year-round).*

Times. The designated area may be used year-round from 8:00 a.m. to 8:00 p.m. or sunset, whichever is earlier.
 - ii) *Urban Reserve (year-round).*

Times. The designated area is open for off-leash use at any time.

iii) Oakledge Park (year-round)

Times. The designated area is open for off-leash use during the hours the parking lot is open for vehicle parking.

b) Off-Leash areas (not fenced)

i) North End of Leddy Beach (year-round). The area north of the northernmost entrance to Leddy Beach

Times. The designated area is open for off-leash use at any time.

ii) Oakledge Cove (year-round). The area of Oakledge Park known as Oakledge Cove

Times. The designated area is open for off-leash use at any time

iii) Northshore Natural Area (year-round).

Times. The designated is open for off-leash use at any time

iv) Blanchard Beach (seasonal). The area of Oakledge Park known as Blanchard Beach

Times. The designated area is open for off-leash use at any time between November - March

v) Texaco Beach (year-round). The beach area of Kieslich Park known as "Texaco" Beach.

Times. The designated area is open for off-leash use at any time

vi) Lower Calahan Park (year-round). The area of Calahan Park that is bounded on the east by the sledding hill, north by Locust Street, west by Pine Street, and south by the park/neighborhood boundary excluding programmed areas such as baseball fields, roads/walks, etc.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

vii) Open Area of Schmanska Park (year-round). The multipurpose field of Schmanska Park extending from the basketball court to the tennis court.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

viii) Open Area of Smalley Park (year-round). The multipurpose field excluding the programmed softball field.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

ix) Gravel Path of the Urban Reserve The area of the Urban Reserve that is the maintenance access running parallel to the train tracks between the designated off-leash area signs on the northern and southern ends.

Times. The designated area is open for off-leash use at any time.

2) *Community Expectations for Use of Off-Leash Fenced Areas*

(1) In addition to the rules set forth in Appendix D, please observe the following guidelines:

(a) Do not allow dogs to dig holes, except in an area designated for digging by the Parks, Recreation and Waterfront Department (PRW). The person accompanying the dog shall fill in any hole created by the dog prior to exiting the area.

(b) Do not consume human food.

(c) Do not feed other people's dogs.

(2) All gates to the dog park must be closed after entering and exiting.

(3) The priority use for off-leash dog parks is off-leash dogs. Please ensure that children do not interfere with the activities of dogs in the park.

3) *Community Expectations for Use of Unfenced Off-Leash Areas*

In addition to the rules specified in Appendix D, please observe the following guidelines:

- (1) Ensure your dog is placed back on leash after leaving an off-leash dog area.
- (2) Dog guardians should be respectful of other users using the space. This is a shared space, even during the times where dogs are allowed off-leash. The priority use for these areas is not necessarily dogs.
- (3) Non-dog guardians should expect dogs may be running free in designated off-leash areas.

4) *Rules for Commercial Use of Off-Leash Fenced areas*

- a) Commercial users are required to be a *Park Program* participant.
- b) Commercial users are responsible for creating any boundaries, with temporary fencing or by other temporary means, required to meet their needs and that of the other users.
- c) Commercial users are limited to twelve days per year exclusive of commercial uses that do not restrict other uses of the area.
- d) No more than one commercial user may use the same dog park concurrently.
- e) Off-leash dogs will be permitted to access any areas of the off-leash area that are not separated by temporary or permanent fencing.
- f) With the exception of extraordinary circumstances, no more than 33% of an off-leash dog area shall be permitted to be restricted for commercial use.
- g) Commercial use shall not interfere with standard entrances and exits from the off-leash dog area.
- h) If any PRW staff time is required for the event, commercial users of the park are responsible for all costs related to the staff time. PRW staff will only be made available with the approval of the PRW Director
- i) Commercial users will be responsible for all costs related to set-up, operations, security, and cleanup for all events.
- j) Standard PRW Department requirements for reserving parks apply.

5) *Public Outreach & Enforcement.*

- a) The PRW and the Police Department shall collaborate to educate and enforce the rules and policies applicable to off-leash dog areas, A person who violates any rules or policies applicable to off-leash dog areas on two (2) occasions within a twelve-month period shall be barred from taking any dog into the off-leash areas during the six (6) months subsequent to the second violation.

6) *Operations*

- a) The PRW shall maintain a volunteer group that provides guidance and support for off-leash areas
- b) The PRW Director may, upon a finding of need at a particular off-leash area, close the area to off-leash use. The reopening of such area is at the discretion of the Director. The Director shall post a notice indicating that the area has been closed for off-leash use at the entrance to the area and at other locations in the area if needed to give notice to the public of the closing.

Appendix G: Off-Leash Detailed Findings & Recommendations

The Task Force reviewed work from previous committees ([see Appendix K](#)) as well as current practices, ordinances and policies. The group also did a city-wide survey to solicit public opinion on areas proposed by previous committees ([see Appendix I](#)). Prior efforts to create off-leash areas were left uncompleted, as Section 7 of Appendix D in the City Ordinances expired.³⁷

Table 3. Current and Proposed Off-Leash Areas for Dogs

	Current	Proposed
Off-Leash	3.5/520 acres Starr Farm Dog Park Waterfront Dog Park Texaco Beach	Add: • Sections of Neighborhood Parks (Smalley, Calahan, Schmanska) 6-8am • Sections of Natural Areas (Northshore, Urban Reserve) • Beaches (Blanchard, North Beach wintertime only; Oakledge Cove & section of Leddy Beach all year) Keep: • Starr Farm Dog Park, Waterfront Dog Park, Texaco Beach
On-Leash only (Neighborhood Park)	All Neighborhood Parks	Most Neighborhood Parks except for designated areas in Calahan, Schmanska, & Smalley Parks
On-Leash only (Conservation Area)	All Natural Areas	Same (all areas designated “Urban Wilds” - such as Arms Forest, Crescent Woods, Arthur Park, Ethan Allen Park, McKenzie Park, and Mount Cavalry Red Maple)
No Dogs Allowed	Cemeteries	Same (at the wish of Cemetery Commission)

[Interactive map showing proposed off-leash areas](#)

There is a strong desire from dog owners to have easy access to off-leash areas. More fenced in areas exclude non-dogs and their caretakers from spaces in our parks, and the City also lacks funds to build fenced in dog parks. Many communities have turned to unleashed dog areas to solve the issue of limited park spaces and the desire not to fence

³⁷ City of Burlington, Vermont, Ord. of 9-23-02

<https://www.codepublishing.com/VT/Burlington/#!/BurlingtonAxD/BurlingtonAxD.html> (Pilot program. The rules of this section shall be in full force and effect for eighteen (18) months. The director of parks and recreation shall review the impacts of the designated off-leash areas and shall make a report to the city council after twelve (12) months of operation. Unless directed otherwise by the city council, these rules shall expire upon the end of the 18th month in which the rules were in effect.)

these spaces, while providing a mechanism to better regulate and manage where dogs are off-leash and enforce regulations that they be on leash outside of off-leash areas. The question of creating unfenced off-leash dog areas elicits strong opinions both for and against.

Some neighboring cities have successfully created unfenced off-leash areas. South Burlington allows dogs to be under voice control at all parks and only requires leashes on South Burlington Recreation trails and at the following parks: Red Rocks, Vet Memorial, and Jaycee Park. Colchester's default policy is also off-leash, with dogs required on-leash only on sidewalks and the bike path. Winooski's policy is similar to Burlington's, where the default is on-leash only. But for similar reasons they are exploring the possibility of establishing another location or two where dogs can officially be allowed off-leash, then working to tighten up enforcement where it isn't allowed.

Some efforts were made to find alternative spaces to the park spaces overseen by Burlington Parks & Recreation.

- *Cemetery spaces.* The Task Force discussed the fact that some fenced in spaces in Burlington currently exist but are not available for dogs. The idea of using cemetery spaces as an urban solution is not new.³⁸ A proposal to work with the Cemetery Commission to consider the option of on-leash or off-leash use for dogs was unsuccessful. The Cemetery Commission heard the proposal, including the possibility of additional revenue and volunteer hands to maintain the cemeteries, but chose not to work with the Task Force to explore this concept.³⁹
- *Spaces outside Burlington.* At the suggestion of City Councilmember Sarah Carpenter,⁴⁰ the Task Force looked beyond Burlington to understand what off-leash spaces were available (for those with cars who can drive). As noted above, our neighboring



³⁸ For example, see the Cemetery Dogs program at the Congressional Cemetery in Washington, DC - one quarter of the cemetery's operating income derives from donations by dog walking members and covers the costs of grounds maintenance contracts. Source: <https://congressionalcemetery.org/dog-walking/>

³⁹ See Burlington, VT Cemetery Commission meeting minutes from their April 20, 2023 meeting: <https://burlingtonvt.portal.civicclerk.com/event/5294/files/7035>

⁴⁰ See Burlington, VT City Council meeting minutes from their March 27, 2023 meeting: <https://burlingtonvt.portal.civicclerk.com/event/2058/files/2159>

communities of South Burlington and Colchester have much less restrictive leash laws, allowing off-leash use in their parks unless specifically restricted. In addition, South Burlington, Essex, Milton and Shelburne have fenced dog parks.

- *Former Landfill in the Old North End.* The Task Force also discussed the former landfill area at the top of Manhattan Ave. This area is currently being used by some residents as an off-leash area for dogs, but due to continued monitoring of environmental considerations cannot be officially set up for dogs at this time.

After reviewing the prior task force work, the results of the Spring 2023 survey, and consulting with the Cemetery Commission and directors of parks in neighboring towns, the Task Force recommends the following areas to the Parks Commission for piloting. More specific details are in the drafted [Off-Leash Dog Policy](#).

Table 4. Recommended areas to pilot unfenced off-leash dog sections

Park	Time	Rationale
Smalley	6-8am	Significant requests from survey; limited use by youth in the mornings
Leddy Beach (north end)	All day	Slight in favor from survey, significant current use
Northshore	All day	Slight in favor from survey, significant current use
Calahan Park	6-8am	Slight in favor from survey, proposed area (lower field) is in a different location from the playground; significant current use
Schmanska Park	6-8am	Slight in favor, Recommended by 2013 task force, adds an area in the East end of Burlington, suggest morning only
Urban Reserve	All day	More in favor, off-leash connection to dog park and parking lot, will separate from bike path w/ clear signage on start/stop of off-leash areas
Blanchard Beach	November -March	Limited beach use in the winter.
North Beach	November -March	Limited beach use in the winter.
Oakledge Cove	All day	South end water access, helps curb existing off-leash use at Blanchard in the summer.

In addition to the above areas, the proposed fenced-in dog park in Oakledge Park was by far the most popular and most supported area with survey respondents. Future funding and significant planning would be needed to make this a reality.

Appendix H: Education Campaign

Part of the scope of the Task Force work mandated by the City Council resolution requested that Task Force members conduct an educational campaign around the following issues:

1. Off leash dogs in city parks, natural areas or beaches
2. Dogs attacking people or other dogs
3. Dog feces not being picked up
4. Dog barking contributing to noise pollution

All materials and research were developed using volunteer time and resources. Outreach was limited to available slots on the Parks Recreation and Waterfront (PRW) Front Porch Forum and social media accounts. The Task Force recommends some funding be allocated to educational outreach and that multiple city departments participate in the sharing of information on their social media accounts. The campaigns comprised of the following:

1. Leash Your Dog PSA for conservation reasons (wildlife, plants)⁴¹
2. Interview with Seven Days to address additional reasons for leashing your dogs (including prevent of attacks)⁴²
3. April Stools Day PSA to encourage residents to pick up their dogs' feces⁴³
4. Barking PSA to provide helpful tips to address barking and reduce noise pollution

The Task Force also explored the possibility of increasing licensing numbers through a limited social media drive,⁴⁴ and worked with the BPRW to create the Wag the Waterfront event.



⁴¹ As seen in PRW's Front Porch Forum post May 18, 2022:

https://frontporchforum.com/areas/22/issues/4452#post_2786297

⁴² Mullis, R. (Aug 9, 2023). One Burlingtonian's Journey to On-Leash Dog Ownership. Published in print as "Going to the Dogs | One Burlingtonian's journey to on-leash dog ownership" and online at <https://www.sevendaysvt.com/arts-culture/one-burlingtonians-journey-to-on-leash-dog-ownership-38844346>

⁴³ As seen in PRW's Front Porch Forum Post April 1, 2022:

https://frontporchforum.com/areas/23/issues/5456#post_2747458

⁴⁴ Instagram reel created by task force members on volunteer time, and shared on PRW's Instagram account on March 21, 2023 to encourage residents to license their dogs and explain how to get their dogs licensed.

<https://www.facebook.com/reel/936523320687771>

Proposed Annual Education Calendar

A proposed calendar to continue providing education on various topics was developed and is shown below, followed by details on the various public service announcements as well as the Wag the Waterfront event.

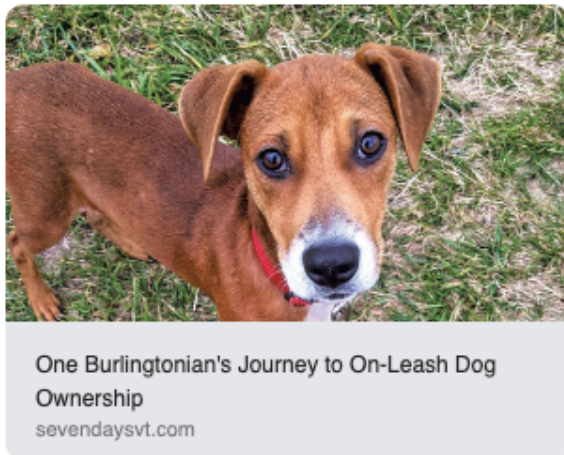
Legend:

PSA
Campaign/Drive
Event

JANUARY Barking PSA	FEBRUARY Repeat Spay/Neuter PSA (February is S/N Awareness Month) Campaign/Drive: Dog Licenses Due April 1	MARCH Licensing Campaign Continues
APRIL Off-Leash PSA (Conservation) Picking up Poop PSA	MAY Don't Leave Your Dog in the Car PSA Off-Leash Dog PSA (to avoid conflicts attacks)	JUNE Keep Your Dog Cool PSA Don't Leave Your Dog in the Car PSA (repeat July/Aug)
JULY Off-Leash Dog PSA (to avoid conflicts attacks) Dog Days Event <i>Church Street tie-in for pet friendly shopping areas or Burlington Farmer's Market on Pine St</i>	AUGUST Off-Leash Dog PSA (to avoid conflicts attacks)	SEPTEMBER Wag the Waterfront Event
OCTOBER Halloween Parade Event? <i>Dog Costume Contest?</i>	NOVEMBER <i>(a week after leaf pick up)</i> Poop Scoop PSA Even through winter need to scoop poop all year round	DECEMBER Spay/Neuter PSA

Leash Your Dog Outreach (7 Days Article)

Taskforce members Maria Karunuñgan and Abbey Duke were interviewed by journalist Rachel Mullis of Seven Days to weigh in on thoughts about off-leash dogs, resulting in the following publication in Seven Days:⁴⁵



The take-home message in the article was to encourage residents to leash their dogs for a variety of reasons, including respect and consideration for others' cultural and religious preferences, prevention of unwanted conflict between unfamiliar dogs with unknown sociability, and generally taking more responsibility for their dogs' behavior around others.

Wag the Waterfront Event September 2023

- PRW hosted on September 9, 2023 1-4pm⁴⁶
- Social media posts invited people to come⁴⁷
- The event featured the following:
 - Afternoon Yappy Hour in the dog park
 - Free professional caricatures & free professional photos



⁴⁵ Mullis, R. (Aug 9, 2023). One Burlingtonian's Journey to On-Leash Dog Ownership. Published in print as "Going to the Dogs | One Burlingtonian's journey to on-leash dog ownership" and online at <https://www.sevendaysvt.com/arts-culture/one-burlingtonians-journey-to-on-leash-dog-ownership-38844346>

⁴⁶ See <https://enjoyburlington.com/event/wag-the-waterfront/>

⁴⁷ See for example <https://www.instagram.com/p/Cw7iosEMae4/>

- Booths rented by local dog-related businesses (daycares, groomers, dog trainers, dog treat bakeries, etc).
- Events such as dog training demos, Paws & Poses yoga, and weight-pulling

Public Service Announcements Developed by the Task Force

The following public service announcements were developed by the Task Force for several educational campaigns. Most of these were shared on social media.

Excessive Barking PSA

The Task Force wrote a public service announcement to address the complaint of excessive barking.⁴⁸ The main points of this campaign were to help raise awareness about why excessive barking is bad (pointing to upset neighbors, welfare issues, & violation of city code). Tips from a professional trainer were provided, including the recommendation to consult with a veterinarian and professional trainer if struggles continued.

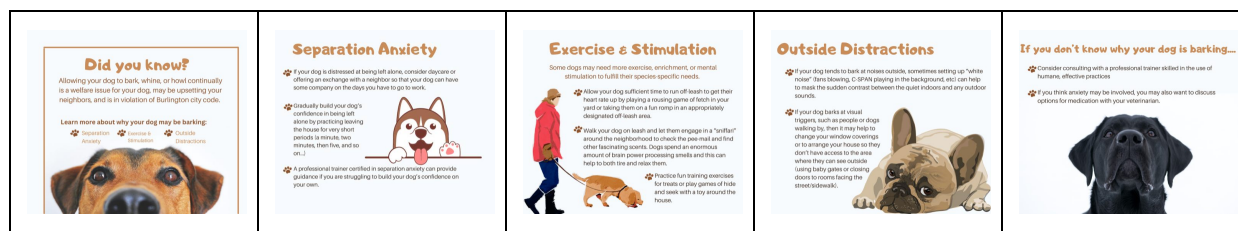


Fig. 4 Barking PSA Instagram slides

Leash Your Dog PSA

The Leash Your Dog PSA released in May 2022⁴⁹ contained the following text:

:: A MESSAGE FROM THE DOG TASK FORCE ::

Protect Nature - Leash Furry Companions in Vermont's Natural Areas

Spring is nature's time to restore and grow, and also nature's most fragile time. Burlington's natural areas are still in recovery from forest clearing hundreds of years ago and use this

⁴⁸ See for example the Facebook post on February 16, 2023:

<https://www.facebook.com/BTVParks/posts/pfbid04CsSzqckLeKfr2BHivHVsYssx3KDYdthXt4CysmTxeATD2FNqeig9Sh eDXinqKhpl>

⁴⁹ PRW's Front Porch Forum post May 18, 2022:

https://frontporchforum.com/areas/22/issues/4452#post_2786297

time to replace and regain strength. Spring flowers have delicate stems and depend on small ground insects, like ants, to help them expand their population.

Larger, similarly tender mammals like foxes are born now through August! For these animals, reproduction takes a lot of energy and kits, pups and their parents are weaker and especially vulnerable throughout this season.

Off-leash dogs (and their owners) unknowingly break tender wildflower stems and chase or even fatally maim baby animals, setting back the tiny steps that ecosystems take each spring towards restoration.

Please walk your dog on a leash on all trails and paths throughout City and Vermont parks. Obey on-leash postings to allow Vermont's forests to regain their species diversity and to save our wildlife. To learn more about spring wildflowers and to see the cutest red fox kit photo, please see our facebook page <https://www.facebook.com/BTVParks>.

Scoop the Poop PSA

The Scoop the Poop PSA ("April Stools Day") released in April 2022⁵⁰ contained the following text:

On behalf of the Burlington Dog Task Force Team, we'd like to remind everyone: Scoop Your Poop!

Pet waste should be picked up promptly because it...

- > is harmful for kids playing in the dirt
- > contaminates locally grown food
- > contaminates drinking water and swimming areas
- is gross!!!!

With the weather warming and snow finally melted, we want to encourage all dog owners to pick up their dog's poop! (and any poop you see from other dogs, even if they are not your own).

Pet waste is harmful for children playing in your local neighborhood as parasites from fecal matter can remain in the soil for years. Picking up poop can also go a long way to protecting local gardens especially if you are growing food for yourselves, and protect anyone working or playing in the dirt. In addition, please keep in mind our drinking water is affected as well! According to the Lake Champlain Committee, pet waste contributes up to one-third of bacterial pollution in waterways near developed areas. (source: <https://www.lakechamplaincommittee.org/learn/news/item/2200-stool-piles-and-counting/>) Bacteria from pet waste adds e-coli that can result in the closing of recreational swimming areas.

Help us protect our children's play areas, neighborhood gardens, and local swimming spots by picking up your dog's poop!

⁵⁰ PRW's Front Porch Forum Post April 1, 2022: https://frontporchforum.com/areas/23/issues/5456#post_2747458

Recommended Additional Areas of Educational Outreach

The Task Force recommends the following additional areas of education:

- Education on preventing dog attacks & conflicts with other dogs & people
- Resource for new arrivals (either new residents of Burlington who have dogs, or current residents who get a new dog)
- How/when to report incidents & what information is helpful
- Guidelines for behavior of dogs in designated off-leash areas
- Education/information that can be distributed on the cards that accompany dog license tags
- Curriculum for community justice center, should a restorative justice approach be adopted for resolving violations of dog policies & ordinances.
- Low-cost spay/neuter outreach

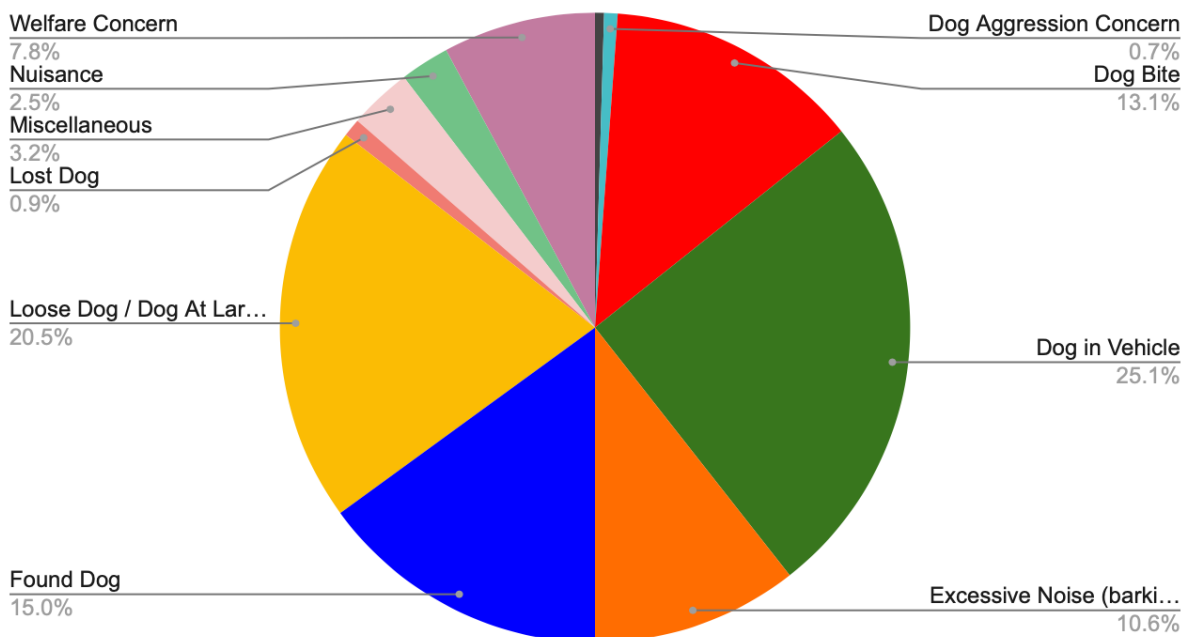
Appendix I: Data Summaries (Police Incident Reports, Off-Leash Survey)

The Task Force analyzed animal incident reports provided by the Burlington Police Department (BPD) and results of an off-leash survey conducted by the Department of Parks Recreation Waterfront (PRW).

2019 Dog and Cat Incident Reports Analysis

The Task Force analyzed data from 467 incidents involving companion animals (cats and dogs) that were reported in the calendar year 2019. The effort to summarize the data and analyze it was time-consuming, as the data were presented to the task force as individual PDF files with written details of each incident. To make sense of these written reports, a dataset was created by pulling the following variables from each report: date, time, incident number, origin of call, animal type, location of incident, incident details, and resolution. Incident details consisted of a summary of what was reported by the caller to dispatch. Resolution consisted of the responding officer's response and/or a more detailed description of the incident. The "Incident Type" variable in the data set was then broken down into dog-related or cat-related incidents, and assigned a category.

Dog Incidents in 2019

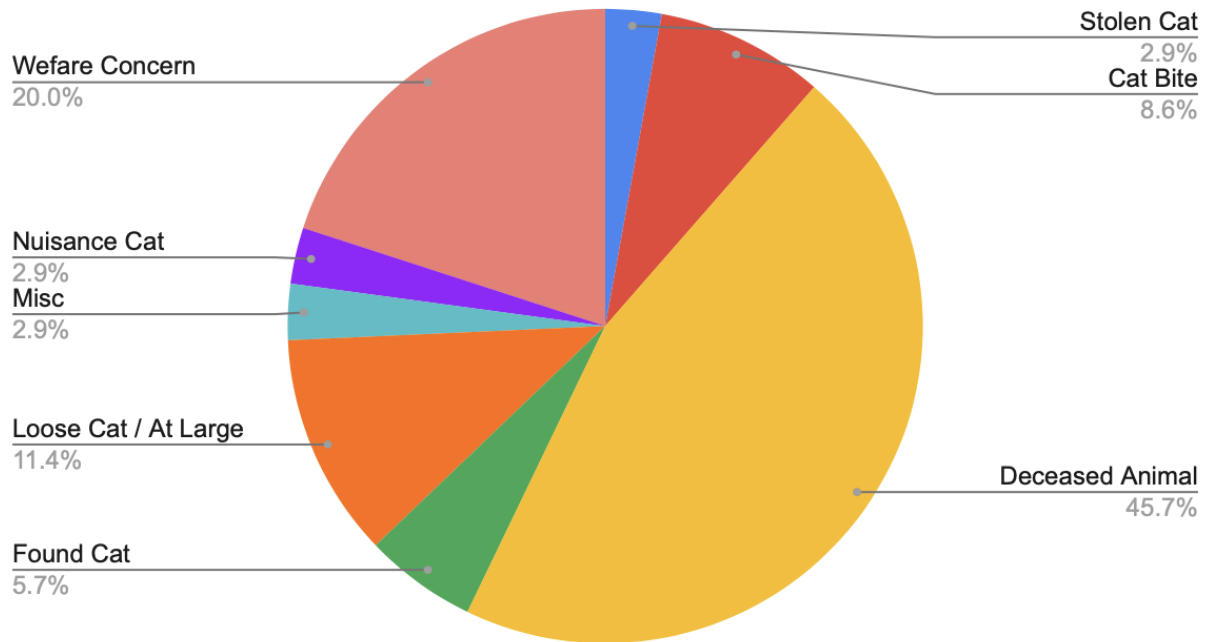


Dog-Related Incidents

Reported dog incidents were categorized as follows (in order by the number of incidents reported in 2019):

- *Dog in Vehicle*: Vehicle was gone on arrival (GOA), Dog did not appear to be in distress (guardian of vehicle not present or mentioned in the incident report), Dog did not appear to be in distress and the guardian returned to their vehicle and the officer was able to speak to the guardian about the dangers of leaving a dog in a car; or Dog was in distress. (109)
- *Loose Dog / Dog At Large*: (89)
- *Found Dog*: (65)
- *Dog Bite*: Dog bite to another dog, Dog bite to a person, Dog bite to both a dog/person, Dog bite to a cat, Dog bite to unknown person or animal. (57)
- *Excessive Noise*: Barking, whining, and/or howling (46)
- *Welfare Concern*: Issues related to an animal's well-being and safety including but not limited to possible animal neglect, animal abuse, and injured animals. (34)
- *Miscellaneous*: Examples are guardianship disputes, how to surrender an animal, requests for behavioral training assistance, and how to obtain care for an animal while the guardian is hospitalized. (14)
- *Nuisance*: (11)
- *Lost Dog*: (4)
- *Dog Aggression Concern*: (3)
- *Deceased Animal*: (2)

Animal Incidents: Cats 1/1/2019-12/31/2019



Cat-Related Incidents

- *Deceased Animal*: (15)
- *Welfare Concern*: (7) Issues related to an animal's well-being and safety including but not limited to possible animal neglect, animal abuse, and injured animals
- *Loose Cat / At Large*: (4)
- *Cat Bite*: (3)
- *Found Cat*: (2)
- *Miscellaneous*: Example: Request for behavioral training assistance. (1)

Cat Incident Reports. Almost half of police incident reports concerning domesticated cats involved the reporting of a deceased cat (45.7%). People reporting these incidents were concerned about cats and other cat related incidents included welfare concerns (20%), loose cats (11.4%), and found cats (5.7%). Cat bites made up 8.6% of all cat related incident reports. Because residents know that general issues with cats (cat welfare, lost cats, etc) are not handled by CSOs, the number of cat incidents is likely to be grossly underreported.

Spring 2023 Off-Leash Survey Analysis

Based on the work of the previous task force & work groups ([see Appendix K](#)), areas recommended for off-leash usage were reviewed by the committee based on current usage, and a proposal for areas to pilot was derived. This proposal was included in a survey to get feedback from the community. Based on feedback and information about current off-leash use by residents, the pilot areas were further revised. For example, Roosevelt and Schmanska were removed from consideration, based on quantitative survey opinions and written comments. Leddy Park Trails was also removed from consideration, in spite of quantitative results in favor of, due to important written considerations brought up by community members in the open comments portion.

Quantitative Survey Results

BURLINGTON PARKS OFF-LEASH SURVEY

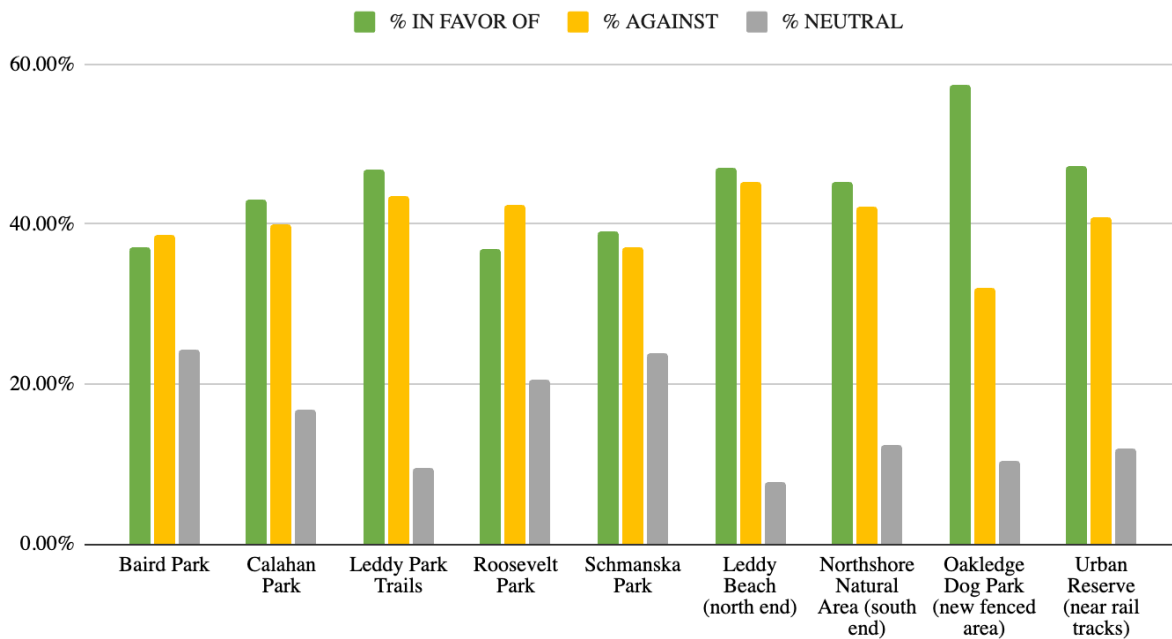


Fig. 5. Community members' opinions about proposed off-leash areas.

Table 4. Community members' opinions about proposed off-leash areas

LOCATION	IN FAVOR	AGAINST	NEUTRAL
Baird Park	353 (37.04%)	368 (38.61%)	232 (24.34%)
Calahan Park	422 (43.11%)	392 (40.04%)	165 (16.85%)
Leddy Park Trails	467 (46.93%)	433 (43.52%)	95 (9.55%)
Roosevelt Park	352 (36.9%)	405 (42.45%)	197 (20.65%)
Schmanska Park	369 (39.13%)	349 (37.01%)	225 (23.86%)
Leddy Beach (north end)	445 (46.99%)	429 (45.30%)	73 (7.71%)
Northshore Natural Area (south end)	414 (45.25%)	387 (42.30%)	114 (12.46%)
Oakledge Dog Park (new fenced area)	542 (57.48%)	303 (32.13%)	98 (10.39%)
Urban Reserve (near rail tracks)	433 (47.22%)	375 (40.89%)	109 (11.89%)

Qualitative Survey Results (Analysis/Coding of Written Comments)

In addition to the quantitative survey collected, the Task Force compiled 631 written comments from respondents providing additional opinions and suggestions regarding off-leash areas and dog parks (61% of respondents left one or more comments). Many comments focused on specific proposed locations, or suggested additional locations not included in the survey. Comments fell into the following categories or theme (in order by the number of comments received in the categories):

- *Appreciate off-leash areas as option:* Commenters felt there were not enough off-leash areas or appreciated the city was investigating additional off-leash spaces for dogs. (202)
- *Dog parks only:* Commenters felt off-leash areas should only be provided strictly in fenced-in dog parks designated for dogs, and that there should not be designated unfenced areas. (143)
- *Nuisance behavior / Environmental impact.* Commenters expressed concern over the negative impact of dogs in general - contributing to noise, annoying people, or trampling local plants/killing wildlife especially in conservation areas. (122)

-
- *Enforcement & Reporting:* Commenters asked for more accessible complaint forms, stronger consequences for existing ordinance infractions, or complained that they never saw enforcement happen, and this made them leery of offering off-leash areas. (121)
 - *Park-specific.* Commenters made a comment about a specific park, such as requesting we consider Smalley Park for off-leash. (100)
 - *Safety.* Commenters were concerned about aggressive dogs, or dogs jumping on/injuring people (small children were often mentioned). (67)
 - *Time/season complexity:* Commenters felt the initial survey's multiple sets of disparate times per individual park would lead to a lot of confusion and possibly be difficult to enforce. (39)
 - *Comments for other public land-owners.* Commenters suggested offering areas not governed by the city of Burlington as possibilities for off-leash. (38)
 - *Education:* Commenters asked for increased education around rules, requested more signage and clarity so that community members knew which rules applied in which parks and where. (25)
 - *Cultural impact.* Commenters expressed concern for individuals whose cultural or religious practices may be adversely affected by allowing off-leash dogs in unfenced spaces (this was especially common in reference to Roosevelt Park) (17)
 - *Neighborhood park concerns.* Commenters made suggestions for specific parks. (17)
 - *Tag / Permit Concept.* Commenters thought that some off-leash areas should be provided on a tag or permit basis. (16)
 - *Accessibility.* Commenters were concerned about more off-leash spaces being accessible to people who don't have cars and need to walk their dogs to an available off-leash area. (10)
 - *Comparison to other cities.* Commenters made positive or negative comparisons of Burlington to other cities (usually to complain that Burlington was not dog-friendly enough, but sometimes to complain that it was too dog-friendly). (8)
 - *No off-leash.* Commenters felt dogs should not be allowed off-leash anywhere in Burlington. (6)
 - *No additional comment.* 39% of respondents did not leave a comment

After reviewing the written comments and quantitative data, decisions were made to remove the following proposed off-leash areas from consideration by the Parks Commission as a pilot, for the reasons stated below:

- Leddy Trails (concerns about wildlife disruption)
- Roosevelt Park (concerns about aversive effect on neighborhood cultural practices)
- Baird Park (concerns about how close the proposed dog play area would be to the children's playground)

The survey also collected feedback from respondents on areas that had not been included, to see if there should be additional areas considered.

- Smalley Park came up frequently and as a result, Smalley was added to the list of pilot areas.
- Many commenters requested additional locations not under the purview of PRW to be made off-leash (for example, Red Rocks or Ethan Allan Homestead, both of which require dogs to be on-leash and are not part of PRW).

Appendix J: Task Force Progress Reports to City Council PACC Committee

The Task Force submitted progress reports to the [City Council PACC Committee](#) on the following dates.

2022-03-01

2023-02-23

2023-08-23

Appendix K: History of Prior Task Force Work

In 1998, the City chose to pilot five locations for off-leash areas. They included Starr Farm Park, Urban Reserve, Intervale, Schmanska and Oakledge Park. Two areas, Starr Farm and Urban Reserve, exist today as off-leash fenced parks. The language for the program still exists in the City Ordinances under Appendix D, section 7, Rules and Regulations of the Burlington Parks and Recreation Park. The section became no longer enforceable in approximately 2002 as the pilot ran out without any information that indicates that the City Council took action.

In 2011, the City Council created a work group to revise and formalize the pilot program started in 1998. After two years, the workgroup recommended that the South, Center and North end of the City all have options for dogs off-leash. They also specified four parks off-leash areas would not be permitted including Burlington Greenway, Battery Park, City Hall Park and Champlain Street Park. They suggested that Starr Farm and Urban Reserve fenced dog parks be listed in the ordinance and that the non-fenced areas be listed in a new off-leash dog policy rather than an ordinance. The off-leash dog policy would be approved by the Parks Commission and not through City Council.

The suggested off-leash areas from the 2011-2013 report included Leddy Park, Oakledge Park, Calahan Park, Schmanska Park, Waterfront Park (in addition to the fenced area), and Roosevelt Park. It was a mix of year-round and seasonal and any time of day to specified times of day. The Parks, Recreation & Waterfront (BPRW) department started a Parks

Comprehensive Plan process around the time of the final report. With that process starting, the decision was made to pause the off-leash work to see what came out of the comprehensive plan. It did not get picked back up again following the release of the 2015 Comprehensive Plan.

In 2019, the current BPRW Director started to move forward with the work from 2011-2013 meeting with PACC and the Parks Commission. The suggestion was made by the Parks Commission to survey the community as quite a bit of time had passed from the 2011-2013 work. Before sending out the survey, the pandemic hit and once again, the project stalled.

----- Forwarded message -----

From: **Sharon Bushor** <sfbushor@gmail.com>

Date: Wed, Mar 6, 2024, 3:41 PM

Subject: Amendments to consider for discussion

To: Karen Paul <kpaul@burlingtonvt.gov>

President Paul and City Councilors

Please consider the following amendments for discussion purposes and potential adoption to the Neighborhood Code Zoning Amendments.

1. Change the maximum housing units in RL from 8 units to 4 units
2. Change the maximum housing units in RM from 10 to 6. To create 6 units, 1 or 2 units must meet the affordability criteria.

This will at least guarantee that some affordable units are built.

3. Postpone rezoning (upzoning) any sections of our City until representative onsite visits are done to confirm the virtual mapping data used to initiate this proposal.

These changes still allow the construction of many new housing units and eliminates leaving affordability to chance by making it part of the criteria.

Thank you very much for your consideration. Creating opportunities to construct new housing is essential and this accomplished that.

Sharon Bushor

Burlington Resident



OFFICE OF THE CLERK/TREASURER City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401 Voice (802)865-7000
Fax (802) 865-7014
Deaf/Hard of Hearing 711

DECLARATION OF ELECTED CANDIDATES ANNUAL CITY ELECTION – MARCH 5, 2024

I, Katherine Schad, Presiding Officer for the March 5, 2024 Annual City Election for the City of Burlington, Vermont do hereby declare the following candidates elected as a result of the Annual City Election held March 5, 2024:

<i>Office</i>	<i>Elected Candidate</i>	<i>% of Vote</i>
Mayor	Emma Mulvaney-Stanak	51.18%

<i>Ward 1</i>	<i>Office</i>	<i>Elected Candidate</i>	<i>% of Vote</i>
	City Councilor	Carter Neubieser	55.36%
	School Commissioner	Rida Kori	98.29%
	Inspector of Election	Lisa L. Lax	98.11%

<i>Ward 2</i>	<i>Office</i>	<i>Elected Candidate</i>	<i>% of Vote</i>
	City Councilor	Gene Bergman	96.51%
	School Commissioner	Polly Vanderputten	98.92%
	Inspector of Election (3 Year Term)	Jody Woos	98.80%
	Inspector of Election (2 Year Term)	Julia DiPietro	98.99%

<i>Ward 3</i>	<i>Office</i>	<i>Elected Candidate</i>	<i>% of Vote</i>
	City Councilor	Joe Kane	66.87%
	School Commissioner	Saja Almogalli	98.73%
	Ward Clerk	Sam Powers	98.19%
	Inspector of Election (3 Year Term)	No candidate elected	N/A
	Inspector of Election (1 Year Term)	No candidate elected	N/A

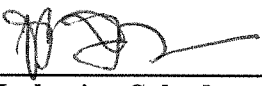
<i>Ward 4</i>	<i>Office</i>	<i>Elected Candidate</i>	<i>% of Vote</i>
	City Councilor	Sarah Carpenter	73.70%
	School Commissioner	Martine Larocque Gulick	97.98%
	Inspector of Election (3 Year Term)	Keren Turner	97.38%
	Inspector of Election (1 Year Term)	Amy Payne	98.42%

Ward 5	Office	Elected Candidate	% of Vote
	City Councilor	Ben Traverse	66.54%
	School Commissioner	Lucia W. Campriello	98.66%
	Inspector of Election	Frances Brock	98.92%

Ward 6	Office	Elected Candidate	% of Vote
	City Councilor	Becca Brown McKnight	70.46%
	School Commissioner	Clare Wool	98.37%
	Inspector of Election	Rebecca Levasseur Oettinger	98.73%

Ward 7	Office	Elected Candidate	% of Vote
	City Councilor	Evan Litwin	66.86%
	School Commissioner	Monika Ivancic	78.75%
	Inspector of Election	Linda Belisle	65.22%

Ward 8	Office	Elected Candidate	% of Vote
	City Councilor	Marek Broderick	57.19%
	School Commissioner	William R. Church	97.23%
	Ward Clerk	No candidate elected	N/A
	Inspector of Election (3 year term)	No candidate elected	N/A
	Inspector of Election (2 year term)	No candidate elected	N/A
	Inspector of Election (1 year term)	No candidate elected	N/A



Katherine Schad
Presiding Officer – March 5, 2024 Annual City Election

03/07/24

Date



OFFICE OF THE CLERK/TREASURER

City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401 Voice (802)865-7000

DECLARATION OF ELECTION RESULTS

QUESTIONS ON THE BALLOT

ANNUAL CITY ELECTION – MARCH 5, 2024

I, Katherine Schad, Presiding Officer for the March 5, 2024 Annual City Election for the City of Burlington, Vermont do hereby declare the following results for the Public Questions on the Ballot of the Annual City Election held March 5, 2024:

Question 1.

APPROVAL OF SCHOOL BUDGET FOR FISCAL YEAR 2025

	<i>VOTES</i>	<i>% of VOTES</i>
YES	10,267	71.61%
NO	4,070	28.39%
Undervotes	625	
Overvotes	1	
Total Ballots Cast	14,963	
RESULT	APPROVED	Simple Majority Required

Question 2.

INCREASE IN PUBLIC SAFETY TAX RATE FOR FIRE AND POLICE PURPOSES

	<i>VOTES</i>	<i>% of VOTES</i>
YES	10,181	71.63%
NO	4,032	28.37%
Undervotes	746	
Overvotes	4	
Total Ballots Cast	14,963	
RESULT	APPROVED	Simple Majority Required

Question 3.

CHARTER CHANGE RE: ELECTRIC DEPARTMENT

	<i>VOTES</i>	<i>% of VOTES</i>
YES	9,939	73.96%
NO	3,500	26.04%
Undervotes	1,523	
Overvotes	1	
Total Ballots Cast	14,963	
RESULT	APPROVED	Simple Majority Required

**DECLARATION OF ELECTION RESULTS
QUESTIONS ON THE BALLOT
ANNUAL CITY ELECTION – MARCH, 2024 (continued)**



Katherine Schad
Presiding Officer – March 7, 2024 Annual City Election

03/07/2024

Date



To: Board of Finance and City Council
From: Megan Moir, Division Director Water Resources
Cc: Chapin Spencer, Director of Public Works
Date: March 11, 2024
Re: Renewal of Main On-Call Contract for Financial Advisor and Utility Management Services with Raftelis Financial Consultants (Third and Final Renewal)

REQUEST:

The Department of Public Works ("DPW") and its Water Resources Division ("Division") seeks to renew the Main On-Call Agreement with Raftelis Financial Consulting for a third term through June 30, 2025 with a maximum limiting amount of \$175,000 for this final contract term.

BACKGROUND:

In late 2018, the Water Resources Division was faced with numerous and complex financial challenges, such as evaluating rate restructuring options, developing an affordability program, and addressing capital financing needs. DPW and Division leadership and the CAO determined that establishing a longer term and consistent on-call relationship with a financial and utility management advisor would be advantageous for the Water Resources Division and the City. A request for qualifications (RFQ) was released, and Raftelis was identified as the most qualified firm. After approval by the Board of Finance and City Council on June 24, 2019¹, a Main On-Call Agreement was executed with Raftelis on July 16, 2019. The original RFQ intended and condition 2.C. of the Main Agreement allows for the renewal of up to two additional 2-year terms if the parties jointly agree. The Division has been very satisfied with Raftelis' performance and believes it is in the best interest of the City to renew for a final term

The Main Agreement received approval for renewal for a second term on July 12, 2021 for FY2022 – FY2023 and the contract was extended via an amendment and the maximum limiting amount was increased to \$467,035. A time extension only amendment for that Agreement was executed at the end of the contract term to allow for the completion of work initiated under the second renewal to continue until completed.

We are seeking authorization to renew the Main On-Call Agreement with Raftelis Financial Consultants for a third term, through June 30, 2025.

¹ <http://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=BDCNVW61D66F>

Work Assignment Agreements are issued under the Main On-Call Agreement as needed and as funding is available. A total of \$305,410 of work has been authorized under this Main Agreement over the two terms.

Work Assignment Agreement	Amount
#1 Rate Rate Restructuring and Affordability Program Development	\$ 149,535.00
#2: Bond Issuance Financial Review and Pandemic Revenue Impact Analysis/Projections	\$ 17,500.00
#3: Comprehensive Financial Model update	\$ 35,000.00
#4: Annual Model update including filing of the Triennial Review required for Wastewater Bond, Non-retail rate fee evaluation, Review/enhancement of the WRAP program	\$ 50,000.00
#5: Staffing proposal assessment and compensation study	\$ 53,375.00
Total work authorized to date	\$ 305,410.00

Work planned under the FY 24 – 25 Contract term includes, but is not limited to:

- Bonding feasibility analysis for Wastewater, Water and Stormwater Enterprise Funds
- Enhancements to the Water Resources Affordability Program
- Model updates as necessary

ON-CALL CONTRACT STRUCTURE

The objective for establishing an on-call financial consulting framework is to expedite the procurement, award, and execution of contracts so that work may progress in a timely manner. The contracted relationship with Raftelis follows the general structure of other on-call contracts in the City. Water Resources proposes to renew the Main Agreement with Raftelis for a third and final term (FY24-25) with a maximum limiting amount for this term of \$175,000.

As Water Resources identifies individual financial consultant work projects that are needed, Water Resources will enter into Work Assignment Contracts with Raftelis under the Main Agreement umbrella. Water Resources may execute any number of Work Assignment Contracts as long as the total cumulative amount of such contracts does not exceed the maximum limiting amount for this renewed the Main Agreement.

Since Work Assignment Contracts will be executed up to the maximum limiting amount approved by the City Council under the Main Agreement, if this request is approved, only the Main Agreement requires approval by the BOF and City Council.

Water Resources will document the available funding for any Work Assignment Contract prior to approval and execution. The funding source and pro-rata share among the three Water Resources funds may change depending on the Work Assignment Contract scope and applicability to each of the funds.

Water Resources will issue a new Request for Qualifications for work beyond FY25.

MOTIONS:

The Department of Public Works' Water Resources Division respectfully requests that the Board of Finance and City Council approve the following motions:

Board of Finance:

1. To approve and recommend that the City Council authorize the Director of Public Works to renew the Main On-Call Agreement with Raftelis Financial Consultants for on-call financial advisor and utility management services for the Water Resources Division through June 30, 2025 for a maximum limiting amount of \$175,000 for the renewal term, subject to prior review and approval by the City Attorney's Office.
2. To approve and recommend that the City Council authorize the Director of Public Works to execute individual Work Assignment Contracts, which in total shall not exceed the maximum limiting amount established in the renewal of the Main On-Call Agreement—to complete work identified in the Main On-Call Agreement, subject to prior review and approval by the City Attorney's Office.

City Council:

1. To authorize the Director of Public Works to renew the Main On-Call Agreement with Raftelis Financial Consultants for on-call financial advisor and utility management services for the Water Resources Division through June 30, 2025 for a maximum limiting amount of \$175,000 for the renewal term, subject to prior review and approval by the City Attorney's Office.
2. To approve and authorize the Director of Public Works to execute individual Work Assignment Contracts, which in total shall not exceed the maximum limiting amount established in the Main On-Call Agreement, to complete work identified in the renewal of the Main On-Call Agreement, subject to prior review and approval by the City Attorney's Office.

Board of Finance and City Council Submission Checklist

Department: DPW-Water Resources Division Submitter: Megan Moir
 Title/Subject: Renewal of Main On-Call Contract for Financial Advisor and Utility Management Services with Raftelis Financial Consultants (Third and Final Renewal)

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	No	Click or tap to enter a date.	Chapin Spencer was out of the country and delegated authority to the Division Director
Mayor's Office informed and approved memo	Yes	3/6/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	CA will review contract amendment before execution
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/6/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Motion is in memo
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



MEMORANDUM

To: Burlington Board of Finance
Burlington City Council

From: Darren Springer, General Manager
Chris Burns, Director of Energy Services

Date: March 11, 2024

Subject: BED Switch & Save Program subgrant

Burlington Electric Department (BED) respectfully requests that the Board of Finance and City Council approve BED's acceptance of a subgrant for the Switch & Save Program in an amount not to exceed \$500,000. BED will be subgrant of Efficiency Vermont (EVT), which has received a grant from the Vermont Department of Public Service to provide financial and technical assistance for low- and moderate-income Vermont households to install heat pump water heaters through BED's Energy Efficiency Utility. No BED or City match is required.

This program was initially developed as a concept by an Energy Action Network (EAN) working group, stemming from a policy pitch at the 2021 EAN Summit. The working group¹ that was developed to advance the concept included as Co-Chairs Linda McGinnis and BED GM Darren Springer. The working group included participants from VPIRG, VNRC, Efficiency Vermont as well as regional planners, contractors, community action agencies, and building efficiency experts. The Switch & Save Program was considered by the Legislature in the 2022 session and was enacted that year as part of the Vermont FY23 budget, providing \$5 million statewide to support installation of heat pump water heaters for income-qualified customers at low or no cost, in combination with other programs and incentives.

With water heating often being the second largest thermal energy use in residences, but receiving far less attention than other technologies, the Switch & Save program presents an opportunity to support equipment changeouts that would reduce fossil fuel use and greenhouse gas emissions and provide energy savings for income-qualified customers.

BED is very pleased to be able to provide this program to our customers pending approval of the grant acceptance. Please see the attached draft grant agreement between BED and EVT for more information. Please do not hesitate to contact us with any questions.

¹ See <https://eanvt.org/network-action-teams/switch-save-network-action-team/> for more information

Motions:Board of Finance:

Move to approve and recommend to the City Council to approve and authorize the BED General Manager or his designee, to enter into and execute all necessary grant agreements with respect to accepting the Switch & Save Program subgrant in an amount not to exceed \$500,000 to provide financial and technical assistance for low- and moderate-income Vermont households to install heat pump water heaters, subject to final review and approval of the City Attorney's Office.

City Council:

Move to approve and authorize the BED General Manager or his designee, to enter into and execute all necessary grant agreements with respect to accepting the Switch & Save Program subgrant in an amount not to exceed \$500,000 to provide financial and technical assistance for low- and moderate-income Vermont households to install heat pump water heaters, subject to final review and approval of the City Attorney's Office.

1. Parties: This is a Subgrant Agreement between Vermont Energy Investment Corporation d/b/a Efficiency Vermont (“Efficiency Vermont”) with its principal office located at 20 Winooski Falls Way, 5th Floor, Winooski, Vermont 05404 and Burlington Electric Department (“BED” or “Subgrantee”), with its principal office located at 585 Pine St, Burlington, VT 05401 (together, the “Parties” and each, a “Party”).
2. Term of the Subgrant Agreement: The term of this Subgrant Agreement shall begin on the date this Subgrant Agreement is signed by both parties and shall terminate on 12/31/2024 or when all of the obligations under this Subgrant Agreement are fully satisfied, whichever occurs earlier. **Subgrantee MUST complete the services set forth in Attachment A (Scope of Work to be Performed) no later than 12/31/2024.** Notwithstanding the foregoing, the Subgrantee shall continue to comply with its reporting requirements as specified in Attachment A until those reporting requirements have been completed.
3. Subject Matter: This Subgrant is made pursuant to a Grant Agreement between the State of Vermont, Department of Public Service (“State” or “PSD”) and Efficiency Vermont that, in part, provides funding to support “Switch and Save” Heat Pump Water Heater Installation.
4. Subgrant Purpose: The purpose of this Subgrant Agreement is to establish the terms, conditions and requirements governing the administration and use of the funds received by Efficiency Vermont to support “Switch and Save” Heat Pump Water Heater Installation. Subgrantee will perform the services set forth in Attachment A (Scope of Work to be Performed).
5. Grant Amount and Award Details: The maximum allowable payment by Efficiency Vermont under this Subgrant Agreement and specific scope of work to be performed by Subgrantee are detailed in Attachment A (Scope of Work to be Performed). **Notwithstanding the foregoing, in no event shall total payments under this Subgrant Agreement exceed \$500,000 (“Not-to-Exceed” or “NTE” value) unless specifically authorized in an amendment to this Subgrant Agreement signed by both parties.**
6. Amendments: No changes, modifications or amendments in the terms and conditions of this Subgrant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative(s) of Efficiency Vermont and Subgrantee.
7. Attachments: This Subgrant consists of the following attachments that are incorporated herein:
 - Attachment A – Scope of Work to be Performed
 - Attachment B – Payment Provisions
 - Attachment C – State of Vermont Grant Provisions
 - Attachment D – Other Provisions
 - Attachment E – Certification Regarding Use of Contract Funds for Lobbying

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS SUBGRANT AGREEMENT:

Efficiency Vermont

Burlington Electric Department

Signature

Printed Name

Title

Date

Signature

Printed Name

Title

Date

DRAFT

Attachment A

Scope of Work to be Performed

Subgrantee agrees to complete the following Scope of Work as specified below.

INTRODUCTION AND BACKGROUND

The Vermont Public Service Department (“PSD”) has provided grant funding for Efficiency Vermont to provide financial and technical assistance for low- and moderate-income Vermont households to install heat pump water heaters (the "Switch and Save Program" or “Program”), with an emphasis on providing the incentives to households that were impacted by the floods of July 2023.

The PSD grant requires that Efficiency Vermont subgrant funds to BED and to Vermont Gas Systems, Inc. (“VGS”) for the provision of Program services through BED’s and VGS’s respective Energy Efficiency Utility services. Accordingly, Efficiency Vermont is providing Program funding to BED through this Subgrant Agreement.

The PSD grant includes the following requirements, all of which shall apply in full to Subgrantee’s provision of Program services under this Subgrant Agreement:

- eligibility for the Switch and Save Program is limited to low-income (80% or less of Area Median Income as determined by HUD for the participant's county and household size [“AMI”]) and moderate-income (between 80% and 120% of AMI) households;
- customers must undergo a self-attestation screening process for both household income and flood damages;
- a household may only receive funding after certifying that receipt of funds under the grant is not duplicative to other funds received by the household;
- households that are eligible for FEMA assistance must first apply for that assistance before being served with grant funds;
- households participating in the Efficiency Vermont flood-recovery and weatherization programs funded by ARPA will be prioritized to receive Program incentives; and
- the immediate focus of outreach for the Program shall be to aid in the rebuilding of flood-impacted homes.

Efficiency Vermont, BED and VGS (collectively, the “EEUs”) have worked together to develop a coordinated plan to deliver the Program services throughout their combined service territories. Because the PSD grant requires that the immediate focus of outreach for the Program shall be to aid in the rebuilding of flood-impacted homes, the EEUs plan to launch a phased program offer. The first offer will focus on offering flood-impacted residents a post-purchase rebate to cover all or the majority of the purchase and installation costs of new HPWHs. The second phase will utilize contractor-focused service delivery.

SERVICES

Subgrantee, through its Energy Efficiency Utility operation, will provide the services described below.

1. Phase Two – Support the installation of HPWHs for income-eligible households

Phase two of the Program is not limited to flood-impacted households. Subgrantee will provide an incentive equal to the full cost (equipment and labor) of qualifying HPWHs for low-income households up to a maximum incentive of \$5,000, and 90% of the full cost up to a maximum incentive of \$4,500 for moderate-income households. Owners of rental residential properties with affordable rent levels (as shown in the table below) will also be eligible for this offer and will receive a post-purchase reimbursement of 90% of the full cost of qualifying HPWHs up to a maximum reimbursement of \$4,500.

ELIGIBLE RENTAL UNITS MUST MEET THE MAXIMUM GROSS RENT LEVELS OUTLINED IN THE TABLE BELOW.

MAXIMUM ALLOWABLE RENT LEVEL PER RENTAL UNIT (INCLUDING UTILITIES)							
	Income level (% of median income)	Studio	1 BDRM	2 BDRM	3 BDRM	4 BDRM	5 BDRM
Chittenden, Franklin, Grand Isle	120%	\$2,255	\$2,417	\$2,900	\$3,350	\$3,740	\$4,427
Addison	120%	\$1,968	\$2,107	\$2,529	\$2,920	\$3,258	\$3,595
All other VT counties	120%	\$1,950	\$2,087	\$2,505	\$2,895	\$3,230	\$3,562

The EEUs plan to recruit a subset of HPWH contractors to participate in phase two of the Program. These contractors would be responsible for meeting with the customer at the project site to determine the appropriate equipment that should be installed as well as identifying whether additional electrical work might be needed to accommodate the HPWH installation. The EEUs will coordinate their efforts to promote the following objectives:

- The second phase of Switch and Save should allow any income-eligible residential customer to participate, regardless of flood impact. Instead of having the customer submit a post-purchase rebate, the primary service mechanism should be through contractor referral.
- The EEUs will collaborate to provide a synchronized phase-two program launch.
- The EEUs will recruit qualified and insured contractors. All contractors will be required to submit a Certificate of Insurance and plumbing license (P1 or higher).
- All participating contractors will be required to sign a contractor participation agreement.
- The Subgrantee will screen customers for income eligibility and HPWH installation suitability. If the customer is found to meet the Program's requirements and has a suitable residence for a HPWH, the Subgrantee will refer the customer to a participating contractor for product installation.

- Subgrantee will refer customers to participating contractors, ensure participating contractors accept or reject referrals, and reimburse contractors in accordance with the contractor participation agreement.
- The Program should include a post-purchase rebate form to serve eligible customers who need to participate retroactively (i.e., after purchase and installation of the qualifying HPWH).
- Subgrantee will provide post-purchase rebates within 60 days of submittal of a complete and accurate rebate form.

Modifications may be made to the above objectives with Efficiency Vermont's written approval.

In order to provide for a coordinated and consistent customer and contractor experience across the three EEUs and to ensure compliance with the requirements of the PSD grant, the process for customers to apply for an incentive under phase two of the Switch and Save Program will align with the following procedures:

- Subgrantee will provide the customer with resources that the Subgrantee deems appropriate to serve the goals of the Program.
 - Throughout the period that the Program is offered, Subgrantee will work cooperatively with the other EEUs to provide a consistent offer to minimize customer confusion and minimize barriers to program access.
 - Subgrantee will require the customer to complete a Switch and Save Program rebate application that for residential customers will include (but not be limited to) the following elements to help ensure compliance with PSD grant requirements:
 - customer self-attestation of household income;
 - customer certification that receipt of funds under the Program is not duplicative of other funds received by the household;
- For RPOs the rebate application will include (but not be limited to) the following:

- RPO self-attestation of rent level(s);
 - RPO certification that receipt of funds under the Program is not duplicative of other funds received by the RPO; and
 - documentation establishing that the RPO has purchased and installed a qualifying HPWH.
- Subgrantee verifies the customer's eligibility for a Program rebate: once Subgrantee receives the completed customer application, Subgrantee will ensure that the customer meets the Program requirements. If the customer is found to be ineligible, the Subgrantee will notify the customer.
 - After the customer's eligibility has been confirmed, Subgrantee will refer a participating contractor to the customer and will advise the customer to discuss the project with the contractor to ensure that the customer is willing to retain the contractor. If the customer is not willing to retain the selected contractor Subgrantee will make reasonable efforts to identify another available participating contractor who is acceptable to the customer.
 - The contractor will meet on site with the customer to ensure an HPWH is suitable at the installation site.

- Before the contractor begins the project, the customer will complete and submit a third-party payee form to authorize Subgrantee to pay the incentive directly to the contractor.
- The contractor will purchase and install a qualifying HPWH.
- The contractor will provide the customer with guidance on HPWH operation and basic maintenance.
- The installing contractor will not invoice the customer (except for Rental Property Owners and except for the 10% copayment by moderate-income households) but instead will submit the invoice to Subgrantee. Efficiency Vermont will route any BED/VGS contractors' invoice to the appropriate EEU as needed.
- Subgrantee will send the appropriate incentive payment to the contractor within 60 days of a complete and accurate invoice submission.

Modifications may be made to the above process with Efficiency Vermont's written approval.

2. Monitoring and Reporting

Subgrantee will report on Program results and incidents as specified below.

a. Progress Reporting

The following reports are required and shall be submitted via email to **abreen@veic.org** using the format provided by Efficiency Vermont. Efficiency Vermont reserves the right to request reporting on a more regular basis, such as monthly, or on an ad hoc basis if needed.

i. Quarterly Reporting – Metrics and Narrative Requirements

Quarterly reports shall be submitted via e-mail on or before the following dates:

January 2
April 1
July 1
October 1

The Quarterly Report shall provide a concise status of work, following the outline below.

- State the period covered by the report.
- A written comparison of the actual project accomplishments with the project goals and objectives established for the reporting period; if goals and/or objectives for the reporting period were not met, a detailed description of the variance shall be provided.
- A discussion of what was accomplished under these goals and objectives established for this reporting period, including major activities, significant results, major findings or conclusions, key outcomes, or other achievements. This section should not contain any proprietary data or other information not subject to public release. If such information is important to reporting progress, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information.

- Schedule Status. List milestones, anticipated completion dates and actual completion dates.
- Describe any changes during the reporting period in project approach and the reasons for these changes. Remember, significant changes to the project objectives and scope require prior approval by the PSD Grant Administrator.
- Describe any actual or anticipated problems or delays and any actions taken or planned to resolve them.
- Describe any absence or changes of key personnel or changes in consortium/teaming arrangement during the reporting period.
- List and describe any product produced or technology transfer activities accomplished during the reporting period.

The Quarterly Report shall also provide the metrics listed below:

Results tracked and reported by City (Burlington):

- Identify results for <80% AMI:
 - # of <80% AMI Households served that were impacted by the flooding
 - # of <80% AMI Households served that were **not** impacted by the flooding
 - # of heat pump water heaters paid for and installed
- Identify results for 80-120% AMI:
 - # of 80-120% AMI Households served that were impacted by the flooding
 - # of 80-120% AMI Households served that were **not** impacted by the flooding
 - # of heat pump water heaters paid for and installed

ii. Final Reporting - Metrics and Narrative Requirements

Subgrantee will prepare a final report evaluating the project, which shall include:

- A concise narrative summary of the activities undertaken in the grant period, successes and failures, and lessons learned. The summary should generally address the goals outlined in the Scope of Work.
- An accounting of all metrics listed in item i above (Quarterly Reporting) for the
 - A. final quarter of the project
 - B. total metrics for the entire project term
- Materials created and/or disseminated as part of the project including presentations, press releases, articles, etc.

The deadline for the Final Report shall be **1/15/2025**.

b. Incident reporting:

Subgrantee must report the following events by e-mail as soon as possible after they occur:

- i. Developments that have a significant favorable impact on the project.
- ii. Problems, delays, or adverse conditions which materially impair Subgrantee's ability to meet the objectives of the Subgrant Agreement award or which may require Efficiency Vermont or the State to respond to questions from the public. Report any

of the following incidents (include the anticipated impact and remedial action to be taken to correct/resolve the situation):

- A. Any significant environmental permit violation.
- B. Any verbal or written Notice of Violation of any Environmental, Safety, and Health statutes.
- C. Any event which is anticipated to cause a significant schedule slippage or cost increase.
- D. Any other incident that has the potential for high visibility in the media.

ELIGIBLE EXPENSES

In performing the Scope of Work, Subgrantee will be reimbursed for its direct labor services and expenses as shown in the budget presented below. For labor services Subgrantee will be paid on an hourly rate basis for performance of the services outlined in the Scope of Work. The hourly rates include all General and Administrative Overhead; all Subgrantee administrative functions are understood to be compensated through the factor applied to determine the hourly billing rates, and only administrative assistance that is in direct support of production of the deliverables in the Scope of Work will be compensated on an hourly basis. Total payments for labor services shall be subject to a total not-to-exceed amount of \$15,000 (Fifteen Thousand Dollars). All non-labor expenses will be reimbursed at Subgrantee's actual cost with no mark-up.

Switch and Save BED Budget	2023	2024	Total
Labor	\$	\$	\$15,000
Incentives			
Indirect Costs			
Other			
Total			\$300,000

Subgrantee acknowledges and agrees that its procurement of goods and services under this Subgrant Agreement must comply with all applicable State of Vermont and federal requirements. Subgrantee must have and use documented procurement procedures that conform to the procurement standards identified in Uniform Guidance 2 C.F.R. Part 200. Subgrantee must retain documentary evidence demonstrating its compliance with its procurement procedures.

Annual Indirect Cost Proposal and Reconciliation

If the award includes funding of indirect costs, then in accordance with the applicable cost principles, the Subrecipient must submit an annual indirect cost proposal, reconciled to its financial statements, within six

months after the close of the fiscal year, unless the award is based on a predetermined or fixed indirect rate(s), or a fixed amount for indirect or facilities and administration (F&A) costs.

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Attachment B Payment Provisions

Efficiency Vermont will reimburse Subgrantee for incurred expenses upon submission of an invoice subject to the following provisions.

1. Invoice Requirements: Subgrantee may submit invoices to Efficiency Vermont on a monthly basis for services provided in accordance with Attachment A (Scope of Work to be Performed).

Invoices submitted by mail should be sent to:

Efficiency Vermont
Attn: Aidan Breen
20 Winooski Falls Way, 5th Floor
Winooski, Vermont 05404

Invoices submitted by email should be sent to: AccountsPayable@veic.org

All invoices shall, at a minimum, include:

- Grant number
- Name of Subgrantee;
- Subgrantee's address;
- Federal Employer I.D. number;
- Administrative Contact Name, Phone Number, and E-mail.
- Expense receipts and/or other documentation sufficient to reflect all costs claimed to have been incurred in performing Attachment A (Scope of Work to be Performed). Subgrantee's invoice shall be broken down by accounting category, such as – contractor labor costs and equipment costs. Receipts and other documentation shall be maintained on file.

2. Certification: Submission of an invoice shall constitute a certification by Subgrantee that all services and expenses reported in the invoice were incurred by Subgrantee in performing Attachment A (Scope of Work to be Performed) and have been fully paid for under this Subgrant Agreement.
3. Invoice Approval: In order for Subgrantee's invoice to be paid, it must be approved by Efficiency Vermont. Efficiency Vermont will review Subgrantee's invoice no later than five (5) business days after receipt of an invoice and either approve the invoice for payment or inform Subgrantee in writing of any deficiencies in Subgrantee's invoice.
4. Payment: Efficiency Vermont will pay invoices within 30 days from the date Efficiency Vermont receives an error-free invoice with all necessary and complete supporting documentation.
All invoices must be received no later than the 5th business day of the subsequent calendar month.
5. Costs Not Eligible for Payment: Costs that are not eligible for reimbursement include, but are not limited to the following items:
 - a. Costs other than those approved in Attachment A or in a written amendment to this Subgrant;

- b. Indirect costs that are not supported by an approved Negotiated Indirect Cost Agreement (NICRA).
- c. Costs incurred prior to **1/1/2024**, and
- d. Costs that exceed the per-unit payment or maximum amount authorized in Attachment A (Scope of Work to be Performed).

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Attachment C
Standard State Provisions for Contracts and Grants

1. Definitions: For purposes of this Attachment, “Party” shall mean the Subgrantee with whom Efficiency Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean this Subgrant Agreement.

2. 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 the State, Efficiency Vermont 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.

3. 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 this Agreement.

4. 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.

5. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

6. 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.

7. 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 Efficiency Vermont through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to Efficiency Vermont and the State.

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

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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 Efficiency Vermont. Party shall be responsible and liable to the State and Efficiency Vermont 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 and to Efficiency Vermont 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 9 ("False Claims Act"); Section 10("Whistleblower Protections"); Section 11 ("Location of State Data"); Section 13 ("Fair Employment Practices and Americans with Disabilities Act"); Section 15 ("Taxes Due the State"); Section 17 ("Child Support"); Section 19 ("No Gifts or

Gratuities”); Section 21 (“Certification Regarding Debarment”); Section 20 (“State Facilities”); and Section 31.A (“Certification Regarding Use of State Funds”).

19. 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.

20. 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.

21. 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.com>

22. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

23. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party and from Efficiency Vermont in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

24. 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.

25. 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.

26. Termination:

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

27. Continuity of Performance: In the event of a dispute between the Party and the State or between the Party and Efficiency Vermont, 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 Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit

a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

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.

(End of Standard Provisions)

Attachment D Other Provisions

1. Compliance with Laws and Regulations: Subgrantee agrees to ensure that the work authorized in Attachment A (Scope of Work to be Performed) comply with all federal, state, and local laws and regulations including but not limited to safety, building and environmental codes.

2. Use of Subgrant Funds: Subgrantee shall use the Subgrant funds only for the Subgrant purpose described in Attachment A (Scope of Work to be Performed), shall treat the Subgrant as restricted for the Subgrant Purpose, and shall repay Efficiency Vermont if any funds are used for any other purpose. Subgrantee is also solely responsible for: (a) all activities described in Attachment A (Scope of Work to be Performed) including but not limited to hiring and vetting any contractors or vendors required to complete the Scope of Work, (b) the content of any products or service created with the Subgrant funds, and (c) the manner in which such products or services may be disseminated.

3. Uniform Guidance Requirements: The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) award terms and conditions provide that the requirements of the Uniform Guidance, 2 C.F.R. Part 200, apply to SLFRF awards other than such provisions as Treasury may determine are inapplicable to the award and subject to such exceptions as may be otherwise provided. The 2022 Compliance Supplement also provided that the requirements of 2 C.F.R. Part 200 are applicable unless stated otherwise. As such, recipients, including Subgrantee, are required to follow Subparts A, B, C, and F of the Uniform Guidance for expenses categorized under Expenditure Category 6 “Revenue Replacement.” However, given the purpose and very broad scope of eligible uses of the revenue replacement funds, only a subset of the requirements in Subparts D and E of the Uniform Guidance apply to recipients’ use of such funds. The applicable requirements are listed below. In general, these requirements provide that recipients should not deviate from their established practices and policies regarding the incurrence of costs, and that they should expend and account for the funds in accordance with laws and procedures for expending and accounting for the recipient’s own funds. Recipients’ use of revenue replacement funds remains subject to the other applicable requirements of the SLFRF program, including among other things the deadlines for obligations and expenditures and the application of federal antidiscrimination requirements.

Uniform Guidance Subpart D and E Requirements Applicable to Revenue Loss Funds Used for the Provision of Government Services

Subpart D Post Federal Award Requirements

- 200.300 Statutory and national policy requirements.
- 200.302 Financial management.
- 200.303 Internal controls.
- 200.328 Financial reporting.
- 200.329 Monitoring and reporting program performance.

- Record Retention and Access (2 C.F.R. 200.334 – 200.338)
 - 200.334 Retention requirements for records.
 - 200.335 Requests for transfer of records.
 - 200.336 Methods for collection, transmission, and storage of information.
 - 200.337 Access to records.
 - 200.338 Restrictions on public access to records.

6 Cf. 2 CFR 200.302(a), 2 CFR 200.404(e).

Consistent with the Uniform Guidance, if SLFRF is to be used to cover a cost incurred by a recipient, the cost must be one that is allowable. In determining whether a cost is allowable for purposes of funds used under the revenue loss eligible use category, only the following factors and requirements apply:

Subpart E – Cost Principles

- 200.400(a) - (c), and (e) Policy guide.
- 200.403(a), (c), (d), (g), and (h) Factors affecting allowability of costs.
- 200.404(e) Reasonable costs.

4. Prevailing Wage: Per Act No. 183, An Act Relating to Economic and Workforce Development, Sec. 71a “Except as provided in subsection (b) of this section, any contract awarded for a maintenance, construction, or improvement project that receives \$200,000.00 or more in American Rescue Plan Act (ARPA) funds shall provide that all construction employees working on the project shall be paid not less than the mean prevailing wage....”

Vermont Prevailing Wage Rate Note is available at: <https://tinyurl.com/yc65848e>.

Information on Vermont’s Prevailing Wage and a complete list of occupations and associated wage rates are available on at: <http://www.vtlmi.info/lmipub.htm>.

5. Minority and Women Business Enterprises (M/WBE): It is the policy of the State of Vermont that M/WBE's shall have the maximum opportunity to participate in the performance of contracts financed with state funds. All Bidders are encouraged to contact M/WBE's in an effort to recruit them to submit proposals for the work or portions thereof. The Subgrantee shall not discriminate on the basis of race, color, national origin or sexual orientation in the award and performance of subcontracts.

6. Suspension and debarment: Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension). The regulations in 2 CFR part 180 restrict

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.

7. Never contract with the enemy: Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

8. Prohibition on certain telecommunications and video surveillance services or equipment:

(a) Recipients and subrecipients, including Subgrantee, are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered

communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115–232, section 889 for additional information.

(d) See also § 200.471.

9. Procurement of Recovered Materials: In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired:

- a. Competitively within a time frame providing for compliance with the contract performance schedule;
- b. Meeting contract performance requirements; or
- c. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

10. Clean Air Act:

- a. The Subgrantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- b. The Subgrantee agrees to report each violation to Efficiency Vermont and the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Subgrantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

11. Federal Water Pollution Control Act:

- a. The Subgrantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

- b. The Subgrantee agrees to report each violation to Efficiency Vermont and the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Subgrantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. a. Standard.
- d. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

12. Termination by State: If the State of Vermont terminates Efficiency Vermont's grant that provides the funding for this Subgrant Agreement, the Subgrantee agrees that to the extent specified in the State's Notice of Termination Efficiency Vermont may terminate and cancel this Subgrant Agreement, except as may be necessary for completion of such portion(s) of the work under the Subgrant Agreement as is (are) not terminated by the State.

13. Termination Provisions in Contracts: All subcontracts awarded by the Subgrantee in excess of \$10,000 must address termination for cause and for convenience by the Subgrantee including the manner by which it will be effected and the basis for settlement.

14. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708): Where applicable, all contracts awarded by Subgrantee in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

15. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended: If this Subgrant Agreement is for an amount in excess of

\$150,000, Subgrantee must agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State of Vermont, the U.S. Treasury and the Regional Office of the Environmental Protection Agency (EPA). Subgrantee must include this provision in any contract or subgrant in excess of \$150,000.

16. Debarment and Suspension (Executive Orders 12549 and 12689): A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension,” and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension). SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

17. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): Contractors that apply or bid for an award or contract exceeding \$100,000 must file the certification required under 31 U.S.C. 1352. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures must be forwarded from tier to tier up to the non-Federal award, including by Subgrantee to Efficiency Vermont.

18. Other Federal Funds: Subgrantee agrees that expenses covered by the funds received under this Subgrant Agreement have not been and will not be recovered using any other source of Federal funds.

19. Applicable Law: This Subgrant Agreement will be governed by the laws of the State of Vermont. The Subgrantee must comply with all the federal requirements pertaining to the expenditure of federal funds.

20. Indemnification: Subgrantee shall defend Efficiency Vermont and its officers and employees against all third-party claims or suits arising in whole or in part from any act or omission of Subgrantee or of any agent of the Subgrantee in connection with the performance of this Subgrant Agreement. Efficiency Vermont shall notify Subgrantee in the event of any such claim or suit, and Subgrantee shall immediately retain counsel and otherwise provide a complete

defense against the entire claim or suit. Efficiency Vermont retains the right to participate at its own expense in the defense of any claim.

21. Survival: Any terms of this Subgrant and the attachments which by their nature survive beyond its expiration or termination shall remain in effect until fulfilled and shall apply to the respective successors and permitted assigns of the Parties.

22. Notices

- a. Efficiency Vermont's primary contact is **Aidan Breen**.
- b. Subgrantee's primary contact is **Chris Burns**.
- c. Any notice or request required or permitted to be given or made in this Subgrant Agreement shall be in writing to the appropriate primary contact. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, or electronic mail to the Party to which it is required to be given or made, at such Party's address specified below or at such other address as the Party shall have specified in writing to the Party giving such notice, or making such request.

FOR EFFICIENCY VERMONT:

Aidan Breen

Efficiency Vermont
20 Winooski Falls Way, 5th Floor
Winooski, Vermont 05404
Telephone: **802-540-7682**
Email: **abreen@veic.org**

FOR SUBGRANTEE: **[INSERT THE INFORMATION BELOW]**

Name: _____

Company: _____

Street Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____

DRAFT

Attachment E
Certification Regarding Use of Contract Funds for Lobbying

1. The prospective contractor certifies, to the best of his or her knowledge and belief, under the penalties of perjury under the laws of the State of Vermont and the United States that on behalf of the person, firm, association, or corporation he or she represents, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective contractor also agrees that they shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

(Signature of Official Authorized to Sign Contracts)

(Printed name and Title of Signatory)

(Date)

DRAFT

Board of Finance and City Council Submission Checklist

Department: BED Submitter: Darren Springer, Chris Burns

Title/Subject: BED Switch & Save Program subgrant

	Approval:	Meeting Date:
☒	Board of Finance	3/11/2024
☒	City Council	3/11/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/27/2024	Darren Springer
Mayor's Office informed and approved memo	Yes	2/28/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/7/2024	Kim Sturtevant (with the understanding that the agreement is a draft that still needs attorney final review)
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/7/2024	Kim Sturtevant
CAO has reviewed budget, financing, and memo	Yes	3/3/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	(with the understanding that the agreement is a draft that still needs attorney final review)
Additional Materials, if necessary	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Motion in Memo
If for submission to Council, are sponsors identified?	Yes	Board of Finance

Board of Finance and City Council Submission Checklist



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Post Office Box 849
Burlington, VT 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY
www.burlingtonvt.gov

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

MEMORANDUM

TO: Board of Finance/City Council

FROM: Julia Ursaki, Public Works Transportation Engineer
Laura Wheelock, PE, Senior Public Works Engineer

DATE: March 11, 2024

CC: Chapin Spencer, Director of Public Works
Norman Baldwin, PE Assistant Director of Public Works/City Engineer
Megan Moir, Division Director – Water Resources
Martin Lee, PE, Engineering Manager – Water Resources

RE: Authorization to Execute the Design Contract for the CDS Cherry Street and RAISE Reconnecting Downtown Project

Request:

The Department of Public Works (“DPW”) is requesting approval and recommendation from Board of Finance and authorization from City Council to execute the Design Contract for the CDS Cherry Street and RAISE Reconnecting Downtown project with Stantec Consulting Services, Inc. (“Stantec”) for \$2,217,249, and to authorize the use of an additional \$221,725 (10%) in contingency funds to be available to use toward any necessary future contract amendments, for a total authorized amount of \$2,438,974.

Background of the CDS Cherry Street and RAISE Reconnecting Downtown Project

The CDS Cherry Street and RAISE Reconnecting Downtown project is a generational reinvestment that will balance all of the uses of our public right of way to create a public realm that will foster community, grow tourism and celebrate Vermont’s vitality while providing infrastructure to protect Lake Champlain, one of the State’s most valuable resources. The project:

- Unites the Church Street Marketplace with waterfront areas that residents and businesses have repeatedly identified as needing quality, accessible connections
- Provides more comfortable connections for people walking and biking between the

Burlington Greenway and Church Street Marketplace, two of Burlington's largest destinations to grow tourism and increase mobility for all residents and visitors

- Will increase tourism and stimulate economic vitality by generating new local and state taxes, enabling property tax relief to Burlington residents
- Protect the water quality of Burlington Bay by limiting the stormwater loading on the City's main Wastewater Treatment Plant during storm events
- Includes a workforce development program, managed by Business and Workforce Development (BWD), that will develop training programs that positively impact underrepresented segments of our population and can offer on-the-job training related to the capital project.

The proposed project will transform Cherry Street and Bank Street into "Great Streets." It will also restore our downtown grid by building new street segments of Saint Paul Street and Pine Street as "Great Streets." The generational improvements will draw on key recommendations from the City's Transportation Plan, planBTV Downtown & Waterfront plan, planBTV Walk/Bike, City's Great Streets Standards, Clean Water Resiliency Plan, and Integrated Water Quality Plan. This project will showcase the positive impact a people-centered redevelopment of a community's downtown core and the success of a public right-of-way that integrates multi-modal accommodations, green infrastructure, and interactive spaces to create a model for future generations.

Our expected timeline for this project targets spring 2026 for construction on Cherry Street and spring 2027 construction on Bank Street, Pine Street, and Saint Paul Street.

Professional Design Consultant Procurement

On December 20, 2023, DPW issued a public Request for Qualifications (RFQ) for design engineering services for this project. Three consultants submitted Statements of Qualifications in response. The Selection Committee, made up of City and VTrans staff, reviewed all consultant qualifications received and ranked each based on criteria, including:

- Understanding of the project
- Knowledge of the project area and challenges
- Availability of technical disciplines
- Qualifications/Experience of proposed staff
- Ability to meet schedules & budgets
- Past Performance on similar projects
- Knowledge of Federal and State standards and policies

The Selection Committee unanimously determined that Stantec was the highest qualified firm based on the criteria above, including their demonstrated knowledge of the project area and challenges, availability of technical disciplines, and ability to meet schedules & budgets. The Request for Proposal was sent to Stantec, and a scope and fee was then negotiated. Due to the extensive technical expertise required for this project, a qualifications-based selection process was used for consultant procurement based on VTrans guidelines. However, Stantec's background on this project and ability to meet the project schedule provides the City with the best value on this

An Equal Opportunity Employer

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design contract. A draft consultant contract for this project is included in Attachment 1.

In addition to Stantec's design contract, DPW is working with the Burlington Electric Department (BED) to enter a Memorandum of Understanding (MOU) for the lighting design work in the project area. Per the City's charter, BED is responsible for providing lighting design up to the Illuminating Engineering Society (IES) Standards. DPW will pay BED for the difference in cost of lighting design between the IES standards and the Great Streets decorative lighting standards. The total cost will be under \$50,000 and therefore DPW is not required to seek either Board of Finance or City Council approval to execute the MOU.

Funding for the CDS Cherry and RAISE Reconnecting Downtown Project

The budget for the all phases of the CDS Cherry Street and RAISE Reconnecting Downtown project is shown in Table 1 below. These phases (preliminary engineering, right-of-way, and construction) are required by the federal grant funding programs. The budget in the table below was approved by USDOT, VTrans, and the City when the RAISE Grant Agreement was executed on February 16, 2024.

Table 1. Budget Approved in RAISE Grant Agreement

Eligible Project Costs					
	Preliminary Engineering	Right-of-Way	Construction Component 1: Cherry Street	Construction Component 2: Bank Street and New Street Segments	Total
RAISE Funds:	\$4,284,000	\$355,000	\$4,212,200	\$13,532,800	\$22,384,000
CDS Cherry Funds:	\$880,000	\$200,000	\$10,920,000	\$0	\$12,000,000
Local Match (TIF + Bond) Funds:	\$220,000	\$50,000	\$2,730,000	\$0	\$3,000,000
Total:	\$5,384,000	\$605,000	\$17,862,200	\$13,352,800	\$37,384,000

Funding for this design contract falls under the Preliminary Engineering phase, which has a total of \$5,384,000 available. A further description of how the Preliminary Engineering phase funds are broken out is provided in Table 2 below.

Table 2. Preliminary Engineering Phase Fund Breakdown

Workforce Development	\$1,534,000
MPM/DPW Staff Time	\$850,000
Stantec Design Contract + Contingency	\$2,438,974
Other (BED, etc)	\$561,026
Total:	\$5,384,000.00

A detailed project budget, further broken down by street, is included in Attachment 2.

The Capital Committee approved the use of city capital for the local match bond funds for the CDS funding, and half has already been obligated to the project with the other half being obligated to the project in FY25. The portion of the local match coming from the Waterfront TIF district was approved and allocated under the Second Amendment to ARDA 2.0, as approved by City Council on February 12, 2024.

With the prior approved grant acceptance and budget created for a significant portion of overall project funding, DPW now seeks authorization to execute this contract for design of the project.

Attachments

1. CDS Cherry St and RAISE Reconnecting Downtown Burlington Design Contract
2. CDS Cherry St and RAISE Reconnecting Downtown Burlington Project Budget

Motions

Board of Finance:

1. To approve and recommend that the City Council authorize the Director of Public Works to execute a contract with Stantec Consulting Services, Inc. in an amount up to \$2,217,249, and any necessary future amendments using up to \$221,725 (10%) in available contingency funds, for a total authorized amount of \$2,438,974, for the development of the design of the CDS Cherry Street and RAISE Reconnecting Downtown project, subject to the review and approval of the City Attorney's Office.

City Council:

1. To authorize the Director of Public Works to execute a contract, subject to City Attorney approval with Stantec Consulting Services, Inc. in the amount of \$2,217,249, and further authorize the Director of Public Works to execute any necessary future amendments using up to \$221,725 (10%) in available contingency funds, for a total authorized amount of \$2,438,974, for the development of the design of the CDS Cherry Street and RAISE Reconnecting Downtown project, subject to the review and approval of the City Attorney's Office.

**CITY OF BURLINGTON
CONSULTANT CONTRACT**

**CDS Cherry Street and RAISE Reconnecting Downtown
Burlington CDS CD23(1) - VTrans Grant #CA0811**

This Consultant Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and Stantec Consulting Services, Inc. (“Consultant”), a New York corporation with a registered agent address of 100 North Main Street Barre, VT 05403.

Consultant and the City agree to the terms and conditions of this Contract.

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “Contract Documents”** means all the documents identified in Section 4 (Scope of Work) of this Contract.
- B. “Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- C. “Party”** means the City or Consultant, and “Parties” means the City and Consultant.
- D. “Project”** means the CDS Cherry Street and RAISE Reconnecting Downtown Design.
- E. “Work”** means the services described in Section 5 (Payment for Services) of this Contract, along with the specifications contained in the Contract Documents as defined in Section 4 (Scope of Work) below.

2. RECITALS

- A. 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.
- 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 Contract.
- C. Purpose.** The City seeks to employ the Consultant to develop design and construction documents for the CDS Cherry Street and RAISE Reconnecting Downtown project.

3. EFFECTIVE DATE & TERM

- A. Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Consultant for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.
- B. Term.** This Contract and the Parties' respective performance shall commence on the Effective Date and expire on December 31, 2028 or upon the satisfaction of the City, unless sooner terminated as provided herein.

4. SCOPE OF WORK

The Consultant shall perform the services listed in Attachments A (Request for Proposals) and B (Consultant's Response to Request for Proposals).

5. PAYMENT FOR SERVICES

- A. Amount.** The City shall pay the Consultant for completion of the Work in accordance with Attachment B (Consultant's Response to Request for Proposals).

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

- B. Payment Schedule.** The City shall pay the Consultant in the manner and at such times as set forth in the Contract Documents. The City seeks to make payment within thirty days of receipt of an invoice and any backup documentation requested under subsection D (Invoice) below.
- C. Maximum Limiting Amount.** The total amount that may be paid to the Consultant for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$2,217,249. The City shall not be liable to Consultant for any amount exceeding the maximum limiting amount without duly authorized written approval.
- D. Invoice.** Consultant 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:

Julia Ursaki
645 Pine Street, Burlington, VT 05401
802-809-1355
jursaki@burlingtonvt.gov

The Consultant shall submit separate invoices for any work completed under the CDS Cherry Street project area and the RAISE Reconnecting Downtown project area. The CDS Cherry Street project area includes Cherry Street, from Battery Street to Church Street. The RAISE Reconnecting Downtown project area includes Cherry Street from

Church Street to South Winooski Avenue, Bank Street, and the new street segments of Pine Street and Saint Paul Street, between Bank Street and Cherry Street.

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

6. SECTION & ATTACHMENT HEADINGS

The article and attachment headings throughout this Contract are for the convenience of City and Consultant and are not intended nor shall they be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

- A. Contract Documents.** The Contract Documents are hereby adopted, incorporated by reference, and made part of this Contract. The intention of the Contract 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 Contract Documents:

Attachment A: Request for Proposals dated January 19, 2024

Attachment B: Consultant's Response to Request for Proposals (revised) dated March 5, 2024

Attachment C: VTrans Specifications for Contractor Services

Attachment D: Burlington Livable Wage Ordinance Certification

Attachment E: Burlington Outsourcing Ordinance Certification

Attachment F: Burlington Union Deterrence Ordinance Certification

Attachment G: Consultant's Certificate of Insurance

Attachment H: VTrans Conflict of Interest Form

Attachment I: VTrans Debarment and Non-Collusion Form

Attachment J: DOT Form 272-040 EE

Attachment K: Certification Regarding Lobbying

Attachment L: Contractor's EEO Certification Form (CA-109)

- B. Order of Precedent.** To the extent a conflict or inconsistency exists between the Contract Documents, or provisions therein, then the Contract takes precedent. Any Invitation for Bids, Additional Contract Provisions, and the City Ordinance Certifications shall prevail over any inconsistency with the Contractor's Scope of Work and Cost Proposal.

8. [Reserved]

— Signatures follow on the next page —

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.

Consultant
Stantec Consulting Services, Inc.

By: _____

Date: _____

City of Burlington
Department of Public Works

By: _____
Chapin Spencer
Director of Public Works

Date: _____

Attachment A:
Request for Proposals dated January 19, 2024

BURLINGTON CDS CD23(1) CHURCH STREET SIDE STREET – CHERRY & RECONNECTING DOWNTOWN BURLINGTON

Request for Proposal Design Engineering Services City of Burlington, Vermont

Issued: January 19, 2024

Due: February 9, 2024, 4pm

Contact person: Julia Ursaki, Public Works Transportation Engineer, 802-809-1355, jursaki@burlingtonvt.gov. All questions related to this request for proposal shall be addressed to this individual no later than 5 business days prior to the due date above.

I. INTRODUCTION

The City of Burlington is requesting a proposal for Design Services on the CDS CD23(1) Church Street Side Street – Cherry and Reconnecting Downtown Burlington projects (see project description in Scope of Work) funded in part by the United States Department of Transportation (USDOT) and the City of Burlington, through the Vermont Agency of Transportation (VTrans) Municipal Assistance Section (MAS).

The project is managed locally by Julia Ursaki, Municipal Project Manager. The owner of the project is the City and the sole authority for the Design Engineering Consultant during the project rests with the City of Burlington City Council, through its Municipal Project Manager.

Project development must follow the VTrans Municipal Assistance Section (MAS) process. Questions related to the MAS project development process can be answered by VTrans Project Manager, Peter Pochop, Municipal Assistance Section, by phone at (802)-477-3123 or email at Peter.Pochop@vermont.gov.

All work will be accomplished in accordance with the following:

- MAS Guidebook for Municipally Managed Projects (found on the VTrans MAS website: <https://vtrans.vermont.gov/highway/local-projects>)
- MAS Project Development Process (found on the VTrans MAS website)
- Specifications for Contractor Services (found on the VTrans MAS website).
- Relevant portions of “General Terms and Conditions Under the Fiscal Year 2023 RAISE Program: FHWA Projects,” dated June 23, 2023
- Appendix F of the VTrans – City of Burlington Grant Agreement CA#0811 (available upon request)

Project Background

In 2014, the suburban mall that disconnected Bank and Cherry Streets was purchased and demolished. The CityPlace Burlington developers (formerly the BTC Mall Associates) subdivided this main parcel, transferred ownership of the clipped sections of Pine Street and St Paul Street to the City, and committed to a public-private partnership to rebuild these streets, reconnect Bank and Cherry Streets, and coordinate street and sidewalk improvements in all directions.

In 1996, the city established the Waterfront Tax Increment Finance (WTIF) District. Burlington voters approved TIF redevelopment of Cherry Street from Battery Street at the west to Church Street at the east, and for Bank Street from Pine Street to Church Street in 2016.

This work prompted not only the new street segments of Saint Paul Street and Pine Street, but also street reconstruction projects for Bank Street and Cherry Street.

The WTIF is funding several portions of this project, including:

- Public Improvements associated with the development agreement between CityPlace Partners and the City of Burlington. This includes the sidewalk and streetscape within the area of the face of the new buildings to the nearest curb on the block adjacent to the CityPlace development (one block of Cherry St, Bank St, Pine St, and St Paul St) as well as additional utility work on the new block of Pine St and Saint Paul St. This work is already under contract.
- A majority of the local match for the Congressionally Directed Spending Church Street Side Streets – Cherry St. funding.

Work Completed to Date

This project has been underway in Burlington for several years using local funding. All designs have incorporated Burlington's Great Streets Standards, the design standards that govern street design in downtown Burlington that were adopted by the City Council in 2018. Conceptual plans for the project area have been developed and approved by the City Council. Plans have advanced into preliminary and final design. Water resources elements of the project need to be re-evaluated to consider some of the following, which may have changed: accommodations for future growth in the project corridor, updated design standards, and asset management recommendations to replace infrastructure. Additionally, the previous project area excluded one block of Bank Street and one block of Cherry Street (between Church Street and Winooski Ave). Those blocks will be included in this project, and will need additional public engagement and selection of a preferred alternative. Because the project was previously funded with local dollars only, prior work did not include federal processes like NEPA permitting and the Right-of-Way phase, which will be included under this contract.

Originally, the Cherry Street and Bank Street sections west of Church Street were taken on by the City under the "Great Streets Bank and Cherry" project, funded through the WTIF. The public engagement completed to date for that project includes:

- March 27, 2018 – Introduction of the Bank and Cherry Street Design Alternatives to the Transportation, Energy, and Utilities Committee (TEUC)
- April 10, 2018 – Public Meeting on Bank and Cherry Street Design Alternatives at Contois Auditorium

- April 11, 2018 – Public Meeting on Bank and Cherry Street Design Alternatives at Burlington City Arts
- April 18, 2018 – Public Works Commission Presentation & public comments
- May 1, 2018 – TEUC presentation & public comments
- May 16, 2018 – Public Works Commission Presentation (Preferred Alternative recommendation & approval)
- May 16, 2018 – TEUC Presentation (preferred alternative approval recommendation to City Council of Preferred Alternative)
- May 21, 2018 – City Council presentation and approval of the Preferred Alternative

For the new street segments of Saint Paul Street and Pine Street, these concepts were presented publicly by the CityPlace Partners and approved as part of the Development Review Board process. This included:

- February 7, 2017 – Development Review Board Public Hearing for building and new street concepts. In preparation:
 - June 22, 2016 – Neighborhood Planning Association (NPA) Ward 4/7 Presentation
 - August 10, 2016 – NPA Ward 1/8 Presentation
 - September 1, 2016 – NPA Ward 6 Presentation
 - September 8, 2016 – NPA Ward 2/3 Presentation
 - September 20, 2016 – NPA Ward 5 Presentation
 - October 13, 2016 – NPA Ward 2/3 Presentation
- March 3, 2021 – Development Review Board Hearing
 - February 27, 2020 – Pre-Application Public Neighborhood Meeting at Contois Auditorium
- May 10, 2021 – City Council presentation about new street design concepts (St Paul St and Pine St)

Funding Sources and Project Area Constraints

The City of Burlington was awarded two separate federal grants for this overall project. The overall project includes all three blocks of Bank Street, all five blocks Cherry Street, and elements of one block of Saint Paul Street and one block of Pine Street between Bank Street and Cherry Street. The two projects are:

- The Church Street Side Street – Cherry Congressionally Directed Spending funding was awarded for Cherry Street only (“CDS Cherry Street”), with the local match coming from the Waterfront TIF.
- The Reconnecting Downtown Burlington RAISE grant was awarded for the overall project area, including three blocks of Bank Street, five blocks of Cherry Street, one block of Saint Paul Street and one block of Pine Street (“RAISE Reconnecting Downtown Burlington”).

The CDS Cherry Street project was awarded partial funding, not the full amount to fund the entire project based on the Engineer’s Estimate, and some of the construction work on Cherry Street will be funded through the Reconnecting Downtown Burlington RAISE project. In addition, the local match for the CDS Cherry Street project is coming from the Waterfront TIF, which can only be

spent in the Waterfront TIF District, which ends at the Church Street intersection and does not include the easternmost blocks of Cherry Street or Bank Street.

Given the boundary constraints of the funding sources, billing and invoicing for this project must be tracked based on funding source. Any work on Cherry Street within the Waterfront TIF District (Battery St – Church St) shall be invoiced separately from work on the remainder of the project area, under a project called “CDS Cherry Street.” Work throughout the remainder of the project area shall be invoiced separately, under a project called “RAISE Reconnecting Downtown Burlington.” **No work for Bank Street, St Paul Street, or Pine Street shall be invoiced under the “CDS Cherry Street” project.**

In summary, billing for this project shall be separated into the following two categories and corresponding geographic locations:

- CDS Cherry Street: Cherry Street only, between Battery Street – Church Street
- RAISE Reconnecting Downtown: Bank Street, St Paul Street, Pine Street, and Cherry Street between Church St – Winooski Ave

Construction Funds Obligation Dates

The terms of the grant agreement for the CDS Cherry Street project require that construction funds are obligated (i.e. Contract Plans, Specifications and Estimates (PS&E) package has been submitted to, and approved by, VTrans MAS and FHWA for funding) by June 30, 2026.

The terms of the grant agreement for the RAISE Reconnecting Downtown Burlington require that construction funds are obligated (i.e. PS&E package has been submitted to, and approved by, VTrans MAS and FHWA for funding) by June 30, 2027.

II. SCOPE OF WORK

The City of Burlington has entered into an agreement with the Vermont Agency of Transportation to develop a project to rebuild Bank Street and Cherry Street, and build one new block of Saint Paul Street and one new block of Pine Street to the Burlington Great Streets Standards.

This project is funded in part by the USDOT, the VTrans, and Burlington’s Waterfront Tax Increment Financing (TIF) District. Accordingly, all aspects of project development, from developing a purpose and need statement to constructing the project, must conform to federal and state regulations.

The USDOT funding includes a RAISE 23 grant which has additional stipulations and requirements as outlined in the document titled [“General Terms and Conditions Under the Fiscal Year 2023 RAISE Program: FHWA Projects,” dated June 23, 2023](#). The consultant is expected to comply with all applicable requirements of the RAISE 23 General Terms and Conditions throughout all phases of the project and provide design, ROW and construction documents that are in accordance with those requirements.

This project is considered an FHWA Project of Division Interest (PODI) and will involve additional oversight by the Vermont FHWA Division office staff, above that normally anticipated for a VTrans MA project.

In general, the scope of this project will follow the project development process used by the Municipal Assistance Section of VTrans as follows:

- Project kick-off and development of conceptual plans
- Submission of documentation and plans for NEPA process
- Development of preliminary plans
- Develop Right of Way (ROW) plans, if necessary, and assist with ROW documents
- Develop contract plans, technical specifications, final engineer's estimate and bid documents and assist with the bidding process
- Limited assistance during construction

Consultants should note that general guidance, templates and other relevant design information can be accessed on the MAS SharePoint site found at:

<https://outside.vermont.gov/agency/VTRANS/external/MAB-LP>

The development of Conceptual Plans through Contract Plans, Specifications and Estimates will consist of the following Scope of Work phases and tasks:

Phase A- PROJECT DEFINITION

Task 1: Project Kick-off

The consultant will convene a project kick-off meeting to discuss the goals and objectives of the municipality and define the project development process. The VTrans project Supervisor / Manager will be a participant in this meeting and will provide an overview of the typical project development schedule for locally managed projects. The Consultant will discuss the project schedule and arrange to collect all information relevant to the project, including all existing project files, underground utility information, tax maps of the affected properties, etc. The consultant will coordinate and schedule this meeting and take notes to document the discussions and decisions made and to distribute to parties of interest.

Task 2: Concept Approval and Public Outreach

2.1 Concept Development

The consultant will review the concept for the blocks west of Church Street and determine its applicability for the east blocks of both streets with no design work completed to date. The concept will utilize the Great Streets BTV Design Standards. The consultant will identify any challenges that will influence safety, constructability, and cost before developing a concept graphic for these two blocks.

2.2 Alternatives Public Meeting

The City will host and present at a public alternatives meeting for these two blocks. It is anticipated that the alternatives will include a Build and No Build option. The consultant will assist the City in preparing meeting materials and attend the meeting. Meeting materials will include a one-page project information sheet, concept graphic, and presentation. The consultant should also include the cost for translating meeting materials into eight languages.

2.3 Project-Specific Website

The consultant will create and maintain a project-specific website that provides project updates, important documents, and other content.

2.4 City Council Concept Approval

Following a public alternatives presentation, the City Council is required to approve the preferred alternative before a NEPA submittal (see Task 5.4). The City will present at the City Council and other required meetings, and the consultant will attend a City Council meeting to assist with presenting or answering questions about technical content.

Task 3: Topographic Survey and Base Mapping

Time under Task 3 shall be included in this scope for:

- One block of Cherry Street between Church Street and South Winooski Avenue
- One block of Bank Street, between Church Street and South Winooski Avenue
- The new survey area shall include a minimum of 50 feet on all approaches of each intersections
- Utility location throughout the project area as specified under section 2.2
- Limited updates to survey throughout the remainder of the project area as needed

Task 3 has been largely completed for Cherry Street from Battery Street to Church Street, and Bank Street from Pine Street to Church Street.

3.1 Right-of-Way and Deed Information

The consultant is to develop a base map that shows the approximate limits of the existing Right-of-Way. The municipality will provide available roadway plans, land records, property deeds and tax maps on file for the properties within the project limits. The purpose will be to document the property lines and owners within the project limits for subsequent Right-of-Way use. This right of way and property information will be compiled and presented on the plans.

3.2 Utility Location

The consultant shall identify, inspect and collect all existing overhead, aboveground, and underground utilities within the project corridor and a minimum of 50 feet on all approaches to intersections (or further to the next nearest manhole, hydrant, valve, etc.) and depict their

location and elevations on project plans, including municipally owned water distribution, sewer and storm-water collection systems, and other municipally-owned and privately-owned utilities. The consultant shall perform [FHWA Subsurface Utility Engineering](#) Quality Level B for underground utility location and mapping including power, communication, water, sewer, and stormwater structures. The sewer and stormwater systems shall be located and inspected in accordance with NASSCO (PACP) standards. Sewer inspection shall include sewer services and stormwater laterals.

In addition, a qualified underground utility locating company shall create a plan for Quality Level A subsurface utility investigation, which will be approved by the City prior to the work being performed.

As part of the utility location effort for the water distribution system, a qualified underground utility locating company shall determine the location, size, and material of all water service lines. Existing plans of water distribution pipes are a good reference but they may not be completely accurate so field verification is expected for this design project. Consultants shall break these costs out separately in their cost proposals, and be prepared to invoice these tasks separately if selected.

The consultant shall identify any utilities that are not in good condition and that are in need of repair or replacement to ensure that once constructed the area will not need to be disturbed for conditions discovered during this phase or future phases of the work. Coordination efforts with municipal and private utilities will be required. This is anticipated to include: City of Burlington Public Works, Burlington Electric Department, Burlington Telecom, Comcast, Consolidated Communications, Firstlight Fiber, Vermont Gas, VTel, Century Link, Burlington Fire Department, and others as needed.

The consultant shall perform an appropriate level of test borings to determine if stormwater infiltration systems are appropriate for the project.

3.3 Ground Survey

The consultant will perform the topographic survey for this project in general accordance with VTrans survey guidelines and requirements. The survey will include enough information to design, permit, acquire Right-of-Way and construct the project.

3.4 Initial Site Assessment

Consultant will complete an Initial Site Assessment (ISA) of the project corridor in accordance with AASHTO and FHWA guidance. Based on the results of the ISA, additional subsurface investigation and characterization may be required. Consultant will work with the City to coordinate response measures to the satisfaction of the Vermont Department of Environmental Conservation (DEC).

Task 4: Conceptual Plans

Time under Task 4 shall be included in this scope for:

- One block of Cherry Street between Church Street and South Winooski Avenue
- One block of Bank Street, between Church Street and South Winooski Avenue
- New street segments of Saint Paul Street and Pine Street, including coordination with other consultants or contractors working in the area and updating all drawings to VTrans Standards
- Limited updates to plans throughout the remainder of the project area as needed
- An updated conceptual cost estimate for the entire project

Task 4 has been largely completed for Cherry Street from Battery Street to Church Street, and Bank Street from Pine Street to Church Street.

The consultant will prepare Conceptual Plans and a conceptual construction cost estimate for the improvements. The Conceptual Plans will indicate the existing topography, utilities and other base information and illustrate the proposed work. Identified rights-of-ways, utilities, natural and cultural resources, and other features affecting the design will be indicated on the plans. The basis for project pay items will be the 2024 VTrans Standard Specifications for Construction.

The Conceptual Plans are anticipated to consist of:

- Title Page
- Layout Sheets showing existing and proposed features and utilities
- Preliminary profiles
- Approximate right of way lines and construction limits (consultant shall provide supporting information addressing how right of way limits were determined)
- Typical Sections for the proposed improvements
- Cross Sections
- Water Distribution details in accordance with Burlington Standards
- Sewer collection system detail in accordance with Burlington Standards
- Stormwater management details, BMP O&M details, drainage area, and hydrology/hydraulic modeling
- Erosion Prevention and Sediment Control (EPSC) layout and detail sheets

Together, these drawings illustrate the information necessary to define the project and will include information such as:

- Roadway, sidewalk and/or path design (cross slope, material type, and thickness)
- New or modified infrastructure including stormwater, sewer, water, gas, electric, etc.
- Limits of construction
- Pavement markings and signs

Conceptual Traffic Control (at a minimum, plans shall reference VTrans standard drawings or Typical Applications from the MUTCD that illustrate how work zone traffic will be addressed).

The consultant will submit two full size copies of the Conceptual Plans and construction cost estimate to the municipality, along with one set of the plans and estimate for VTrans in .pdf format. VTrans distributes plans electronically for review and they must be in .pdf format for this

purpose. The conceptual cost estimate must be prepared in a complete and concise tabular format and will be submitted in .pdf format. The consultant will develop the construction cost estimate utilizing individual items and unit prices consistent with the 2024 VTrans Standard Specifications for Construction, including any revisions, supplements or addenda.

The consultant will also submit a written assessment of the possible impacts of the project on existing vehicle, pedestrian and bicycle traffic. Based on the [VTrans Work Zone Safety and Mobility Policy and Guidance document](#):

- Determine project significance (Project Type - A, B, C or D).
- All Project Types require the design engineer to fill out and submit the Traffic Management Plan (TMP) checklist and submit it to the MA Project Supervisor / Manager.
- Depending on significance, the selected firm must be prepared to develop Temporary Traffic Control (TTC) plans, Traffic Operations (TO) requirements and Public Information (PI) strategies.
- Submit TMP checklist and supporting documentation with Conceptual Plans.

If traffic control measures, including any needed temporary pedestrian facilities, are needed, their cost shall be included in the project cost estimate.

Task 5: Resource Constraints and CE Documentation

The consultant is expected to identify natural and cultural resources on the project plans to support the municipality in satisfying the NEPA process. which is expected to be at the level of Categorical Exclusion (CE). For the purposes of this proposal, consultants shall assume that this project will fall under a Categorical Exclusion.

5.1 Natural Resource Identification

The consultant will confirm the presence or absence of any known natural resources in the project vicinity and will identify these resources on plans of the project area. Please refer to the MAS SharePoint site at <https://outside.vermont.gov/agency/VTRANS/external/MAB-LP/SitePages/Environmental.aspx> for a detailed outline of the requirements for Natural Resource Identification.

The consultant shall provide a soil investigation based on a desktop review to provide a preliminary evaluation of the project area where potentially impacted soil or groundwater is likely to be encountered based on documented releases or prior activities.

5.2 Historical/Archaeological

The consultant will determine any historical or archaeological impacts and VTrans staff will provide concurrence as part of completing the CE. Please refer to MAS Share point site at <https://outside.vermont.gov/agency/VTRANS/external/MAB-LP/SitePages/Environmental.aspx> for a detailed outline of the requirements for Historical/Archaeological identification.

5.3 Other Permitting and Investigations

The Consultant will determine the need for other environmental permits and will assist the municipality in acquiring all necessary federal, state, and local environmental permits necessary to complete the project. The municipality is generally responsible for any permit fees, although these are waived for some permits.

5.4 Preparation of the Categorical Exclusion Document

Because federal funding is involved with this project, the National Environmental Policy Act (NEPA) process and requirements must be followed. To meet the requirements of this act, a Categorical Exclusion (CE) Document must be completed. The consultant will prepare the VTrans environmental analysis sheet and supporting documentation will be submitted to VTrans for review and concurrence. VTrans will complete the process with the FHWA.

Phase B- PROJECT DESIGN

Task 6: Preliminary Plans

Time under Task 6 shall be included in this scope for:

- One block of Cherry Street between Church Street and South Winooski Avenue
- One block of Bank Street, between Church Street and South Winooski Avenue
- New street segments of Saint Paul Street and Pine Street, including coordination with other consultants or contractors working in the area and updating all drawings to VTrans Standards
- Limited updates to plans throughout the remainder of the project area as needed
- An updated preliminary cost estimate for the entire project

Task 6 has been largely completed for Cherry Street from Battery Street to Church Street, and Bank Street from Pine Street to Church Street.

Once the NEPA process has concluded, the consultant will develop preliminary plans for the project. The preliminary plans will include all the information from the conceptual plans and will add further detail, including any stormwater drainage, stormwater treatment, and required erosion prevention and sediment control measures. The preliminary plans will contain:

- Title Sheet
- Typical Section
- Base Plan with a project centerline and existing ROW information
- Profiles
- Cross Sections
- Driveway treatments
- Water plan sheets
- Water profile sheets
- Water detail sheets
- Sewer Collection system plan sheets
- Sewer Collection system profile sheets

- Sewer Collection system detail sheets
- Stormwater treatment and collection system plan sheets
- Stormwater treatment and collection system profile sheets
- Stormwater treatment and collection system detail sheets
- Erosion Prevention measures and details
- Signs and pavement markings
- Lighting
- Traffic control plans for motor vehicles, bicycles (if accommodated separately from motor vehicles) and pedestrians including any details not covered by VTrans standard drawings or MUTCD Typical Applications. Submit revised/ updated TMP checklist and supporting documentation with Preliminary Plans.

In addition to the preliminary plans, the consultant will work with the City to evaluate distribution and collection system needs in the project corridors. The consultant shall provide hydraulic and hydrologic modeling support to ensure the inputs from the project, surrounding existing buildings, surrounding future projects that are known and the surrounding connections to the collection system are accounted for. A preliminary engineering memo for the hydraulic and hydrologic modeling shall be completed for the city to review. This memo shall be the basis of design for collection system improvements and shall be updated as the project moves to final design.

In addition to the preliminary plans, the consultant will develop a revised Engineer's Estimate.

A submittal to VTrans is expected at this stage for VTrans review. The plans, estimate and draft TMP (if applicable) will be submitted to VTrans in a .pdf format. All comments and changes resulting from the review will be addressed by the consultant in the following set of plans.

Task 7: Right-of-Way Plans and Acquisition Process

Using the project construction limits and any anticipated need for temporary rights during construction, the need for additional right of way will be confirmed by the Consultant. They will determine if any additional right-of-way (ROW), including all permanent and temporary easements, beyond the existing ROW is required to construct the project. If the project is in a state highway ROW, it will require a VTrans State Highway Access and Work Permit, and the consultant will work with the City to obtain this permit from VTrans.

7.1 Right of Way Plans

Existing ROW, and all areas of additional ROW, whether temporary or permanent, will be clearly indicated on ROW plans prepared by the Consultant in accordance with standard survey practices. Draft ROW plans and draft easements will be submitted to VTrans for review and approval prior to negotiating with property owners. Easement language must be consistent with guidance provided by the VTrans ROW section.

Easements are typically developed by municipal attorneys, but their content must match information shown on the ROW plans. ROW plans must include all the elements of preliminary plans with the addition of the following:

- Right-of-Way detail sheet
- Property Acquisition Table

If Right-of-Way acquisition is simple and/or does not involve many parcels, it is acceptable to include Right-of-Way information on the project plan sheets.

7.2 Right of Way Coordination

The municipality will be responsible for negotiations and completing the acquisitions. The Consultant will assist with this work closely and provide appraisals. The Consultant will provide assistance and work closely with the municipality throughout the ROW phase, including any Necessity and Condemnation procedures. ROW acquisition must conform to Public Law 91-646 and 100-17, which together are referred to as the “Uniform Act.”.

In order to meet the tight timeline for construction funding obligations it is anticipated that a ROW clear certificate will be required by 12/31/25. The consultant is expected to meet this deadline so as to not jeopardize the grant for these projects.

7.2 Property Owner Meetings

The consultant will attend and assist with facilitating property owner meetings over three days (24 hours of staff time). The consultant will provide meeting materials, including a colored graphic plan for these meetings. Plan revisions or updates based on these meetings will be incorporated into the Final Plan submission.

Task 8: Final Design/Bidding

The consultant will prepare the final construction design of the project. Final Design will include final plans, an updated construction cost estimate, and draft special provisions. These provisions will supplement the VTrans Standard Specifications for Construction (2024) which will serve as the basis for the construction of the project. Final plans will be submitted to the City and VTrans for review and comments. All comments and changes resulting from the review will be addressed by the consultant in the following set of plans. The contract plans will include all information necessary to put the project out to bid.

8.1 Final (85%) Plans

The Consultant will submit Final plans along with an updated listing of items and quantities, and an associated cost estimate for municipal and VTrans review and concurrence. These plans will incorporate all comments and conditions received from permitting agencies. Final utility relocations will be shown. ROW plans (if necessary) showing acquisition lines and any agreements made with property owners will be included. The Consultant will certify through the

signature of an engineer registered in the state of Vermont to practice “structural or civil” engineering that these plans and subsequent 100% plans meet all applicable standards, codes and requirements for design and public safety (design certification.) The Consultant will also provide a “Utility & Railroad Clearance” that indicates that all necessary utility coordination has been completed. Submit revised/ updated TMP checklist and supporting documentation with Final Plans.

8.2 Special Provisions

The Consultant will develop any project special provisions to cover items not contained in the VTrans 2024 Standard Specifications for Construction or those items that vary from the standard specifications.

8.3 Final Estimate

The consultant will develop a final engineer’s estimate.

Task 9: Contract Plans, Construction Bidding and Award

The consultant will take all the necessary steps to provide the municipality with a complete package which can be put out to bid. The municipality is responsible for the bid advertising process.

9.1 Contract Plans

The consultant will submit Contract (100%) Plans along with an updated list of items, quantities and an associated cost estimate for municipal and VTrans review and concurrence. These plans will incorporate any final changes since the review and acceptance of 85% Plans. These plans will be signed and stamped by the Consultant’s licensed PE.

9.2 Construction Bid Package

Once the Contract Plans are approved, the Consultant will be responsible for assembling the Construction Bid Package. The complete Construction Bid Package will include all of the following items:

- Complete Contract (100%) plans.
- Construction cost estimate.
- Final utility relocations, clearances, and special provisions.
- Right-of-way clearances and special agreements.
- Construction special provisions.
- All necessary permits acquired, and conditions noted.
- Construction Contract specifications.
- Final hydraulic and hydrologic modelling memo as basis of design for distribution and collection system improvements including any stormwater treatment practices.
- Include TMP checklist and supporting documentation in the project bid documents.

- Bid Documents including instructions to bidders, bid form and all required federal documents, coordinated with Workforce Development items related to on-the-job training, as needed (Note: VTrans has developed a bid document template that should be used as a starting point.)

9.3 Bid Process

The Consultant will be available during the bidding process to answer any technical questions about the project design. Once bids are opened, the consultant will confirm that all required components of the bid have been submitted. The consultant will conduct an analysis of the bids and will provide a recommendation to the municipality and VTrans on award of the contract after review of the bids. The bid analysis will generally follow FHWA's Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation dated October 7, 2021. This can be found at <https://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>. Additionally, please refer to the MAS – Recommended Bid Analysis Procedures in SharePoint for detailed instructions.

Task 10: Construction Services

The Consultant shall be prepared to hand off the responsibility for the TMP checklist and supporting documentation to the construction inspector at the pre-construction conference.

The Consultant will provide limited assistance during the construction phase, primarily to answer any design questions that come up. The consultant will also review any required contractor submittals for conformance . It is anticipated that three to six visits to the project site during construction will be required.

3 RESPONSE FORMAT

Responses to this RFP should consist of a technical and cost proposal being submitted in one envelope including:

1. A cover letter expressing the firm's interest in working with the City of Burlington including identification of the principal individuals that will provide the requested services.
2. A description of the general approach to be taken toward completion of the project, an explanation of any variances to the proposed scope of work as outlined in the RFP, and any insights into the project gained as a result of developing the proposal.
3. A scope of work that includes detailed steps to be taken, including any products or deliverables resulting from each task.
4. A list of individuals that will be committed to this project and their professional qualifications including the names and qualifications of any sub-consultants. The individual's names, titles and expected duties should be included. Any personnel

not specified in the proposal will require the approval of the MPM prior to utilization or invoicing.

5. A summary of estimated labor hours by task that clearly identifies the project team members and the number of hours performed by each team member by task.
6. A proposed schedule that indicates project milestones and overall time for completion. Federal Aid projects often take at least 4 years from Grant award to construction completion. See the MAS Project Development Process flowchart at <https://outside.vermont.gov/agency/VTRANS/external/MAB-LP> for additional information.
7. A cost proposal consisting of a composite schedule by task of direct labor hours, direct labor cost per class of labor, overhead rate, and fee for the project. If the use of sub-consultants is proposed, a separate schedule must be provided for each.

Please note that the proposal should be limited to a total of 20 pages.

4 CONSULTANT SELECTION

The Selection Committee is made up of 3 to 5 members. The Committee has reviewed and evaluated Statements of Qualifications from consultants who responded to the Burlington CDS CD23(1) Request for Qualifications issued December 20, 2023 and selected one. After selecting the firm, the Selection Committee requests a technical and cost proposal under this RFP. If negotiations are successful, the Selection Committee will make a recommendation to the VTrans Project Manager, the City Board of Finance and the City Council to award a contract.

The rates that are proposed will be in effect for the complete term of the contract.

The selection committee may elect to interview the consultant prior to final selection. The City of Burlington reserves the right to seek clarification of any proposal submitted and to select the proposal considered to best promote the public interest.

The proposal will be evaluated and awarded based on the personnel presented in the Statement of Qualifications. Should the awarded consultant propose any substitutions to the project personnel either at the time of the proposal or in the future, they must submit a request to VTrans in consultation with the Municipality, for approval of such a change.

5 SUBMISSION

All questions related to this request for proposal shall be addressed to the contact person indicated.

The proposal shall conform to the following requirements. The proposer shall:

Submit as an electronic submission via email clearly marked in the subject with the project name “CDS Cherry Street and RAISE Reconnecting Downtown.” Please inform the Contact Person prior to submission to avoid proposal being relegated to their spam or junk email files.

Proposals and/or modifications received after the date and time due will not be accepted or reviewed. No facsimile machine transmitted proposals will be accepted.

The proposal upon submission becomes the property of the City of Burlington. The expense of preparing and submitting a proposal is the sole responsibility of the consultant. The City of Burlington reserves the right to reject the proposal received, to negotiate with any qualified source, or to cancel in part or in its entirety this RFP as in the best interest of the City of Burlington. This solicitation in no way obligates the City of Burlington to award a contract.

6 CONTRACTING

The Consultant, prior to being awarded a contract, shall apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1101; Phone: (802) 828-2363, (800) 439-8683; Vermont Relay Service – 711; Web: <https://www.vtsosonline.com/online>. The contract will not be executed until the Consultant is registered with the Secretary of State's Office.

The Consultant's attention is directed to the VTrans' Disadvantaged Business Enterprise (DBE) Policy Requirements. These requirements outline the State's and the consultant's responsibility with regard to the utilization of DBEs for the work covered in the RFP. It is expected that the consultant will make good faith efforts to solicit DBE sub-consultants. The successful Consultant will be expected to execute sub-agreements with sub-consultants named in the Statement of Qualifications upon award of this contract.

Prior to beginning any work, the Consultant shall obtain Insurance Coverage in accordance with the Specifications for Contractor Services located in the Municipal Assistance Section website. The certificate of insurance coverage shall be documented on forms acceptable to the City.

Attachment B:
Consultant's Response to Request for Proposals dated March 5, 2024

Burlington CDS Cherry Street and RAISE Reconnecting Downtown Burlington

Project Workplan

Submitted to

**Julia Ursaki, PE
City of Burlington, Vermont**

March 5, 2024

This project is funded in part by the Federal Highway Administration (FHWA) and the City of Burlington, through the Vermont Agency of Transportation (VTrans) Municipal Assistance Section (MAS)

Scope of Work

INTRODUCTION

In 2018 Stantec completed 75% design for Cherry Street from Battery Street to Church Street to fulfill obligations in a development agreement between the City of Burlington and the developers of City Place Burlington. Stantec was then asked to put the project design on hold due to uncertainties with financing that was to be provided by the developers. The project design then resumed in 2021, and Stantec completed a redesign up to 100% for the south side of Cherry Street from Pine Street to St. Paul Street. The project was then put on hold again as development plans were still in flux. Since the project was last put on hold, the City of Burlington has successfully pursued Congressionally Directed Spending for the design and construction of Cherry Street from Battery Street up to Church Street (CDS Cherry Street) and a federal RAISE grant for the design and construction of Cherry Street from Church Street to South Winooski Avenue, Bank Street from Pine Street to South Winooski Avenue, and the new Pine Street and Saint Paul Street (RAISE Reconnecting Downtown Burlington). With this new funding, the design and construction of these streets will be subject to the VTrans Project Development Process including environmental resource evaluation consistent with the National Environmental Policy Act (NEPA) and right-of-way (ROW) acquisition consistent with the policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The Uniform Act).

In January 2024, the City selected Stantec to provide design and engineering services to ready these streets for bid advertisement and construction following the VTrans Project Development Process. These services will include developing a comprehensive concept for all the streets assuming the current designs for Cherry and Bank are still relevant. These current designs will be used as the basis of design for Cherry and Bank from Church Street to South Winooski Avenue and for the new Pine and St. Paul Streets. Services will include the development of new holistic concept designs for roadway drainage, stormwater treatment and management, water, wastewater, telecommunications, electric, and gas utilities while reusing the previously proposed utility design when feasible. Upon approval of the street and utility concepts by the City, NEPA documentation, and Conceptual, Preliminary, ROW Final, and Contract Plans will be prepared in accordance with the VTrans Project Development Process so that the City can advertise the project for bid. This proposal assumes construction funds will be

obligated for CDS Cherry Street (CDS) by June 30, 2026, and for RAISE Reconnecting Downtown Burlington by June 30, 2027 (RAISE). The following details Stantec's proposed scope of work and fee to support the City with this effort.

TASKS

Phase A – Project Definition

Task 1: Project Kickoff Meeting

Scope of Work:

Stantec will convene a project kick-off meeting to discuss the goals and objectives of the City and define the project development process. The VTrans project Supervisor / Manager will be a participant in this meeting and will provide an overview of the typical project development schedule for locally managed projects. Stantec will discuss the project schedule and arrange to collect information relevant to the project. Stantec will coordinate and schedule this meeting and take notes to document the discussions and decisions made and to distribute to parties of interest.

Meetings:

- Kickoff Meeting (1)

Deliverables:

- Kickoff Meeting Notes

Task 2: Concept Approval and Public Outreach

Scope of Work:

Street concepts need to be developed for Cherry and Bank Streets from Church Street to South Winooski Avenue. Our approach is to build off the work already completed for Cherry, Bank, St. Paul, and Pine Streets. A concept will be developed for the new blocks of Bank and Cherry that are extensions of the previously approved concepts for the typical section and streetscape, including lane widths, on-street parking, curb extensions, materials, lighting, and landscaping. Safety, constructability, and cost will be considered during development of the concept extension. A concept for all streets will be presented to the community and project stakeholders to gather feedback. Taking this approach will build off the work already completed rather than start over from the beginning, saving time and budget.

2.1 Concept Development

Stantec will review the concept for the blocks west of Church Street and determine its applicability for the east blocks of both streets with no design work completed to date. The concept will utilize the Great Streets BTV Design Standards. Stantec/SE Group will identify any challenges that will influence safety, constructability, and cost before developing a concept graphic for these two blocks and review at a meeting with the City. After the meeting, Stantec/SE Group will prepare a draft concept graphic for City review and comment.

Meetings:

- Safety/constructability/cost review meeting (1)
- Concept graphic review meeting (1)

Deliverables:

- Safety/constructability/cost review memo
- Draft concept graphic

2.2 Alternatives Public Meeting

The City will host and present at a public alternatives meeting for these two blocks. It is anticipated that the alternatives will include a Build and No Build option. Stantec will assist the City in preparing meeting materials and attend the meeting. Meeting materials will include a one-page project information sheet, updated concept graphic, and presentation. Stantec will also translate meeting materials into eight languages. Languages will be provided by the City. Stantec will also plan to support the City in presenting the alternatives to the Church Street Marketplace, TUEC, and City Council at separate meetings. It is assumed that any additional stakeholder meetings held in advance or after the Alternatives Public Meeting will be conducted by the City and Stantec will not attend. The City will share notes from these additional meetings for Stantec/SE Group to consider in development of the concept.

Meetings:

- Public Alternatives Meeting (1)
- Church Street Marketplace Meeting (1)
- TUEC Meeting (1)
- City Council Meeting (1)

Deliverables:

- One page project information sheet translated into eight languages
- Updated concept graphic, slide deck

2.3 Project-Specific Website

Stantec will create and maintain a project-specific website that provides project updates, important documents, and other content.

Meetings:

- None

Deliverables:

- Project website
- Two website updates during Project Definition phase – once before and once after Public Alternatives Meeting
- Three website updates during Project Design Phase – Conceptual Plans, ROW Plans, Bid Advertisement
- Three website updates during Project Construction – one per year

2.4 City Council Concept Approval

Following a public alternatives presentation, the City Council is required to approve the preferred alternative before a NEPA submittal (see Task 5.4). The City will present at the City Council and other required meetings, and Stantec will attend a City Council meeting to assist with presenting or answering questions about technical content. The City will prepare the necessary materials for the presentation and can use content that Stantec already developed for Task 2.2 as the basis for the presentation materials.

Meetings:

- City Council Meeting (1)

Deliverables:

- None

Task 3: Topographic Survey and Base Mapping

Scope of Work:

The original topographic survey was completed in 2018 and did not include the blocks of Bank and Cherry from Church to South Winooski. It is anticipated that the sidewalks, lighting, landscaping, and street amenities along Bank and Cherry in front of the City Place development will be constructed up to the near curblin in accordance with the current design. There are also yet to be made modifications to the design requested by the City Place developers to accommodate planned building uses that have changed since the original design was completed. Updated topographic survey will be needed for the new blocks and recent construction. The timing for these surveys will need to be carefully coordinated and may need to be completed at various stages of the project. For example, the survey for the new blocks of Bank and Cherry can be completed in a timeframe that facilitates the development of Conceptual Plans. The survey for the new street construction in front of City Place may need to come later if it is not completed within the schedule required for development of Conceptual Plans. Stantec can rely on design information in front of City Place to develop the Conceptual Plans and update the design once the new construction is completed and surveyed.

Water line installation as well as utility service connections for City Place are currently being made and will be made during development of this project. As-builts for utility construction will be needed from the developers so that utility mapping can be updated and previously completed utility relocation designs can be reviewed and modified as necessary.

As a result, the topographic survey scope includes the following areas:

- One block of Cherry Street between Church Street and South Winooski Avenue
- One block of Bank Street, between Church Street and South Winooski Avenue

- Pine Street approximately 50' south of previously surveyed areas
- The new survey area shall include a minimum of 50 feet on all approaches of each intersection
- Utility location throughout the project area as specified under section 3.2
- An update to the existing survey on Cherry Street south of roadway centerline to account for new development
- An update to existing survey on Bank Street north of roadway centerline to account for new development.

3.1 Right-of-Way and Deed Information

Stantec's subconsultant, Vermont Survey and Engineering (VSE), will develop a base map that shows the approximate limits of the existing Right-of-Way. The City will provide available roadway plans, land records, title abstracts, property deeds and tax maps on file for the properties within the project limits. The purpose will be to document the property lines and owners within the project limits for subsequent Right-of-Way use. This right of way and property information will be compiled and presented on the plans.

Meetings:

- None

Deliverables:

- Project base map with ROW / Property Lines shown

3.2 Utility Location

Stantec's subconsultant, KCI, will identify, inspect and collect all existing overhead, aboveground, and underground utilities within the project corridor and a minimum of 50 feet on all approaches to intersections (or further to the next nearest manhole, hydrant, valve, etc.) and depict their location and elevations on project plans, including municipally owned water distribution, sewer and storm-water collection systems, and other municipally-owned and privately-owned utilities.

KCI will perform FHWA Subsurface Utility Engineering Quality Level B (QL-B) for underground utility location and mapping including power, communication,

water, sewer, and stormwater structures. The sewer and stormwater systems will be located and inspected in accordance with NASSCO (PACP) standards. Sewer inspection will include sewer services and stormwater laterals.

KCI will create a plan for Quality Level A subsurface utility investigation, which will be approved by the City prior to the work being performed. This plan will be developed during Task 4 Conceptual Plans.

As part of the utility location effort for the water distribution system, the location, size, and material of all water service lines will be documented to the extent practicable. Existing plans of water distribution pipes are a good reference but they may not be completely accurate so field verification is expected for this design project.

Stantec will identify City water and sewer systems that are not in good condition and that are in need of repair or replacement or where utility conflicts are known to occur and future replacement using existing locations will not be possible, to minimize the risk of needing to disturb the area again for conditions discovered during this phase or future phases of the work. It is assumed that private utility companies will identify if their utility infrastructure is in need of repair or replacement. Stantec and KCI will coordinate with City and private utilities to determine if repair or replacement is necessary. Utilities to be investigated may include City of Burlington Public Works, Burlington Electric Department, Burlington Telecom, Comcast, Consolidated Communications, Firstlight Fiber, Vermont Gas, VTel, Century Link, Burlington Fire Department, and others that own infrastructure within the project limits.

Meetings:

- Review of existing utility mapping with utility owners (4)

Deliverables:

- Project base map showing existing utilities as determined by QL-B investigation

3.3 Ground Survey

VSE will perform the topographic survey for this project in general accordance with VTrans survey guidelines and requirements. The survey will include enough information to design, permit, acquire Right-of-Way, and construct the project.

Meetings:

- None

Deliverables:

- Project base map

3.4 Initial Site Assessment

Stantec will complete an Initial Site Assessment (ISA) of the project corridor in accordance with AASHTO and FHWA guidance. Based on the results of the ISA, additional subsurface investigation and characterization may be required and is not included in this scope of work. Stantec will work with the City to coordinate response measures to the satisfaction of the Vermont Department of Environmental Conservation (DEC).

Meetings:

- Up to four (4) coordination meetings with Vermont DEC (1)

Deliverables:

- Draft Initial Site Assessment report
- Final Initial Site Assessment report

Task 4: Conceptual Plans

Scope of Work:

Conceptual Plans will be developed for:

- One block of Cherry Street between Church Street and South Winooski Avenue
- One block of Bank Street, between Church Street and South Winooski Avenue

- New street segments of Saint Paul Street and Pine Street, including coordination with other consultants or contractors working in the area and updating all drawings to VTrans Standards
- Updates to plans throughout the remainder of the project area to match up with additional street designs
- An updated conceptual cost estimate for the entire project

Stantec / SE Group will prepare Conceptual Plans and a conceptual construction cost estimate for the improvements. The Conceptual Plans will indicate the existing topography, utilities, and other base information and illustrate the proposed work. Identified rights-of-ways, utilities, natural and cultural resources, and other features affecting the design will be indicated on the plans. The basis for project pay items will be the 2024 VTrans Standard Specifications for Construction.

The Conceptual Plans are anticipated to consist of:

- Title Page
- Layout Sheets showing existing and proposed features and utilities
- Preliminary profiles
- Approximate right of way lines and construction limits (Stantec will provide supporting information addressing how right of way limits were determined)
- Typical Sections for the proposed improvements
- Cross Sections
- Water Distribution details in accordance with Burlington Standards
- Sewer collection system detail in accordance with Burlington Standards
- Stormwater management details, BMP O&M details, drainage area, and hydrology/hydraulic modeling
- Erosion Prevention and Sediment Control (EPSC) layout and detail sheets

Together, these drawings illustrate the information necessary to define the project and will include information such as:

- Roadway, sidewalk and/or path design (cross slope, material type, and thickness)

- New or modified infrastructure including stormwater, sewer, water, gas, electric, etc.
- Limits of construction
- Pavement markings and signs
- Conceptual Traffic Control (at a minimum, plans shall reference VTrans standard drawings or Typical Applications from the MUTCD that illustrate how work zone traffic will be addressed)

Stormwater treatment for the new City Place development and the new St Paul and Pine Streets has been designed and permitted. The current stormwater treatment and conveyance design for Cherry and Bank Streets has been carefully coordinated with the City Water Resources Department, the City Place stormwater design, and current State of Vermont stormwater standards. The addition of blocks to Cherry and Bank as well as some recent changes to accommodate dropoff and change in doorway locations on Bank and Cherry in front of the City Place development will require the overall stormwater treatment design concept for Cherry and Bank Streets to be reevaluated. The reevaluation will occur during development of the concept extension for Cherry and Bank Streets, and Stantec will attempt to re-use the existing concept to the greatest extent practicable.

The addition of the new blocks on Bank and Cherry will likely result in utility companies wanting to reevaluate the current relocation design. New stormwater treatment and conveyance, the City's planned sewer main replacement along Cherry Street, and streetscape amenities may conflict with existing utility infrastructure. Having a sound understanding of the location and depth of existing underground utility infrastructure will be critical to minimize risk of conflict and expensive change orders during construction. As stated in Task 3.2, Stantec will engage the services of KCI to conduct a Quality Level B utility investigation of existing utilities for the new blocks and combine with the information they have already obtained for the other blocks of Bank and Cherry. After development of Conceptual Plans, a utility conflict risk review will be completed. Possible utility conflicts will be presented to the utility companies. Stantec will request the utility companies provide information on desired relocation routing and locations for Quality Level A utility investigation (test holes). Stantec will add in their own desired test hole locations based on stormwater, sewer, and streetscape design. KCI will complete the QL-A

investigation. Results of the investigation will then be used to update utility mapping and refine the project design to reduce risk and avoid conflict if practical during development of the Preliminary Plans.

Street lighting is an important element of this project, and Burlington Electric Department is a key stakeholder to engage early on during development of the street concept. Stantec worked with BED closely to determine light fixture types and locations during the previous design effort and will do the same to modify and extend the current lighting design. BED will design the street lighting and coordinate locations of poles with Stantec. Proprietary items specified in the construction contract will need to be reviewed and approved by VTrans through a Public Interest Finding (PIF).

Stantec will submit two full size copies of the Conceptual Plans and construction cost estimate to the City, along with one set of the plans and estimate for VTrans in .pdf format. The conceptual cost estimate will be prepared in a tabular format and will be submitted in .pdf format. The cost estimate will include a breakdown of the anticipated construction costs by funding source. Stantec will develop the construction cost estimate utilizing individual items and unit prices consistent with the 2024 VTrans Standard Specifications for Construction, including any revisions, supplements, or addenda.

Stantec will submit a written assessment of the possible impacts of the project on existing vehicle, pedestrian and bicycle traffic. Based on the VTrans Work Zone Safety and Mobility Policy and Guidance document:

- Determine project significance (Project Type - A, B, C or D).
- All Project Types require the design engineer to fill out and submit the Traffic Management Plan (TMP) checklist and submit it to the MA Project Supervisor / Manager.
- Depending on significance, the selected firm must be prepared to develop Temporary Traffic Control (TTC) plans, Traffic Operations (TO) requirements and Public Information (PI) strategies.
- Submit TMP checklist and supporting documentation with Conceptual Plans.

If traffic control measures, including any needed temporary pedestrian facilities, are needed, their cost will be included in the project cost estimate.

Meetings:

- Review of potential utility conflicts with utility owners (4)
- Review of street lighting design with BED (2)
- Review of water, sewer, and stormwater system concept with Water Resources Department (4)

Deliverables:

- Conceptual Plans and Estimate broken out by funding source
- TMP checklist and supporting documentation
- PIF request for Street Lighting

Task 5: Resource Constraints and CE Documentation

Scope of Work:

Stantec will identify natural and cultural resources on the project plans to support the City in satisfying the NEPA process, which is expected to be at the level of Categorical Exclusion (CE).

5.1 Natural Resource Identification and Soils Investigation

Stantec will confirm the presence or absence of any known natural resources in the project vicinity and will identify these resources on plans of the project area. Stantec will prepare a preliminary soil investigation plan based on the results of the ISA completed in Task 3.4. The intent of the preliminary soil investigation plan is to determine where potentially impacted soil or groundwater is likely to be encountered based on documented releases or prior activities. During the soil investigation, Stantec will perform an appropriate level of test borings to determine if stormwater infiltration systems are appropriate for the project. No budget has been included to complete the preliminary soil investigation. Stantec will solicit proposals from qualified firms to conduct this work upon preparation of the preliminary investigation plan.

Meetings:

- None

Deliverables:

- Natural Resource Summary Memo

5.2 Historical/Archaeological

Stantec's subconsultant, University of Vermont Consulting Archeology Program (UVM CAP) will complete an Archeological Resources Assessment (ARA) and Historic Resource Review (HRR) in support of the project. The ARA study will provide sufficient information to gauge the general archeological sensitivity of the broadly defined project's Area of Potential Effects (APE), and whether further archaeological studies will be required as the project proceeds. The goal of the HRR portion of the study will be to evaluate the project APE for potential direct and indirect effects to significant historic above-ground resources. This will include a review of the project's potential to impact any above-ground properties that are listed on or potentially eligible for listing on the National Register of Historic Places.

The findings and recommendations will be provided to VTrans for concurrence as part of completing the CE (Task 5.4). No budget has been included for further archeological study given that the intent of UVM CAP's efforts is to determine if it is necessary. If UVM CAP recommends further study and VTrans concurs, a budget will be prepared to complete the work and submitted to the City and VTrans for consideration.

Meetings:

- None

Deliverables:

- ARA and HRR Summary Report

5.3 Other Permitting and Investigations

Stantec will determine the need for other environmental permits and will assist the City in preparing applications for needed federal, state, and local environmental permits. The City will be responsible for any permit fees. For purposes of this proposal, it is assumed that an Operational Stormwater Permit and a Construction General Permit will be needed, and effort has been

included to prepare these permit applications during the Phase B – Project Design. It is assumed that other permits including an Act 250 permit will not be needed. If additional permits are determined to be needed during coordination with the City and the utility owners, Stantec will prepare a budget to prepare these permit applications for the City’s consideration.

Meetings:

- None

Deliverables:

- Permit need summary (email)

5.4 Preparation of the Categorical Exclusion Document

Because federal funding is involved with this project, the National Environmental Policy Act (NEPA) process and requirements must be followed. To meet the requirements of this act, a Categorical Exclusion (CE) Document must be completed. Stantec will prepare the VTrans environmental analysis sheet and supporting documentation will be submitted to VTrans for review and concurrence. VTrans will complete the process with the FHWA.

Meetings:

- None

Deliverables:

- CE Document
- VTrans Environmental Analysis Sheet

Phase B – Project Design

Task 6: Preliminary Plans

Scope of Work:

Preliminary Plans will be developed for:

- One block of Cherry Street between Church Street and South Winooski Avenue

- One block of Bank Street, between Church Street and South Winooski Avenue
- New street segments of Saint Paul Street and Pine Street, including coordination with other consultants or contractors working in the area and updating all drawings to VTrans Standards
- Updates to plans throughout the remainder of the project area to match up with additional street designs
- An updated conceptual cost estimate for the entire project

Once the NEPA process has concluded, Stantec / SE Group will develop Preliminary Plans for the project. The Preliminary Plans will include all the information from the Conceptual Plans and will add further detail, including any stormwater drainage, stormwater treatment, and required erosion prevention and sediment control measures. The Preliminary Plans will contain:

- Title Sheet
- Typical Section
- Base Plan with a project centerline and existing ROW information
- Profiles
- Cross Sections
- Driveway treatments
- Water plan sheets
- Water profile sheets
- Water detail sheets
- Sewer Collection system plan sheets
- Sewer Collection system profile sheets
- Sewer Collection system detail sheets
- Stormwater treatment and collection system plan sheets
- Stormwater treatment and collection system profile sheets
- Stormwater treatment and collection system detail sheets
- Erosion Prevention measures and details
- Signs and pavement markings
- Utility plans and details (utility relocation routing to be provided by utility owners)
- Lighting plans and details (provided by BED)
- Traffic control plans for motor vehicles, bicycles (if accommodated separately from motor vehicles) and pedestrians including any details not

covered by VTrans standard drawings or MUTCD Typical Applications.
Submit revised/ updated TMP checklist and supporting documentation
with Preliminary Plans.

In addition to the Preliminary Plans, Stantec will work with the City to evaluate distribution and collection system needs in the project corridors. The consultant will provide hydraulic and hydrologic modeling support to ensure the inputs from the project, surrounding existing buildings, surrounding future projects that are known and the surrounding connections to the collection system are accounted for. A preliminary engineering memo for the hydraulic and hydrologic modeling shall be completed for the city to review. This memo shall be the basis of design for collection system improvements and shall be updated as the project moves to final design.

Stantec will develop a revised Engineer's Estimate. A submittal to VTrans is expected at this stage for VTrans review. The plans, estimate and draft TMP (if applicable) will be submitted to VTrans in a .pdf format. Comments and changes resulting from the review will be addressed by Stantec in the following set of plans.

Meetings:

- Review of utility relocation design with utility owners (4)
- Review of street lighting design with BED (1)
- Review of water, sewer, and stormwater system design with Water Resources Department (1)

Deliverables:

- Preliminary Hydraulic/Hydrologic Engineering Memo
- Preliminary Plans and Estimate

Task 7: Right-of-Way Plans and Acquisition Process

Scope of Work:

Using the project construction limits and any anticipated need for temporary rights during construction, the need for additional right of way will be confirmed. Stantec will determine if any additional right-of-way (ROW), including all permanent and temporary easements, beyond the existing ROW is required to construct the project. The project is not located in a state highway ROW,

therefore it will not require a VTrans State Highway Access and Work Permit. Separate sets of ROW Plans will be developed for CDS Cherry and RAISE Reconnecting Downtown. This will allow the City to advance CDS Cherry on a more accelerated timeline if needed to meet the grant funding obligation deadlines.

7.1 Right of Way Plans

Existing ROW, and all areas of additional ROW, whether temporary or permanent, will be clearly indicated on ROW plans prepared by Stantec and in accordance with standard survey practices. Draft ROW plans and draft easements will be submitted to VTrans for review and approval prior to negotiating with property owners. Easement language will be consistent with guidance provided by the VTrans ROW section.

Easements deeds will be prepared by City attorneys, and their content must match information shown on the ROW plans. ROW plans will include all the elements of Preliminary Plans with the addition of the following:

- Right-of-Way detail sheet
- Property Acquisition Table

It is assumed that Right-of-Way acquisition will be simple and therefore it will be acceptable to include Right-of-Way information on the project plan sheets.

Meetings:

- None

Deliverables:

- Draft ROW Plans for CDS Cherry
- Draft ROW Plans for RAISE Reconnecting Downtown

7.2 Right of Way Coordination

The City will be responsible for completing appraisals, negotiations, and completing the needed property acquisitions. Stantec will be available to answer questions related to the design intent of the project if requested by the

City. Given that ROW acquisition is intended to be simple, Stantec assumes that Necessity or Condemnation procedures will not be necessary for this project. It is understood that a ROW clear certificate issued by VTrans will be needed by 12/31/25.

Meetings:

- Coordination meetings with City DPW (2)

Deliverables:

- None

7.3 Property Owner Meetings

Stantec will attend and assist with facilitating property owner meetings over three days (24 hours of staff time). Stantec will provide meeting materials, including a colored graphic plan for these meetings. Plan revisions or updates based on these meetings will be incorporated into the Final Plan submission.

Meetings:

- Property Owner Meetings (24 hours)

Deliverables:

- Color graphic showing project intent and impacts

Task 8: Final Design/Bidding

Scope of Work:

Stantec will prepare the final design of the project. Final Design will include a set of Final Plans for each grant funding source, an updated construction cost estimate, and draft special provisions. These provisions will supplement the VTrans Standard Specifications for Construction (2024) which will serve as the basis for the construction of the project. Final plans will be submitted to the City and VTrans for review and comments. All comments and changes resulting from the review will be addressed by the consultant in the following set of plans. The Contract Plans will include all information necessary to put the project out to bid.

8.1 Final (85%) Plans

Stantec will submit Final plans along with an updated listing of items and quantities, and an associated cost estimate for municipal and VTrans review and concurrence. These plans will incorporate all comments and conditions received from permitting agencies. Final utility relocations will be shown. ROW plans (if necessary) showing acquisition lines and any agreements made with property owners will be included. Stantec will certify through the signature of an engineer registered in the state of Vermont to practice “structural or civil” engineering that these plans and subsequent 100% plans meet all applicable standards, codes and requirements for design and public safety (design certification.) Stantec will also provide a “Utility & Railroad Clearance” that indicates that all necessary utility coordination has been completed.

8.2 Special Provisions

Stantec will develop project special provisions to cover items not contained in the VTrans 2024 Standard Specifications for Construction or those items that vary from the standard specifications.

8.3 Final Estimate

Stantec will develop a final engineer’s estimate.

Meetings:

- None

Deliverables:

- Final Plans, Specifications, and Estimate including Front End Documents for CDS Cherry
- Final Plans, Specifications, and Estimate including Front End Documents for RAISE Reconnecting Downtown

Task 9: Contract Plans, Construction Bidding and Award

Scope of Work:

Stantec will provide the City with a package which can be put out to bid. It is assumed that CDS Cherry will be advertised for bid separately and before RAISE Reconnecting Downtown. The City is responsible for the bid advertising process.

9.1 Contract Plans

Stantec will submit Contract (100%) Plans along with an updated list of items, quantities, and an associated cost estimate for City and VTrans review and concurrence. These plans will incorporate final changes since the review and acceptance of 85% Plans. These plans will be signed and stamped by a licensed PE in the State of Vermont.

9.2 Construction Bid Package

Once the Contract Plans are approved, Stantec will assemble the Construction Bid Package. The complete Construction Bid Package will include the following items:

- Complete Contract (100%) plans.
- Construction cost estimate.
- Final utility relocations, clearances, and special provisions.
- Right-of-way clearances and special agreements.
- Construction special provisions.
- All necessary permits acquired, and conditions noted.
- Construction Contract specifications.
- Final hydraulic and hydrologic modelling memo as basis of design for distribution and collection system improvements including any stormwater treatment practices.
- TMP checklist and supporting documentation in the project bid documents.
- Bid Documents including instructions to bidders, bid form and required federal documents, coordinated with Workforce Development items related to on-the-job training, as needed (Note: VTrans has developed a bid document template that should be used as a starting point.)

9.3 Bid Process

Stantec will be available during the bidding process to answer any technical questions about the project design. Once bids are opened, Stantec will confirm that all required components of the bid have been submitted. Stantec will conduct an analysis of the bids and will provide a recommendation to the municipality and VTrans on award of the contract after review of the bids. The bid analysis will generally follow FHWA's Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation dated October 7, 2021.

Meetings:

- None

Deliverables:

- Contract Plans, Specifications, and Estimate including Front End Documents for CDS Cherry
- Construction Bid Documents for CSD Cherry
- Bid Analysis and Award Recommendation for CDS Cherry
- Contract Plans, Specifications, and Estimate including Front End Documents for RAISE Reconnecting Downtown
- Construction Bid Documents for RAISE Reconnecting Downtown Bid Analysis and Award Recommendation for RAISE Reconnecting Downtown

Task 10: Construction Services

Scope of Work:

Stantec will provide limited assistance during the construction phase. This limited assistance consists of shop drawing review, RFI responses, and site visits. Stantec will respond to up to 100 RFIs and review up to 100 shop drawings (50 for each funding source). It is anticipated that 10 visits (five for each funding source) to the project site during construction will be required. Construction Inspection Services including but not limited to inspection of water and wastewater system construction, preparation of record drawings, and permit certifications will be completed by others and are not included in this proposal. It is assumed that Stantec attendance at regular construction meetings will not be required.

Meetings:

- Site visits (10)

Deliverables:

- RFI responses (100)
- Shop drawing review (100)

Task 11: Meetings

Scope of Work:

Stantec will facilitate monthly calls with the City DPW team from March 11, 2024 until June 30, 2026. It is assumed another call per month will be required for miscellaneous items including design resolution via City issued RFIs and stakeholder coordination. Meetings may be more or less frequent depending on project needs at the time. Stantec will track the number of meetings throughout each year and let the City know of status. Calls will be virtual via Teams or Zoom.

Meetings:

- Monthly CDS and RAISE status calls (173)
- Miscellaneous design and stakeholder calls (173)

Deliverables:

- Meeting notes from status calls

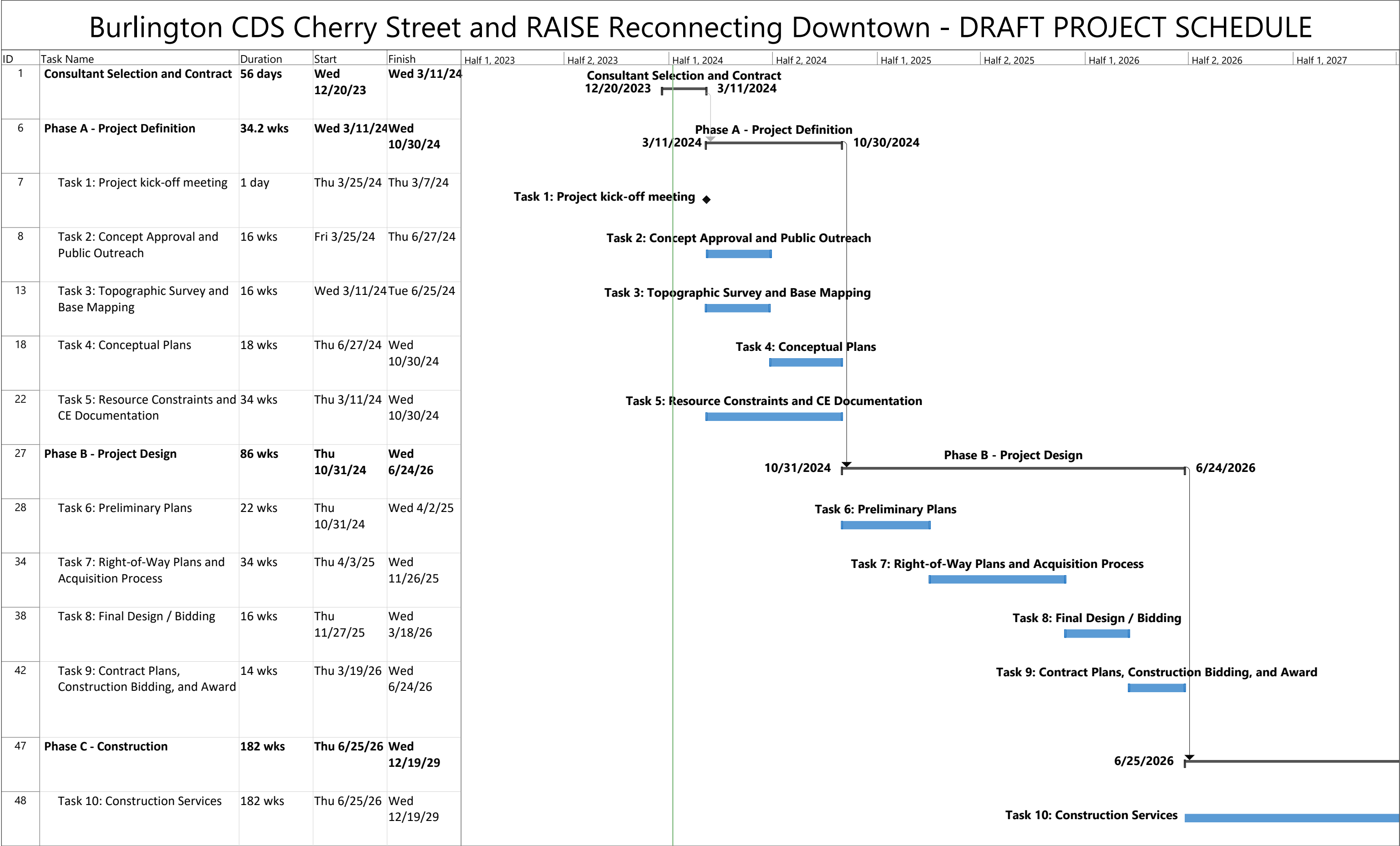
Project Schedule

Table 1 provides the initial project milestone schedule for both projects. Milestone schedule progress will be tracked in this table as the project proceeds. Critical dates to be noted are issuance of a ROW Clearance by VTrans by no later than December 31, 2025 and obligation of construction funds for CDS no later than June 30, 2026 and for RAISE Reconnecting Downtown no later than June 30, 2027. A CPM project schedule is attached assuming both projects will be advertised together. This CPM schedule will be updated prior to the kickoff meeting to reflect projects being advertised separately.

Table 1. Milestone Schedule

Project Milestone	Tentative Initiation/ Completion Date	Achieved
CDS Cherry		
Contract Executed or Notice to Proceed	03/11/2024	
Project Kickoff	03/25/2024	
City Council Approval of Concept	06/27/2024	
Conceptual Plans and CE Submitted to VTrans	10/30/2024	
Preliminary Plans Complete	04/02/2025	
Draft ROW Plans and Easements Complete	05/14/2025	
ROW Clearance Issued (no later than 12/31/2025)	12/31/2025	
Advertise Project for Bid	05/27/2026	
Contract Award (no later than 06/30/2026)	06/30/2026	
Begin Construction	2026	
RAISE Reconnecting Burlington		
Contract Executed or Notice to Proceed	03/11/2024	
Project Kickoff	03/25/2024	
City Council Approval of Concept	06/27/2024	
Conceptual Plans and CE Submitted to VTrans	10/30/2024	
Preliminary Plans Complete	04/02/2025	
Draft ROW Plans and Easements Complete	09/12/2025	
ROW Clearance Issued (no later than 12/31/2026)	12/31/2026	
Advertise Project for Bid	05/27/2027	
Contract Award (no later than 06/30/2027)	06/30/2027	
Begin Construction	2027	

PROPOSED SCHEDULE



Invoicing and Progress Reports

Invoices will be submitted monthly to the City. Each invoice will be accompanied by a progress report consisting of a bulleted list summarizing that month's efforts. Invoices will be sent to:

Julia Ursaki, PE
Public Works Transportation Engineer
City of Burlington, Vermont
645 Pine Street
Burlington, VT 05401
jursaki@burlingtonvt.gov
802-809-1355

Local Project Team

City of Burlington

Julia Ursaki, PE
Public Works Transportation
Engineer
jursaki@burlingtonvt.gov
802-809-1355

Laura Wheelock, PE
Senior Public Works Engineer
LWheelock@burlingtonvt.gov
802-338-2125

VTrans MAS

Peter Pochop
Project Manager
Project Delivery Bureau - Municipal Assistance
peter.pochop@vermont.gov
802-477-3123

Stantec

Israel Maynard, PE
Project Manager
Israel.maynard@stantec.com
802 497-6415

Greg Goyette, PE
Principal-in-Charge
Greg.goyette@stantec.com
802-497-6403

Project Budget

Stantec's total estimated fee for services is \$2,217,249 inclusive of labor, anticipated expenses, and subconsultant fees. The fee is broken down as follows:

CDS Cherry Street	\$780,189
RAISE Reconnecting Downtown	\$1,437,060
Total	\$2,217,249

Attached is a fee estimate that shows a breakdown of estimated hours by task per job classification. The overall fee estimate is calculated using average factored rates for each job classification. Factored rates are calculated using average direct hourly rates per job classification plus our current annual audited overhead rate (currently 159.48%) and fee (10%). Stantec will bill the City on a time and materials basis with factored rates calculated using the actual direct labor rate of the individual that works on the project.

This project will require a multi-year effort. Direct labor rates are subject to escalation each year effective January 1st and the annual audited overhead rate changes each year on July 1st. Stantec reserves the right to amend the contract on January 1st each year to reflect budget changes that result from rate increases and overhead rate changes.

Stantec can begin immediately upon execution of a contract with the City or a Notice to Proceed. Schedule is critical and we respectfully request that the City provide a Notice to Proceed no later than March 11, 2024.



SUMMARY REPORT

Project Company	Stantec US Business Group
Project Currency	US Dollar
Contract Type	Time & Material
Project Number	195311541
Project Name	CDS Cherry and RAISE Reconnecting Downtown
Client Name	City of Burlington, Vermont
Project Manager	Greg Goyette
Project Independent Reviewer	Gary Santy

Project Summary	Total Fee
Labour	\$1,645,049
Expense	\$55,000
Subs	\$517,200
Total	\$2,217,249

Planned Start Date	Planned End Date
2024-03-07	2030-12-31

			CDS Cherry		RAISE Reconnecting Downtown		Total	
Role	Billing Level	Billing Rate	Hours	Sub-Total Fee	Hours	Sub-Total Fee	Hours	Sub-Total Fee
Principal	Level 16	\$277.98	130	\$36,137	186	\$51,704	316	\$87,842
Project Manager	Level 13	\$184.21	451	\$83,079	711	\$130,973	1,162	\$214,052
Senior Project Engineer	Level 12	\$153.13	731	\$111,938	1,461	\$223,723	2,192	\$335,661
Project Engineer	Level 08	\$97.49	1,010	\$98,465	2,425	\$236,413	3,435	\$334,878
Community Engagement Specialist	Level 12	\$167.66	130	\$21,796	120	\$20,119	250	\$41,915
Right-of-Way Specialist	Level 15	\$196.87	78	\$15,356	74	\$14,568	152	\$29,924
Environmental Specialist	Level 13	\$173.02	255	\$44,120	240	\$41,525	495	\$85,645
Technician	Level 09	\$110.53	1,480	\$163,584	2,900	\$320,537	4,380	\$484,121
Administrative	Level 09	\$108.43	144	\$15,614	142	\$15,397	286	\$31,011
			4,409	\$590,089	8,259	\$1,054,960	12,668	\$1,645,049

		CDS Cherry		RAISE Reconnecting Downtown		Total	
Expense	Billing Rate	Units	Sub-Total Fee	Units	Sub-Total Fee	Units	Sub-Total Fee
Expenses	\$1.00	27,500	\$27,500	27,500	\$27,500	55,000	\$55,000
			\$27,500		\$27,500		\$55,000

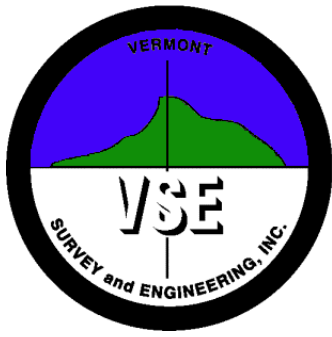
		CDS Cherry		RAISE Reconnecting Downtown		Total	
Subs	Billing Rate	Units	Sub-Total Fee	Units	Sub-Total Fee	Units	Sub-Total Fee
SE Group	\$1.00	76,800	\$76,800	120,100	\$120,100	196,900	\$196,900
Vermont Survey	\$1.00	4,300	\$4,300	28,000	\$28,000	32,300	\$32,300
KCI	\$1.00	0	\$0	125,000	\$125,000	125,000	\$125,000
UVM CAP	\$1.00	6,500	\$6,500	6,500	\$6,500	13,000	\$13,000
Contaminated Soils Investigation Allowance	\$1.00	75,000.0	\$75,000	75,000.00	\$75,000	150,000	\$150,000
			\$162,600		\$354,600		\$517,200

Total Fee		CDS Cherry	RAISE Reconnecting Downtown	Total
		\$780,189	\$1,437,060	\$2,217,249

FEE ESTIMATE - CDS Cherry and RAISE Reconnecting Downtown Burlington

	Principal	Project Manager	Senior Project Engineer	Project Engineer	Community Engagement Specialist	Right-of-Way Specialist	Environmental Specialist	Technician	Administrative	Expenses	SE Group	Vermont Survey	KCI	UVM Cap	Contaminated Soils Investigation Allowance						
Project Billing Rate (T&M) Total Units (T&M) Fee (T&M)	\$277.98	\$184.21	\$153.13	\$97.49	\$167.66	\$196.87	\$173.02	\$110.53	\$108.43	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	Project Summary	Hours	Labour	Expense	Subs	Total
	316	1,162	2,192	3,435	250	152	495	4,380	286	55,000	196,900	32,300	125,000	13,000	150,000		0	\$0	\$0	\$0	\$0
	\$87,842	\$214,052	\$335,661	\$334,878	\$41,915	\$29,924	\$85,645	\$484,121	\$31,011	\$55,000	\$196,900	\$32,300	\$125,000	\$13,000	\$150,000		12,668	\$1,645,049	\$55,000	\$517,200	\$2,217,249
Task Name	Units															Task Type	Hours	Labor	Expense	Subs	Total
CDS Project Definition	21	71	181	340	60	0	140	220	21	5,000	5,600	0	0	6,500	0	Time & Material	1,054	\$140,656	\$5,000	\$12,100	\$157,756
Project Kickoff Meeting	1	1	1						1							Time & Material	4	\$724	\$0	\$0	\$724
Concept Approval and Public Outreach	5	20	50	80	60			80	5	2,500	5,600					Time & Material	300	\$39,974	\$2,500	\$5,600	\$48,074
Topographic Survey and Base Mapping	5	20		100			120	10	5	2,500						Time & Material	260	\$37,233	\$2,500	\$0	\$39,733
Conceptual Plans	5	25	120	120				120	5							Time & Material	395	\$49,875	\$0	\$0	\$49,875
Resource Constraints and CE Documentation	5	5	10	40			20	10	5					6,500.00		Time & Material	95	\$12,850	\$0	\$6,500	\$19,350
CDS Project Design	44	190	270	570	50	78	115	1,210	28	21,000	55,200	4,300	0	0	75,000	Time & Material	2,555	\$324,559	\$21,000	\$134,500	\$480,059
Preliminary Plans	10	50	120	150			40	400	8	20,000	14,500	4,300			40,000	Time & Material	778	\$96,990	\$20,000	\$58,800	\$175,790
ROW Plans and Acquisition	20	50		180		60		160	10		5,800					Time & Material	480	\$62,900	\$0	\$5,800	\$68,700
Final Design / Bidding	8	60	100	160	50	12	50	450	6	500	18,100				25,000	Time & Material	896	\$113,973	\$500	\$43,100	\$157,573
Contract Plans, Construction Bidding, and Award	6	30	50	80		6	25	200	4	500	16,800				10,000	Time & Material	401	\$50,696	\$500	\$26,800	\$77,996
CDS Construction Services	5	10	100	100	20	0	0	50	5	500	16,000	0	0	0	0	Time & Material	290	\$37,716	\$500	\$16,000	\$54,216
Construction Services	5	10	100	100	20			50	5	500	16,000					Time & Material	290	\$37,716	\$500	\$16,000	\$54,216
CDS Meetings	60	180	180	0	0	0	0	0	90	1,000	0	0	0	0	0	Time & Material	510	\$87,159	\$1,000	\$0	\$88,159
DPW Status Meetings	30	90	90						90	1,000						Time & Material	300	\$48,459	\$1,000	\$0	\$49,459
City Place Design Team Meetings	30	90	90													Time & Material	210	\$38,700	\$0	\$0	\$38,700
RAISE Project Definition	51	211	541	1,020	60	0	140	640	21	5,000	33,000	20,000	57,000	6,500	0	Time & Material	2,684	\$342,627	\$5,000	\$116,500	\$464,127
Project Kickoff Meeting	1	1	1						1							Time & Material	4	\$724	\$0	\$0	\$724
Concept Approval and Public Outreach	15	60	150	240	60			240	5	2,500	33,000					Time & Material	770	\$98,718	\$2,500	\$33,000	\$134,218
Topographic Survey and Base Mapping	15	60		300			120	10	5	2,500		20,000	57,000			Time & Material	510	\$66,879	\$2,500	\$77,000	\$146,379
Conceptual Plans	15	75	360	360				360	5							Time & Material	1,175	\$148,542	\$0	\$0	\$148,542
Resource Constraints and CE Documentation	5	15	30	120			20	30	5					6,500.00		Time & Material	225	\$27,764	\$0	\$6,500	\$34,264
RAISE Project Design	70	310	640	1,305	40	74	100	2,210	26	21,000	71,100	8,000	68,000	0	75,000	Time & Material	4,775	\$587,459	\$21,000	\$222,100	\$830,559
Preliminary Plans	20	100	280	450			40	800	8	20,000	30,400	8,000	68,000		40,000	Time & Material	1,698	\$206,940	\$20,000	\$146,400	\$373,340
ROW Plans and Acquisition	20	50		180		60		160	10		5,800					Time & Material	480	\$62,900	\$0	\$5,800	\$68,700
Final Design / Bidding	15	100	240	450	40	10	40	800	4	500	18,100				25,000	Time & Material	1,699	\$207,666	\$500	\$43,100	\$251,266
Contract Plans, Construction Bidding, and Award	15	60	120	225		4	20	450	4	500	16,800				10,000	Time & Material	898	\$109,953	\$500	\$26,800	\$137,253
RAISE Construction	5	10	100	100	20	0	0	50	5	500	16,000	0	0	0	0	Time & Material	290	\$37,716	\$500	\$16,000	\$54,216
Construction Services	5	10	100	100	20			50	5	500	16,000					Time & Material	290	\$37,716	\$500	\$16,000	\$54,216
RAISE Meetings	60	180	180	0	0	0	0	0	90	1,000	0	0	0	0	0	Time & Material	510	\$87,159	\$1,000	\$0	\$88,159
DPW Meetings	30	90	90						90	1,000						Time & Material	300	\$48,459	\$1,000	\$0	\$49,459
City Place Design Team Meetings	30	90	90													Time & Material	210	\$38,700	\$0	\$0	\$38,700

Group Fee Proposal						Notes				accumulative	
Task	PO	HL	BD	Staff						2024 rates	0
	\$	190.00	\$	175.00	\$	155.00	\$	135.00		2025	7.5
										2026	7.5
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										2225	7.5



Vermont Survey and Engineering, Inc.

Surveyors and Civil Engineers

79 River Street, Suite 201, Montpelier, Vermont 05602
(802) 229-9138, info@vermontsurvey.com

February 8, 2024

Page 1 of 3

Burlington CDS CD23(1) Church Street Side Street-Cherry & Reconnecting Downtown Burlington

RAISE Reconnecting Downtown Burlington

Cherry Street (from Church Street to South Winooski Avenue)

Pine Street (50 feet south from existing survey)

Bank Street (from Church Street to South Winooski Avenue)

Bank Street (resurvey adjacent to City Place development, fall 2024)

CDS Cherry Street

Cherry Street (resurvey adjacent to City Place development, spring 2025)

Scope of Work

VSE will expand the existing topographic survey and base mapping along Cherry Street, Pine Street and Bank Street as detailed on the attached sketch. All surveying activities will be conducted under the direction and supervision of a Vermont Licensed Land Surveyor. The survey will be expressed in U.S. Survey Feet, referenced vertically to NAVD 88, and horizontally to NAD 83 SPC (4400-VT).

The field survey will be performed in accordance with VTrans standard practices. Survey will extend a minimum of 25 feet beyond the right of way on either side of the streets, or to the fronts of all buildings, or up to 50 feet at driveways as appropriate. The survey and mapping will accurately show all visible existing topographic features, pavement markings, visible utilities, and drainage. Rim, top of grate/cover, invert elevations and pipe size and type will be obtained for storm and sanitary structures within the survey areas. Visible utilities outside of the survey limits that connect to the project area will also be located.

Development of this expanded base mapping will include research of City records necessary to determine current property owners, and to accurately show existing property boundaries, highway right of ways and easements. This research will occur before field survey work begins, in order to facilitate the recovery and location of property boundary monuments within and adjacent to the survey area. All boundary markers located in the field will be shown on the mapping, and highway right of ways, property lines and current owners will be shown based on field information and research, building on the existing Stantec right of way files.

Existing utilities will be field marked by KCI and located by VSE on Cherry Street, Pine Street and Bank Street most likely after the topographic survey has been completed. After the utility mapping has been analyzed for conflicts, KCI will return to vacuum excavate 20 to 30 utility test holes, and VSE will return to survey these test locations.

Burlington CDS CD23(1) Church Street Side Street-Cherry & Reconnecting Downtown Burlington**RAISE Reconnecting Downtown Burlington****Cherry Street (from Church Street to South Winooski Avenue)****Pine Street (50 feet south from existing survey)****Bank Street (from Church Street to South Winooski Avenue)****Bank Street (resurvey adjacent to City Place development, fall 2024)****CDS Cherry Street****Cherry Street (resurvey adjacent to City Place development, spring 2025)*****Cost Estimate – RAISE Reconnecting Downtown Burlington***

Cost Estimate - Phase II Reconnecting Downtown Burlington						
Personnel	Project Manager	Senior ROW Researcher	Survey Party Chief	Instrument Operator	Senior CAD Operator	Totals
Hours	4	20	100	100	40	264
Hourly Rate	\$132.00	\$120.00	\$102.00	\$88.00	\$120.00	
Totals	\$528.00	\$2,400.00	\$10,200.00	\$8,800.00	\$4,800.00	\$26,728.00
Expense	Amount		Rate		Total	
Mileage	1,040 mi.		\$0.67		\$696.80	
City Clerk Fees					\$200.00	
Total Expenses						\$896.80
Total Estimate						\$27,624.80

Cost Estimate – CDS Cherry Street

Cost Estimate - 555 Cherry Street

Personnel	Project Manager	Senior ROW Researcher	Survey Party Chief	Instrument Operator	Senior CAD Operator	Totals
Hours	1	0	15	15	10	41
Hourly Rate	\$132.00	\$120.00	\$102.00	\$88.00	\$120.00	
Totals	\$132.00	\$0.00	\$1,530.00	\$1,320.00	\$1,200.00	\$4,182.00
Expense	Amount		Rate		Total	
Mileage	160 mi.		\$0.67		\$107.20	
City Clerk Fees					\$0.00	
Total Expenses						\$107.20
Total Estimate						\$4,289.20

Survey Request - Cherry Street

A

- 1. Extend full topo survey from Church to S. Winooski, 50' both left and right of CL
- 2. Provide flow line elevations and pipe sizes/materials of Sewer and Storm
- 3. Plot/ extend ROW lines and property lines building on existing Stantec ROW file
- 4. Extend survey an additional 50' north and south along South Winooski Ave

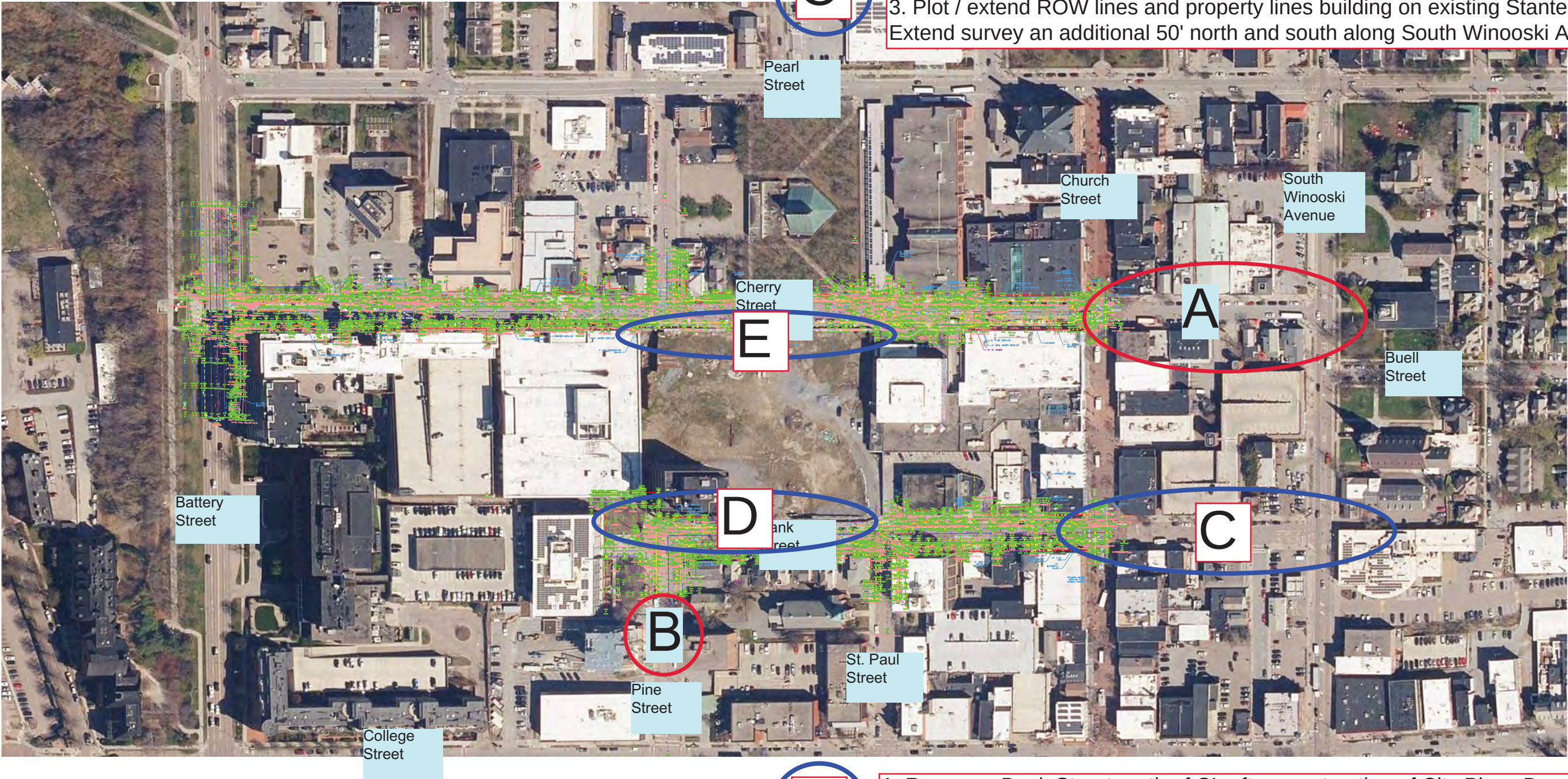
Survey Request - Pine Street

B

- 5. Extend full topo survey 50' south, 50' both left and right of CL
- 6. Provide flow line elevations and pipe sizes/materials of Sewer and Storm
- 7. Plot/ extend ROW lines and property lines building on existing Stantec file

C

- 1. Extend full topo survey from Church to S. Winooski, 50' both left and right of CL
- 2. Provide flow line elevations and pipe sizes/materials of Sewer and Storm
- 3. Plot / extend ROW lines and property lines building on existing Stantec ROW file
- Extend survey an additional 50' north and south along South Winooski Avenue



Additional Notes:

- 8. Provide single MicroStation v8i file of the entire project (BTV Great Streets-Bank & Cherry.dgn)
- 9. Update / add tie sheets as necessary
- 10. Provide single DTM for entire project

D

- 1. Resurvey Bank Street north of CL after construction of City Place Development (expected to be completed in Fall 2024)

E

- 1. Resurvey Cherry Street south of CL after construction of City Place Development (expected to be completed in Spring 2025)

Survey Request Exhibit



ISO 9001:2008 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

6700 Old Collamer Road, Suite 107 • East Syracuse, NY 13057 • Phone 315-849-3500

4/14/2023 Revised 2/9/2024 Revised 2/16/2024

Stantec Consulting Services, Inc.

55 Green Mountain Drive

South Burlington, VT 05403

Attn. Mr. Gregory Goyette, P.E.

Re: City of Burlington Great Streets- Bank and Cherry Streets- Additional Work Request

KCI is pleased to provide the following scope and cost proposal for the additional work requested by the City of Burlington and per your email dated April 6th, 2023 and subsequent revision emails dated February 7th and February 14th, 2024. KCI looks forward to continuing to work with you on this important project.

Subsurface Utility Engineering Services Scope

Subsurface Utility Engineering (SUE) has emerged in the past twenty years to better characterize the quality of subsurface utility information and to manage risks associated with proposed construction activities that may affect existing underground utilities. The process of SUE combines traditional civil engineering practices of utility data collection and depiction with new technologies and new concepts for defining utility information quality. A key component of SUE is affixing an attribute to utility information that denotes the quality of that utility information. KCI complies with the **ASCE Standard 38-02 Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data** for all work while providing these services.

Per a request from Mr. Greg Goyette for a scope and fee for additional services requested by the City of Burlington received via email dated April 6th, 2023, and revised February 7th, 2024 and further revised February 14th 2024. KCI will provide the following additional SUE services on this project:

For Additional Work on (A) Cherry Street (from Church St. to Winooski Ave.), also on Winooski Avenue (50 feet either side of Cherry St.), and on (B) Pine Street (50 feet extended from original work completed) as shown and detailed on the Survey Request Exhibit dated 3/28/23. Additionally, on Bank Street from Church Street to South Winooski Avenue. Additionally, on St. Paul Street at distance of fifty (50) feet south of Bank Street.

See revised attached pdf labeled "KCI Subsurface Utility Engineering Project Limits".

PHASE 1

- **Quality Level B (QL-B)- Designation of existing utilities (utility marking)- Line detection and marking**
 - KCI will select and apply appropriate surface geophysical methods to search for and detect subsurface utilities within the project limits, and/or trace a particular utility line or system. This may include pipe and cable locating equipment and ground penetrating radar.
 - Based on an interpretation of the data, KCI will mark the approximate horizontal location of utilities on the ground surface for subsequent survey (by other team member).

- KCI will provide a point system of the markings and collaborate with the team surveyor for accurate survey of the designated utilities.
- KCI will review and exercise professional judgement to correlate data from different sources to resolve conflicting information. KCI will provide information for the team to update the plan sheets to reflect the integration of QL-D, QL-C and QL-B information.
- KCI will recommend follow-up investigations as may be needed to further resolve discrepancies.
- KCI deliverables to include not-to-scale sketches and review of the surveyed designation plan sheet
- KCI anticipates designation that includes but may not be limited to the following anticipated utilities: electric (primary and secondary), street lighting electric, gas, water, telecom, catv, gas services, water services. Gravity systems (sanitary and storm) will be investigated by others. **KCI will also investigate and provide interior dimensions on up to eight (8) structures (telecom or electric) and subsequently marked on the surface for survey by others.**

PHASE 2

➤ **Quality Level A (QL-A) – Locating -Verification of horizontal and vertical location of target utilities**

- KCI will perform vacuum excavated test holes to verify, by exposure and survey of the utility at specific points, the exact horizontal and vertical location of targeted utilities where design review identifies potential conflicts with proposed new facilities.
- Test hole locations are to be provided to KCI by Stantec, prior to the KCI test hole crew arrival on the project site. If requested, KCI will provide input to Stantec regarding suggested test hole locations.
- Vacuum excavation provides a minimally intrusive and non-destruction method that minimizes the potential for damage to the structure or facility being exposed. Using this method allows for the exposure of facilities without damage to the line, wrapping, coating, cathodic protection or other coverings or features
- KCI will provide all cones and signs necessary for minor work zone traffic control to complete our work. **Due to the unknown locations of the test holes costs for any work areas that require additional complex traffic control features ie. road closure, lane closure with flaggers, police detail, etc. are included in this proposal and budgeted at \$7,000 in case of need.** This amount will only be charged as/if necessary to complete the work in a safe manner.
- Data collected includes: elevation of top and/or bottom of the utility, tied to the project datum, to an accuracy of +/- 0.05 feet, elevation of existing grade over the utility at test hole, horizontal location, outside diameter of the facility, utility material (when ascertainable), pavement thickness, identity of utility owner and other pertinent data as is noted during test hole operations.
- KCI is anticipating **twenty (20) test holes** locations between 0-6' deep each.
- KCI will notify DigSafely prior to the start of any vacuum excavation test holes.
- Test holes will be restored with excavated material compacted in a manner acceptable to the owner. Pavement areas are restored using replaced asphalt cores and epoxy restoration practices, or in the case of impending construction activities may be restored using cold patch asphalt. Non-paved areas are restored in-kind, as nearly as practicable, to pre-existing conditions.
- Upon completion of test hole operations, KCI will use its professional judgement to correlate from different sources and to resolve conflicting information. KCI will recommend any follow-up investigations as may be needed to further resolve discrepancies.
- All SUE work will be reviewed, and if requested signed and stamped, by a KCI professional engineer licensed to perform work in Vermont.
- KCI anticipates a work schedule of Monday through Friday during normal operation hours (7:00am-5:00pm) and any work required outside of these hours would require additional compensation.

- Test hole deliverables will include a compiled test hole data chart and if requested raw data field copies of individual test hole reports.
- Survey of the test hole reference points will be performed by others and is not included in this proposal. Elevation of the reference points should be provided to KCI, by the surveyor, for inclusion in our compiled test hole data chart.

COST COMPONENT

Phase 1- QL-B Utility Designation Add Lump Sum \$ 56,800.00

Phase 2- QL-A Utility Locates (budgeting 20 test holes) Add Lump Sum \$ 67,350.00

Total Cost Additional Work \$ 124,150.00

All pricing is inclusive of labor, equipment and expenses. WZTC subcontractor has been included in the test hole pricing.

Additional work requested within the same mobilization would be charged at the following unit pricing:

Utility Designation - \$ 3,200.00 per day Additional Test Holes - \$ 2,750.00 each

Additional work requested outside the initial mobilization would be charged the above noted unit rates plus a mobilization charge of \$ 2,700.00 each.

SCHEDULE - KCI will mobilize field crew(s) to begin work within **two to four weeks** upon receipt of an approved contract change order and receipt of a written Notice to Proceed (NTP).

BILLING AND PAYMENT– KCI will invoice the client directly, monthly. Payment is due within 30 days of invoice receipt.

QUALIFICATIONS– All SUE Technicians involved in the completion of the requested SUE services hold a minimum of OSHA 10 certifications for jobsite safety and confined space entry as well as intensive company internal training in utility designation and test hole procedures. Additionally, our personnel are ATSSA Flagger Safety trained. If additional information is needed for pre-qualification purposes please advise and we can provide needed information.

Our work will be reviewed by our Professional Engineer, duly licensed in the State of Vermont.

If the foregoing is acceptable, and to authorize us to proceed with these services, please execute this agreement by signing in the space provided and return a copy for our files.

By my signature hereon, I hereby authorize the scope, fee and general provisions as described above.

BY: _____ **DATE:** _____

We appreciate the opportunity to submit this proposal and the prospect of assisting you on this project. If you should have any questions, please don't hesitate to call.

Sincerely,

Brian MacVean

Senior Project Manager

Subsurface Utility Engineering



KCI

(315) 870-0952

Brian.MacVean@kci.com

KCI Subsurface Utility Engineering Project Limits

Burlington CDS CD23(1) Church Street Side Street- Cherry & Reconnecting Downtown Burlington

Legend

South Winooski
Avenue- 50' north and
south of Cherry Street

Cherry Street- from
Church Street to South
Winooski Avenue

Bank Street- from
Church Street to South
Winooski Avenue

Pine Street- extend 50'
from previous

St. Paul Street- extend
50' from previous



The University of Vermont

March 1, 2024

Greg Goyette
Stantec
193 Tilley Drive Suite 101
South Burlington VT 05403-4440

Dear Greg,

Attached, please find a proposal for an Archaeological Resources Assessment and Historic Resources Review for the Burlington Church Street Side Street- Cherry Street and RAISE Reconnecting Downtown Burlington Projects in the City of Burlington. We can schedule this work as soon as we receive authorization from you.

Please let me know if you have any questions about our proposal.

Sincerely,

John G. Crock, Ph.D.
Associate Professor of Anthropology
Director, UVM Consulting Archaeology Program

A Proposal for
Burlington Church Street Side Street- Cherry Street and RAISE Reconnecting Downtown
Archaeological Resources Assessment and Historic Resources Review

Submitted to:

Greg Goyette
Stantec
193 Tilley Drive Suite 101
South Burlington VT 05403-4440

Submitted by:

Consulting Archaeology Program
University of Vermont
111 Delehanty Hall
180 Colchester Ave
Burlington, VT 05405

March 1, 2023

Burlington Church Street Side Street- Cherry Street and RAISE Reconnecting Downtown Archaeological Resources Assessment and Historic Resources Review

Goal and Scope of Service

The proposed investigation includes an Archaeological Resources Assessment (ARA) and a Historic Resource Review (HRR) in support of the City of Burlington Church Street Side Street- Cherry Street and RAISE Reconnecting Downtown project in Burlington, Chittenden County, Vermont. The project area includes Cherry Street from Battery Street in the west, to South Winooski Avenue in the east, Bank Street from its western terminus at Pine Street to South Winooski, as the reconnection of Pine Street and St. Paul Streets to Cherry Street (Figure 1). The goal of the project will be to improve these streets for pedestrian, bicycle and vehicle traffic and update them to the standards embodied in the City of Burlington Great Streets Initiative. The goal of the ARA portion of the study will be to provide sufficient information to gauge: 1) the general archaeological sensitivity of the broadly defined project's Area of Potential Effects (APE), and 2) whether further archaeological studies will be required as the project proceeds. The goal of the HRR portion of the study will be to evaluate the project APE for potential direct and indirect effects to significant historic above-ground resources. This will include a review of the project's potential to impact any above-ground properties that are listed on or potentially eligible for listing on the National Register of Historic Places. The HRR will update, if necessary, a previous review of portions of the project area by Wheeler (2018) which included the Battery Street to Church Street section and Banks Street and will add new reviews of the Church Street to South Winooski Avenue section of Cherry Street, portions of Bank Street not included previously, and the reconnections of Pine and St. Paul Streets to Cherry Street. This work will be done for Stantec on behalf of the City of Burlington. The combined study will be performed to satisfy permitting requirements under state and federal law including Section 106 of the National Historic Preservation Act, as amended.

To assess potential historic archaeological resources at a general level, nineteenth- and twentieth-century maps will be examined and compared to identify any previously unrecorded site areas. Town histories and land records will be consulted along with the files of the state archaeological site inventory and the Vermont historic sites and structures inventory at the Vermont Division for Historic Preservation (VDHP), to determine if any archaeological sites are already recorded or potentially present within the project's Area of Potential Effects (APE). Project maps provided by project engineers and other appropriate maps and imagery will be used to record the approximate locations of historic sites and/or archaeologically sensitive areas that can be identified from these sources.

The VDHP's On-Line Resource Center (ORC) for professional archaeologists, archaeological reports and other documentation will be used to identify the locations of potentially significant historic sites and prehistoric Native American sites that lie in close proximity to the project area. This information will be used in combination with historic background research and field inspection of the broadly defined APE with the goal of identifying those areas that have a high sensitivity for containing as yet unrecorded historic and prehistoric sites. The criteria contained in the VDHP's "Environmental Predictive Model for Locating Archaeological Sites" will be used to establish general sensitivity for prehistoric sites. Project.



Figure 1. Image of Burlington showing the location of the project area encompassing Cherry Street, Bank Street and connections of Pine Street and St. Paul Streets to Cherry Street.

maps will be used to identify known sites and potential prehistoric and/or historic site areas that might be affected by the proposed project.

For the HRR portion of the review, in addition to updating, if necessary, the report by Wheeler (2018), the review of the project will include a "Determination of Eligibility" (DOE) to recommend whether or not a site, building, structure or object within the project area meets the National Register Criteria for Significance. The DOE form represents the initial step in determining whether or not a property meets the State or National Register Criteria for Significance for the VDHP. This work will include preparation of a Vermont Architectural Resource Inventory (VARI), which is a required component of the DOE form, to provide an inventory of Vermont's historic buildings and structures within the project area that are significant for their historic, architectural, and/or engineering merit. The VARI form records the resource's location, components, description, age, condition, integrity, significance and eligibility. The completion of both forms will meet all VDHP requirements, and all necessary maps and photographs will be included. Any background research needed to determine the chronology and context of the properties will be conducted and may include a survey of primary resources such as land records, deeds, newspaper files, journals and historic images and maps.

Results from both the background research and field inspection will be presented in the ARA report. All sensitive areas will be mapped and included as shapefile layers to be used in a Geographic Information System (GIS) format. The ARA and related documentation will be submitted by the UVM CAP as part of the project review process related to cultural resources. If the report concludes that the study area is not archaeologically sensitive and doesn't have the potential to affect significant State or National Register listed or eligible sites it will provide sufficient back up documentation for compliance with the regulatory process. If archaeologically sensitive areas are identified and ground disturbance cannot be avoided in these areas, further study will be required to determine the presence/absence of potentially significant sites prior to any project-related ground disturbance. Similarly, if the proposed project has the potential to directly or indirectly impact significant standing structures, recommendations will be made to limit and/or mitigate these impacts.

Staffing

UVM CAP Director, Dr. John G. Crock or archaeologist Dr. Jorge Garcia will act as primary consultants. They, and/or qualified senior staff will have responsibility for assessing the general precontact Native American and historic archaeological potential of the project area and for conducting the field inspection. Crock, and/or other staff will undertake the review of historic maps and site files. Crock, Garcia, and other staff will prepare the ARA portion of the report, with staff assistance as necessary. Historic Preservationist Catherine Quinn will have the responsibility for reviewing previously completed assessments of standing structures within the project area and conducting the HRR for the previously unstudied section and will prepare that portion of the report, with staff assistance, as necessary.

Time Estimates

A variety of tasks will need to be accomplished to provide sufficient information during the ARA to gauge the general archaeological sensitivity and above-ground historic context of the project area. A budget estimate to cover associated staffing, travel and other expenses is attached. It is anticipated that the ARA and HRR can be scheduled after the UVM CAP receives a written (email) letter of authorization. The proposed ARA will be based on the generally outlined project boundaries to be further defined in conjunction with Stantec and the City of Burlington. Any additional time resulting from expansion of the project area may require a supplemental budget. We currently estimate that the ARA can be accomplished in the summer, 2023.

References Cited

Wheeler, Walter

2018 *Historic Resources Identification. Great Streets: Bank and Cherry Streets, City of Burlington, Chittenden County, Vermont.* Hartgen Archaeological Associates, Inc. Submitted to Stantec, Burlington.

Burlington Church Street Side Street- Cherry Street and RAISE ARA and HRR

Budget Worksheet

	<u>Number</u>	<u>Days</u>	<u>Rate</u>	<u>Cost</u>
<i>Project Administration</i>				
Principal Investigator	1	0.1	415.00	42.00
<i>Background Research</i>				
Research Field Technician	1	4	230.00	920.00
<i>Field Work</i>				
Principal Investigator	1	0.25	415.00	104.00
Historic Preservationist	1	5	250.00	1,250.00
<i>Report Writing, Production</i>				
Principal Investigator	1	1	415.00	415.00
Historic Preservationist	1	6	250.00	1,500.00
Subtotal				4,231.00
Fringe				
Permanent (43.8%)				1,853.00
Non-Salaried Expenses				
			<u>miles</u>	
Mileage (0.67/mile)			2.00	1.00
Report production and distribution				25.00
Total				6,110.00
CAP Operating (101%)*				6,171.00
<i>*CAP Operating recovers program, 49% plus College, 52%, non-billable expenses</i>				
Project Total				12,281.00

Attachment C:
VTrans Specifications for Contractor Services

CONTRACTOR CONTRACT ATTACHMENT:

Specifications for Contractor Services

Includes:

- 1. ABBREVIATIONS AND DEFINITIONS**
- 2. INDEMNIFICATION**
- 3. INSURANCE**
- 4. COMPLIANCE WITH LAWS**
- 5. CONTRACTUAL AGREEMENTS**
- 6. OPERATIONAL STANDARDS**
- 7. PROJECT DEVELOPMENT AND STANDARDS**
- 8. PAYMENT FOR SERVICES RENDERED**
- 9. AUDIT REQUIREMENTS**
- 10. SECRETARY OF STATE**
- 11. VERMONT STANDARD TITLE VI/NON-DISCRIMINATION ASSURANCES APPENDICES A and E**

June 2014

(UPDATED May 2019 to add section 11)

Specifications for Contractor Services

Section 1: ABBREVIATIONS AND DEFINITIONS

Wherever used in these Specifications for Contractor Services or in any documents that these specifications pertain to or govern; abbreviations may be used in place of a word or phrase and definitions may be used to interpret statements for the meaning of words, phrases or expressions. The intent and meaning for abbreviations and definitions shall be interpreted as herein set forth:

1.01 ABBREVIATIONS.

CADD	Computer Aided Drafting and Design
CFR	Code of Federal Regulations
CPM	Critical Path Method
CSC	Contractor Selection Committee
DBE	Disadvantaged Business Enterprise
EDM	Electronic Data Media
FTP	File Transfer Protocol
LOI	Letter of Interest
RFP	Request for Proposals
SOW	Scope of Work
U.S.C.	United States Code
USDOT	United States Department of Transportation
USEPA	United States Environmental Protection Agency
VOSHA	Vermont Occupational Safety and Health Administration
V.S.A.	Vermont Statutes Annotated
VTrans (VAOT)	Vermont Agency of Transportation

1.02 DEFINITIONS. Wherever in these specifications or in other contract documents the following terms or pronouns in place of these are used, the intent and meaning shall be interpreted as follows, unless that context makes clear that another meaning is intended:

ACCEPTANCE: (Reviews-Acceptances) The Municipality's determination that a deliverable meets the requirements of the contract. The Municipality's determination shall prevail in the interpretation of acceptability.

ACCEPTANCE DATE: The date of the written notice to the contractor by the Project Manager that the project is complete and final payments, if applicable, have been approved as provided by the contract.

AGENCY: State of Vermont, Agency of Transportation, also referred to as VAOT or VTrans.

Specifications for Contractor Services

AGREEMENT: See CONTRACT.

AMENDMENT: A change to a contract that has been reviewed and approved, by signed document, by all parties to the contract.

AUDIT: An examination of the financial accounting and record systems of an entity in accordance with Generally Accepted Governmental Auditing Standards (yellow book), applicable accounting principles, and contract terms.

CALENDAR DAY: A day as shown and sequenced on the calendar, beginning and ending at midnight, as differentiated from work days or other intermittent time references.

COMPETITIVE NEGOTIATION: A means of procurement involving negotiations, based on qualifications, as described in Title IX of Federal Property and Administrative Services Act of 1949, or the formal procedure permitted by Title 19 V.S.A. Section 10a. Any competitively procured contract awarded without using a sealed bid process is considered a negotiated contract.

CONTRACT: A written contract between the Municipality and another legally distinct entity for the provision of service(s) and/or product(s). The term contract includes all such contracts whether or not characterized as a “contract”, “agreement”, “miscellaneous contract”, “letter of agreement”, “amendment” or other similar term.

CONTRACTOR: An individual or legally distinct entity providing contractual services and/or products directly to the Municipality.

DIRECTOR: A Division manager within the Agency who reports directly to Vermont’s Secretary of Transportation.

DIVISION: A major component of the Agency, headed by a member of the Agency’s executive staff. Each Division is subdivided into Sections and Units.

ENGINEERING AND DESIGN RELATED SERVICES: Means program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services with respect to a construction project.

EXTRA WORK OR ADDITIONAL SERVICES: Services determined to be required that are not specified in a contract.

FIXED FEE: A specific amount of money to be paid in addition to the hourly or other rates for the work performed pursuant to a contract which is determined by taking into account the size, complexity, duration, and degree of risk involved in the work. Overruns in the work and/or the duration of the work shall not warrant an increase in the fixed fee.

Specifications for Contractor Services

OVERTIME PREMIUM RATE: Time and one-half or some other multiple for hours worked in excess of 40 hours in a workweek or for hours worked on weekends, holidays, and other times when work is not generally performed.

PROGRESS PAYMENTS: Partial payments made for services performed under the contract as the work progresses, at intervals and within limitations designated in the contract.

PROGRESS REPORT: A comprehensive narrative, graphic and/or tabular document/report, whether in hard copy or electronic format, indicating actual work accomplished by the contractor.

PROJECT: All activities performed and expenditures made to accomplish a specific goal. A contract may encompass part of, or more than, one project.

PROJECT MANAGER (LOCAL PROJECT MANAGER): A Municipal representative responsible for administrative management of a project and coordination of all activities related to the project, including the contract(s) to accomplish the goals of the project.

SCOPE OF WORK: A detailed description of all services and actions required of a contractor in a contract.

STATE: The State of Vermont as represented through and by the Vermont Agency of Transportation.

SUBCONTRACTOR: An individual or legally distinct entity to whom or which the contractor sublets part of the work.

VALUABLE PAPERS: Material bearing written or printed information of importance, utility or service relating to a project or contract. Electronic information is also included.

WORK: The furnishing of all labor, materials, equipment, and/or incidentals necessary or convenient to the successful completion of the contract and carrying out of the duties and obligations imposed by the contract.

Section 2: INDEMNIFICATION

2.01 INDEPENDENCE, LIABILITY. The Contractor agrees, to the fullest extent permitted by the law, that it shall indemnify and hold harmless the Municipality, its officers, agents and employees from liability for damages to third parties, together with costs, including attorney's fees, incurred in defending such claims by third parties, to the extent such liability is caused by the negligent or intentional acts, errors, or omissions of the Contractor, its agents or employees, committed, in the performance of professional services to be provided under this Agreement.

Specifications for Contractor Services

The Municipality is responsible for its own actions. The Contractor is not obligated to indemnify the Municipality or its officers, agents and employees for any liability of the Municipality, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

In the event the Municipality, its officers, agents or employees are notified of any claims asserted against it or them to which this indemnification clause may apply, the Municipality or its officers, agents and employees shall immediately thereafter notify the Contractor in writing that a claim to which the indemnification agreement may apply has been filed.

Section 3: INSURANCE

3.01 GENERAL. Prior to beginning any work pursuant to a contract, the Contractor shall have the required insurance coverages in place. The certificate(s) of insurance coverage shall be documented on forms acceptable to the Municipality. Compliance with minimum limits and coverages, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the Municipality, must be received prior to the effective date of the contract. The insurance policy(ies) shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the Municipality. If the contract is for a period greater than one year, evidence of continuing coverage must be submitted to the Municipality on an annual basis. Certified copies of any insurance policies may be required. Each policy shall name the Municipality and the State of Vermont as additional insured for liabilities arising out of the contractor's actions, errors, and/or omissions under this agreement.

The contractor shall:

- (a) Verify that all subcontractors, agents or workers meet the minimum coverages and limits;
- (b) Maintain current certificates of coverage for all subcontractors, agents and/or workers;
- (c) Where appropriate, verify that all coverages include protection for activities involving hazardous materials; and
- (d) Verify that all work activities related to the contract are covered with at least the following minimum coverages and limits.

3.02 WORKERS COMPENSATION. With respect to all operations performed, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

Specifications for Contractor Services

3.03 GENERAL LIABILITY AND PROPERTY DAMAGE. With respect to all operations performed under the contract, the Contractor shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence

\$1,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$ 50,000 Fire/ Legal/Liability

The Contractor shall name the Municipality and State of Vermont, and their officers and employees, as additional insured for liabilities arising out of the contractor's actions, errors, and/or omissions under this agreement.

3.03 AUTOMOTIVE LIABILITY. The Contractor shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

The Contractor shall name the Municipality and State of Vermont, and their officers and employees, as additional insured for liabilities arising out of the contractor's actions, errors, and/or omissions under this agreement.

No warranty is made that the coverages and limits required are adequate to cover and protect the interests of the contractor for the contractor's operations. These are solely minimums that must be met to protect the interests of the Municipality.

3.04 VALUABLE PAPERS AND RECORDS INSURANCE. The contractor shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the Municipality or developed by the contractor, subcontractor, worker or agent, in the event of loss, impairment or destruction. Such coverage shall remain in force until the final plans as well as all related materials have been delivered by the contractor to, and accepted by, the Municipality.

Unless otherwise provided, Valuable Papers and Records Insurance shall provide coverage on an "individual occurrence" basis with limits in the amount of one hundred and fifty thousand dollars (\$150,000) when the insured items are in the contractor's possession, and in the amount of forty thousand dollars (\$40,000) regardless of the physical location of the insured items.

Specifications for Contractor Services

3.05 RAILROAD PROTECTIVE LIABILITY. When the contract requires work on, over or under the right-of-way of any railroad, the contractor shall provide and file with the Municipality, with respect to the operations that it or its subcontractor perform under the contract, Railroad Protective Liability Insurance for and on behalf of the railroad as named insured, with the Municipality and State of Vermont named as additional insured, providing for coverage limits of:

- (a) not less than two million dollars (\$2,000,000) for all damages arising out of any one accident or occurrence, in connection with bodily injury or death and/or injury to or destruction of property; and
- (b) subject to that limit per accident, a total (or aggregate) limit of six million dollars (\$6,000,000) for all injuries to persons or property during the policy period.

If such insurance is required, the contractor shall provide a certificate of insurance showing the minimum coverage indicated above to the Municipality prior to the commencement of rail-related work and/or activities, and shall maintain coverage until the work and/or activities is/are accepted by the Municipality

3.06 PROFESSIONAL LIABILITY INSURANCE.

- (a) **General.** When performing “engineering and design” related services, or upon the request of the State or Municipality, the contractor shall carry architects/engineers professional liability insurance covering errors and omissions made during performance of contractual duties with the following minimum limits:
 - \$2,000,000 – Annual Aggregate
 - \$2,000,000 – Per Occurrence
- (b) **Deductibles.** The contractor shall be responsible for any and all deductibles.
- (c) **Coverage.** Prior to performing any work, the contractor shall provide evidence of professional liability insurance coverage defined under this Section. In addition, the contractor shall maintain continuous professional liability coverage for the period of the contract and for a period of five years following substantial completion of construction.

Section 4: COMPLIANCE WITH LAWS

4.01 APPLICABLE LAW: This Agreement will be governed by the laws of the State of Vermont.

Specifications for Contractor Services

4.02 GENERAL COMPLIANCE WITH LAWS; RESPONSIBILITY FOR VIOLATION.

The contractor shall observe and comply with all federal, state, and municipal laws, bylaws, ordinances, and regulations in any manner affecting the conduct of the work and the action or operation of those engaged in the work, including all such orders or decrees as exist at present and those which may be enacted, adopted, or issued later by bodies or tribunals having any jurisdiction or authority over the work; and the contractor shall defend, indemnify and save harmless the State, any affected railroad(s), and any affected municipality(ies), and all their officers, agents, and employees against any claim or liability arising from or based on the violation of any such law, bylaws ordinances, regulations, order, or decree, whether by the contractor in person, its employee(s), or by the contractor's subcontractor(s) or agent(s), or employee(s) or agents thereof.

If the contractor discovers any provision(s) in the contract contrary to or inconsistent with any law, ordinance, regulation, order, or decree, the contractor shall immediately report it to the Local Project Manager in writing.

In particular, but not limited thereto, the contractor's attention is directed to the various regulations promulgated and enforced by the United States, VOSHA, environmental protection, and other resource agencies.

The Contractor shall comply with all applicable Federal, State and local laws.

4.03 SEVERABILITY. Provisions of the contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both parties. If for any reason a provision in the contract is unenforceable or invalid, that provision shall be deemed severed from the contract, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the contract.

4.04 DEBARMENT CERTIFICATION. By signing a contract, the contractor certifies to the best of its knowledge and belief that neither it nor its principals:

- (a) Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any state/federal agency;
- (b) Are not presently suspended, debarred, voluntarily excluded or determined ineligible by any federal/state agency;
- (c) Do not have a proposed debarment pending; and
- (d) Have not been indicted, convicted, or had a civil judgment rendered against him/her/it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Specifications for Contractor Services

Exceptions will not necessarily result in denial or termination of the contract, but will be considered in determining the contractor's responsibility. The contract shall indicate any exception, identify to whom or to what agency it applies, and state the date(s) of any and all action(s). Providing false information may result in criminal prosecution and/or administrative sanctions.

4.05 LOBBYING. The contractor certifies, by signing the contract, that to the best of its knowledge, belief, and ability:

- (a) No state/federal appropriated funds have been paid or will be paid by or to any person influencing or attempting to influence an officer or employee of a government agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any state/federal contract, the making of any state/federal grant, the making of any state/federal loan, the entering into of any cooperative agreement, or the extension, renewal, amendment or modification of any state/federal contract grant, loan or cooperative agreement.
- (b) If any funds, other than state/federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any state/federal agency, a member of Congress, or an employee of a member of Congress in connection with this state/federal contract grant loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
- (c) That it shall require that the language of this Certification be included in the award documents for all sub awards at all tiers (including subcontractors, sub-grants and agreements under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact, upon which reliance was placed when the contract was made or entered into. Submission of this certification is a prerequisite for making or entering into the contract, imposed by Title 31, Section 1352 U.S.C.

For any contract utilizing funds from the Federal Transit Administration (FTA) totaling more than One Hundred Thousand Dollars (\$100,000) a separate lobbying certificate must be filled out, signed, and submitted by the contractor, at the time of the contract award. The Municipality will provide the certificate to contractors who are required to comply with this obligation. It is the Contractor's responsibility to complete and submit the form. Failure of the municipality to provide the form does not alleviate the Contractor's responsibility.

4.06 DISADVANTAGED BUSINESS ENTERPRISES (DBE) POLICY REQUIREMENTS. Under the terms of the contract, the expression referred to as DBE shall be considered equivalent

Specifications for Contractor Services

to the Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) as defined under 49 CFR Part 26.

(a) Policy: It is the policy of the USDOT that DBEs shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this contract.

(b) DBE Obligation: The Municipality and its contractors agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. The Municipality and its contractors shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of USDOT assisted contracts.

(c) Sanctions for Noncompliance: The contractor is hereby advised that failure of a contractor or subcontractor performing work under this contract to carry out the requirements established under Sections 4.06 (a) and (b) shall constitute a breach of contract and, after notification by the Municipality, may result in termination of this contract by the Municipality or such remedy as the Municipality may deem appropriate.

(d) Inclusions in Subcontracts: The contractor shall insert the following DBE policy requirements in each of its subcontracts and shall insert a clause requiring its sub-contractors to include these same requirements in any lower tier subcontracts that the subcontractors may enter into, together with a clause requiring the inclusion of the DBE policy requirements in any further subcontracts that may in turn be made:

“The contractor or subcontractor shall not discriminate on the basis of race, color, sex, or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contractor deems appropriate.”

This DBE policy must be included in all subcontracts, and shall not be incorporated by reference.

(e) VAOT Annual DBE Goal: VAOT sets an overall annual goal for DBE participation on federally funded contracts, that is reviewed and revised each year, in accordance with the requirements of 49 CFR Section 26.45. For the specification of the overall annual DBE goal and an explanation of goal-setting methodology, contractors are directed to the VAOT DBE webpage at <http://vtrans.vermont.gov/civil-rights/doing-business/dbe-center/program-goals>.

4.07 CIVIL RIGHTS, EQUAL EMPLOYMENT OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT. During performance of the contract, the contractor will not

Specifications for Contractor Services

discriminate against any employee or applicant for employment because of race, age, color, religion, ancestry, sex, creed, sexual orientation, national origin, physical or mental condition, disability or place of birth.

The contractor shall comply with the applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, and Executive Order 11246 as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR chapter 60). The contractor shall also comply with the rules, regulations and relevant orders of the Secretary of Labor, Nondiscrimination regulations 49 CFR Part 21 through Appendix C. Accordingly, all subcontracts shall include reference to the above.

The contractor shall comply with all the requirements of Title 21, V.S.A., Chapter 5, Subchapter 6, relating to fair employment practices to the full extent applicable. Contractor 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 Contractor under this Agreement. Contractor further agrees to include this provision in all subcontracts

4.08 ENVIRONMENTAL REGULATIONS. Any contract in excess of one hundred thousand dollars (\$100,000.00) shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. Part 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. Part 1368), Executive Order 11738, and Environmental Protection Agency regulation (40 CFR Part 15), that prohibit the use, under non-exempt federal contracts, grants or loans, of facilities included on the EPA list of Violating Facilities. The provisions require reporting of violations to the state, Agency and to the USEPA Assistant Administrator for Enforcement (EN-329).

In the event of conflict between these environmental requirements and pollution control laws, rules, or regulations of other federal, state, or local agencies, the more restrictive laws, rules, or regulations shall apply.

4.09 FALSE STATEMENTS. To assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law (see, e.g., 18 U.S.C. 1020) as well as the laws of the State of Vermont.

4.10 PROMPT PAYMENT.

a. The contractor, by accepting and signing the contract, agrees to fully comply with the provisions of 9 V.S.A. Chapter 102, also referred to as Act No. 74 of 1991 or the Prompt Payment Act, as amended. This will apply whether or not the contract falls under the literal provisions of 9 V.S.A. Chapter 102.

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In accordance with 9 V.S.A. Section 4003, notwithstanding any contrary contract, payments shall be made within seven days from receipt of a corresponding progress payment by the Municipality to the contractor, or seven days after receipt of a subcontractor's invoice, whichever is later. Failure to comply constitutes a violation of this contract.

Violations shall be reported to the VTrans Office of Civil Rights for review. Failure to resolve disputes in a timely manner will result in a complaint made to the Agency's Chief of Contract Administration. In the Agency's judgment, appropriate penalties may be invoked for failure to comply with this specification. Penalties may include debarment or suspension of the ability to submit proposals.

b. The requirements of Section 4.10a must be included in all subcontracts.

4.11 CHILD SUPPORT PAYMENTS: By signing the Contract the Contractor certifies, as of the date of signing the Agreement, that they are (a) not under an 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. If the Contractor is a sole proprietorship, the Contractor's statement applies only to the proprietor. If the Contractor is a partnership, the Contractor's statement applies to all general partners with a permanent residence in Vermont. If the Contractor is a corporation, this provision does not apply.

4.12 TAX REQUIREMENTS: By signing the Agreement, the Contractor certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, he/she is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Agreement.

4.13 ENERGY CONSERVATION: The Contractor shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

Section 5: CONTRACTUAL AGREEMENTS

5.01 ENTIRE AGREEMENT: This Agreement represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect

5.02 ADMINISTRATION REQUIREMENTS. By signing the contract the contractor agrees to comply with the following provisions and certifies that the contractor is in compliance with the

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provisions of 49 CFR Part 18.36 – Procurement,(i)- Contract Provisions, with principal reference to the following:

(a) MUNICIPALITY’S OPTION TO TERMINATE. The contract may be terminated in accordance with the following provisions:

- (1) Breach of Contract: Administrative remedies - the Municipality may terminate the contract for breach of contract. Termination for breach of contract will be without further compensation to the contractor.
- (2) Termination for Cause: Upon written notice to the contractor, the Municipality may terminate the contract, as of the date specified in the written notice by the Municipality, if the contractor fails to complete the designated work to the satisfaction of the Municipality within the time schedule agreed upon. The contractor shall be compensated on the basis of the work performed and accepted by the Municipality at the date of termination.
- (3) Termination for Convenience: The Municipality may, at any time prior to completion of services specified under the contract, terminate the contract by submitting written notice to a contractor fifteen (15) days prior to the effective date, via certified or registered mail, of its intention to do so.

When a contract is terminated for the Municipality’s convenience, payment to the contractor will be made promptly for the amount of any fees earned to the date of the notice of termination, less any payments previously made.

When the Municipality terminates the contract for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.

However, if a notice of termination for convenience is given to a contractor prior to completion of twenty (20) percent of the services provided for in the contract (as set forth in the approved Work Schedule and Progress Report) the contractor will be reimbursed for that portion of any reasonable and necessary expenses incurred to the date of the notice of termination that are in excess of the amount earned under the approved fees to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the Municipality's approval.

The contractor shall make no claim for additional compensation against the Municipality by reason of such termination.

- (4) Lack of Funding: If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the project, the contractor may not make a claim against the

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Municipality in any form or forum for loss of anticipated profit.

(b) PROPRIETARY RIGHTS:

1. If a patentable discovery or invention results from work performed under the contract, all rights accruing from such discovery or invention shall be the sole property of the contractor. The State and the United States Government shall have an irrevocable, nonexclusive, non-transferable, and royalty free license to practice each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the contract.
2. Publications: All data, EDM, valuable papers, photographs and any other documents produced under the terms of the contract shall become the property of the Municipality. The contractor agrees to allow access to all data, EDM, valuable papers, photographs, and other documents to the Municipality, the State or United States Government at all times. The contractor shall not copyright any material originating under the contract without prior written approval of the Municipality.
3. Ownership of the Work: All studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM, photographs, and other material prepared or collected by the contractor, hereafter referred to as "instruments of professional service," shall become the property of the Municipality as they are prepared and/or developed during performance of the work of the contract. If a contractor uses a proprietary system or method to perform the work, only the product will become the property of the Municipality.
4. The contractor shall surrender to the Municipality upon demand or submit for inspection at any time, any instruments of professional service that have been collected, undertaken or completed by the contractor pursuant to the contract. Upon completion of the work, these instruments of professional service will be appropriately endorsed by the contractor and turned over to the Municipality.
5. Data and publication rights to any instruments of professional services produced under the contract are reserved to the Municipality and shall not be copyrighted by the contractor at any time without written approval of the Municipality. No publication or publicity of the work, in part or in total, shall be made without the consent of the Municipality, except that contractors may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.

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6. Rights and Remedies Additional: The rights and remedies of the Municipality under this article are in addition to any other rights and remedies that the Municipality may possess by law or under this contract.
7. Decisions Final and Binding: Decisions of the Municipality on matters discussed in this article shall be final and binding.

5.03 PERSONNEL REQUIREMENTS AND CONDITIONS. The contractor shall employ only qualified personnel to supervise and perform the work. The Municipality shall have the right to approve or disapprove key personnel assigned to administer activities related to the contract.

The contractor shall supply resumes for staff proposed to work on assignment(s) under contracts for review, and acceptance, or rejection, by the Municipality. This requirement may be waived if the proposed staff has worked on similar projects for the Municipality in the past. The Municipality retains the right to interview the proposed staff.

Except with the approval of the Municipality, during the life of the contract, the contractor shall not employ:

- (a) Personnel on the payroll of the State or the Municipality who are directly involved with the awarding, administration, monitoring, or performance of the contract or any project that is the subject of the contract.
- (b) Any person so involved within one (1) year of termination of employment with the State or the Municipality.

The contractor warrants that no company or person has been employed or retained, other than a bonafide employee working solely for the contractor, to solicit or secure the contract, and that no company or person has been paid or has a contract with the contractor to be paid, other than a bonafide employee working solely for the contractor, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the contract. For breach or violation of this warranty, the Municipality shall have the right to terminate the contract, without liability to the Municipality, and to retrieve all costs incurred by the Municipality in the performance of the contract.

The Municipality reserves the right to require removal of any person employed by a contractor from work related to the contract for misconduct, incompetence, or negligence, or who neglects or refuses to comply with the requirements of the contract. The decision of the Municipality, in the due and proper performance of its duties, shall be final and not subject to challenge or appeal beyond those described in Section 5.12.

5.04 No Employee Benefits For Contractor: The Contractor understands that the Municipality 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 Municipal employees, nor will the Municipality withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of signing of the Agreement. The Contractor understands that all tax returns required by the Internal Revenue Code

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and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Contractor, 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.

5.05 ASSIGNMENTS, TRANSFERS AND SUBLETTING. The contractor shall not assign, sublet, or transfer any interest in the work covered by the contract without prior written consent of the Municipality and appropriate federal agencies, if applicable. Further, if any subcontractor participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the Municipality. The approval or consent to assign, sublet or assign any portion of the work shall in no way relieve the contractor of responsibility for the performance of that portion of the work so affected. Except as otherwise provided in these specifications, the form of the subcontractor's contract shall be as developed by the contractor.

Any authorized subcontracts shall contain all of the same provisions specified for and attached to the original contract with the Municipality. The Municipality shall be provided copies of all signed subcontracts.

5.06 PERFORMANCE AND COMPLETION OF WORK. The contractor shall perform the services specified in accordance with the terms of the contract and shall complete the contracted services by the completion dates specified in the contract.

With the exception of ongoing obligations (e.g., insurance, ownership of the work, and appearances) upon completion of all services covered under the contract and payment of the agreed upon fee, the contract with its mutual obligations shall be terminated.

If, at any time during or after performance of the contract, the contractor discovers any design errors, change(s) in standards, work product, or other issues that warrant change(s), the contractor shall notify the Local Project Manager immediately. This paragraph also applies to those projects that are under construction or have been constructed.

5.07 CONTINUING OBLIGATIONS. The contractor agrees that if, because of death(s) or other occurrences, it becomes impossible to effectively perform its services in compliance with the contract, neither the contractor nor its surviving principals shall be relieved of their obligations to complete the services under the contract. However, the Municipality may terminate the contract if it considers a death, incapacity, or other removal of any principal(s) and/or key project personnel to be a loss of such magnitude that it would affect the contractor's ability to satisfactorily comply with the contract.

5.08 APPEARANCES.

- (a) **Hearings and Conferences:** The contractor shall provide professional services required by the Municipality that are necessary for furtherance of any work covered

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under the contract. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its services provided under the contract.

The contractor shall perform any liaison that the Municipality deems necessary for the furtherance of the work and participate with the Municipality, at any reasonable time, in conferences, concerning interpretation and evaluation of all services provided under the contract.

The contractor further agrees to participate in meetings with the Municipality, the State and applicable Federal Agencies, and any other interested or affected participants for the purpose of review or resolution of any conflicts pertaining to the contract. The contractor shall be equitably paid for such services, and for any reasonable expenses incurred in relation thereto, in accordance with the contract.

- (b) Appearance as Witness: If and when required by the Municipality, the contractor, or an appropriate representative, shall prepare for and appear in, on behalf of the Municipality, any litigation or other legal proceeding concerning any relevant project or related contract. The contractor shall be equitably paid for such services, and for any reasonable expenses incurred in relation thereto, in accordance with the contract.

5.09 CHANGES AND AMENDMENTS. Extra work, additional services or changes may necessitate the need to amend the contract. Extra work, additional services or changes must be properly documented and approved by the Local Project Manager, or an authorized official delegated this responsibility, prior to initiating action of any extra work, additional services, or changes.

5.10 APPENDICES. The Municipality may attach to these specifications appendices containing various forms and typical sample sheets for guidance and assistance to the contractor in the performance of the work. It is understood that such forms and samples may be modified, altered, and augmented from time to time by the Municipality. It is the responsibility of the contractor to ensure that it has the latest versions applicable to the contract.

5.11 EXTENSION OF TIME. The contractor agrees to perform the work in a diligent and timely manner; no charges or claims for damages shall be made by the contractor for delays or hindrances from any cause whatsoever. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the Municipality may decide. Time extensions may be granted only by amendment, and only for excusable delays such as delays beyond the control of the contractor and without the fault or negligence of the contractor.

The contractor may, with justification, request in writing an extension of the allotted time for completion of the work. A request for extension will be evaluated, and if the Municipality determines that the justification is valid, an extension of time for completion of the work may be granted. A request for extension of time must be made before the contractor is in default.

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The decision of the Municipality relative to granting an extension of time shall be final and binding.

5.12 RESOLUTION OF CONTRACT DISPUTES. The parties shall attempt to resolve any disputes that may arise under the contract by negotiation. Any dispute not resolved by negotiation shall be referred to the Local Project Manager for determination. If the contractor is aggrieved by the decision of the Local Project Manager, the contractor may file an appeal following the process described below.

- a. This Section sets forth the exclusive appeal remedies available with respect to this contract. The Contractor, by signing the contract, expressly recognizes the limitation on its rights to appeal contained herein, expressly waives all other rights and remedies and agrees that the decision on any appeal, as provided herein, shall be final and conclusive. These provisions are included in this contract expressly in consideration for such waiver and agreement by the Contractor.
- b. A Contractor may appeal any determination regarding the contract by filing a notice of appeal by hand delivery or courier to the Municipal Legislative Body. The notice of appeal shall specifically state the grounds of the protest.
- c. Within seven (7) calendar days of the notice of appeal the Contractor must file with the Municipality a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the appeal. Evidentiary statements, if any, shall be submitted under penalty of perjury. The Contractor shall have the burden of proving its appeal by clear and convincing evidence.
- d. Failure to file a notice of appeal or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to appeal the evaluation or qualified process and decisions thereunder.
- e. Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except the Municipal Legislative Body, in its sole discretion, may decide to permit a hearing or argument if it determines that such hearing or argument is necessary for the protection of the public interest. The Municipal Legislative Body shall issue a written decision regarding the appeal after it receives the detailed statement of appeal. Such decision shall be final and conclusive.
- f. If the Municipal Legislative Body concludes that the Contractor's has established a basis for appeal, the Municipal Legislative Body will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the appeal. Such steps may include, without limitation, withdrawing or revising the decisions, or taking other appropriate actions.

5.13 EXCUSABLE FAILURE TO COMPLY WITH TIME SCHEDULE. Neither party hereto shall be held responsible for delay in performing the work encompassed herein when such delay is due to unforeseeable causes such as, but not limited to, acts of God or a public enemy, fire, strikes, floods, or legal acts of public authorities. In the event that any such causes for delay are of such

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magnitude as to prevent the complete performance of the contract within two (2) years of the originally scheduled completion date, either party may by written notice request an extension of time or terminate the contract.

5.14 NO ADVANTAGE FROM ERRORS OR OMISSIONS IN CONTRACT DOCUMENTS.

Neither the contractor nor the Municipality shall take advantage or be afforded any benefit as the result of apparent error(s) or omission(s) in the contract documents. If either party discovers error(s) or omission(s), it shall immediately notify the other.

5.15 NO GIFTS OR GRATUITIES: Contractor 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 Municipality or the State during the term of this Agreement.

5.16 ADDITIONAL ADMINISTRATIVE REQUIREMENTS:

- (a) Copeland "Anti-Kickback" Act. For any Federal-Aid Contracts or subcontracts for construction or repair, the Contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. Part 874) as supplemented by Department of Labor Regulations (29 CFR Part 3).
- (b) Davis-Bacon Act. For any Federal-Aid construction contracts in excess of \$2,000, the Contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. Section 276a to 267a-7) as supplemented by Department of Labor Regulations (29 CFR Part 5).
- (c) Work Hours. For any Federal-Aid construction contracts in excess of \$ 2,000, or in excess of \$ 2,500 for other contracts involving employment of mechanics or laborers, the Contractor agrees to comply with the Sections 103 and 107 of the Contract Working Hours and Safety Standards Act (40 U.S.C. Section 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5).
- (d) Exclusionary or Discriminatory Specifications. Section 3(a)(2)(C) of the UMT Act of 1964, as amended, prohibits the use of grant of loan funds to support procurements utilizing exclusionary of discriminatory specifications.

Section 6: OPERATIONAL STANDARDS

6.01 RESPONSIBILITY FOR SUPERVISION. The contractor shall be responsible for supervision of contractor employees and subcontractors for all work performed under the contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the contract.

6.02 WORK SCHEDULE AND PROGRESS REPORTS. Prior to initiating any work, the contractor shall work with the Municipality's Local Project Manager to develop a work schedule showing how the contractor will complete the various phases of work to meet the completion date

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and any interim submission date(s) in the contract. The Municipality will use this work schedule to monitor the contractor.

The contractor during the life of the contract shall make monthly progress reports, or as determined by the Local Project Manager, indicating the work achieved through the date of the report. The contractor shall link the monthly progress reports to the schedule. The report shall indicate any matters that have, or are anticipated to, adversely affected progress of the work. The Municipality may require the contractor to prepare a revised work schedule in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days. The revised work schedule shall be due as of the date specified by the Municipality.

6.03 UTILITIES. Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by proposed construction, the Contractor shall consult with the VTrans' Utility Section and initiate contacts and/or discussions with the affected owner(s) regarding requirements necessary for revision of facilities, both above and below ground. All revisions must be completely and accurately exhibited on detail sheets or plans. The contractor shall inform the Municipality, in writing, of all contacts with utility facility owners, and the results thereof.

6.04 PUBLIC RELATIONS. Whenever it is necessary to perform work in the field (*e.g.*, with respect to reconnaissance, testing, construction inspection and surveying) the contractor shall endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the contractor shall conduct themselves with propriety. If there is need to enter upon private property to accomplish the work under the contract, the contractor shall inform property owners and/or tenants in a timely manner and in accordance with relevant statutes. All work will be done with minimum damage to the land and disturbance to the owner thereof. Upon request of the contractor, the Municipality shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the contractor is acting on behalf of the Municipality.

6.05 INSPECTION OF WORK. The Municipality, the State and applicable federal agencies shall, at all times, have access to the contractor's work for the purposes of inspection, accounting and auditing, and the contractor shall provide appropriate and necessary access to accomplish inspections, accounting, and auditing. The contractor shall permit the Municipality, the State, or representative(s) of the State and applicable federal agencies the opportunity at any time to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the contractor pursuant to the contract.

A conference, visit to a site, or inspection of the work may be held at the request of the contractor, the Municipality, the State, and appropriate federal agency(ies).

6.06 WRITTEN DELIVERABLES/REPORTS. Unless otherwise identified in the scope of work, written deliverables presented under terms of the contract shall be on 8.5" by 11" paper, consecutively printed on both sides. Reports shall be bound and have a title page that identifies the name and number of the project, if applicable, and publication date. The report shall have a table of contents and each page shall be numbered consecutively. Draft reports shall be clearly identified as such.

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Section 7: PROJECT DEVELOPMENT AND STANDARDS

7.01 PLANS, RECORDS AND AVAILABLE DATA. At the request of the contractor, the Municipality will make available to the contractor, at no charge, all information and data related to the contract.

7.02 DESIGN SPECIFICATIONS, STANDARDS, MANUALS, GUIDELINES, DIRECTIVES, AND POLICIES. The contractor shall comply with all applicable statutes, regulations, ordinances, specifications, manuals, standards, guidelines, policies, directives and any other requirements related to the contract.

In case of any conflict with the items referenced above, the contractor is responsible to ascertain and follow the direction provided by the Municipality.

7.03 ELECTRONIC DATA MEDIA. Contractors, subcontractors, and representative(s) thereof performing work related to the contract shall ensure that all data and information created or stored on EDM is secure and can be duplicated if the EDM mechanism is subjected to power outage or damage. For those projects that are to be stored on the VTrans plan archival system the following shall apply:

(a) CADD Requirements.

CADD requirements are available in “The Vermont Agency of Transportation CADD Standards and Procedure Manual” on the VTrans web page at <http://www.vtrans.vermont.gov> . VTrans has developed this manual to ensure that all electronic CADD files delivered to and taken from the Agency are in formats that can be utilized for engineering purposes without modification. VTrans will not accept or pay for any CADD files which do not adhere to the requirements specified in the CADD manual.

(b) VTrans Web Page and File Transfer Protocol (FTP) Sites - Disclaimer.

The files located on the VTrans web page and FTP sites are subject to change. The contractor is responsible for maintaining contact with VTrans to determine if any changes affect the work being produced by the contractor. Although VTrans makes every effort to ensure the accuracy of its work, it cannot guarantee that transferred files are error free. VTrans is not responsible in any way for costs or other consequences, whether direct or indirect, that may occur to the contractor or any subsequent users of the information due to errors that may or may not be detected.

(c) Geographic Information System Requirements.

The contractor shall provide to the Municipality all spatially-referenced digital data developed for or used in a project. Such data shall conform to relevant standards and guidelines of the Vermont Geographic Information System with respect to digital media, data format, documentation, and in all other respects. Copies of the standards and guidelines can be obtained from the Vermont Center for Geographic

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Information, Inc., 58 South Main Street, Suite 2, Waterbury, VT 05676; (802) 882-3000 or at www.VCGI.vermont.gov .

(d) Data Specifications.

- (1) Data structures (databases, data files, and other electronic information) shall provide 4-digit date century recognition. Example: 2016 provides “date century recognition,” while ‘16 does not.
- (2) All stored data shall contain date century recognition, including, but not limited to, data stored in databases and hardware/device internal system dates.
- (3) Calculations and program logic shall accommodate both same century and multi-century formulas and data values. Calculations and program logic includes, but are not limited to, sort algorithms, calendar generations, event recognition, and all processing actions that use or produce data values.
- (4) Interfaces to and from other systems or organizations shall prevent non-compliant dates and data from entering or exiting any State system.
- (5) User interfaces (*i.e.*, screens, reports, and similar items) shall accurately show 4-digit years.

(e) General Specifications.

To provide uniform and consistent integration with electronic data transfer, all data, other than specific applications previously mentioned, shall be in Microsoft’s Office format. The desktop suite includes word processing, spread sheets and presentations. All transmissions of e-mail must be in Rich Text (RTF) or Hyper Text Markup Language (HTML) format.

7.04 REVIEWS AND APPROVALS. All work prepared by the contractor, subcontractor(s), and representatives thereof pursuant to the contract shall be subject to review and approval by the Municipality. Approval for any work shall be documented in writing.

Approvals shall not relieve a contractor of its professional obligation to correct any defects or errors in the work at the contractor’s expense.

The pertinent federal entity may independently review and comment on the contract deliverables. The contractor, through the Municipality, shall respond to all official comments regardless of their source. The contractor shall supply the Municipality with written copies of all correspondence relating to reviews. All comments must be satisfactorily resolved before the affected work is advanced.

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Section 8: PAYMENT FOR SERVICES RENDERED

8.01 PAYMENT PROCEDURES. The Municipality will pay the contractor, or the contractor's legal representative, progress payments monthly or as otherwise specified in the contract.

- (a) General: Payment generally will be determined by the percentage of work completed as documented by a progress report of such work. The total percentage of work billed shall be within ten (10) percent of the total percentage of work completed. The percentage of work completed is based on the actual contract work produced, as outlined in the monthly progress report.
- (b) Hourly-Type Contracts: For hourly type contracts, payments will be made based on documented hours worked and direct expenses encumbered, as allowed by the contract.
- (c) Actual Costs and Fixed Fees: When applicable for the type of payment specified in the contract, the progress report shall summarize actual costs and any earned portion of a fixed fee.
- (d) Maximum Limiting Amount Cannot Be Exceeded: The total amount invoiced for the contract and the total amount paid pursuant to the contract cannot exceed the contract's Maximum Limiting Amount.
- (e) Invoices: Invoices shall be submitted to the Municipality's Local Project Manager. The invoice must adhere to all terms of the contract. The "final invoice" shall be so labeled. All invoices must:
 - 1) Be originals signed by a company official and be accompanied by two copies, with documentation for the original and all copies.
 - 2) Indicate the appropriate project name, project number if applicable, and contract number. When applicable, invoices shall further be broken down in detail between projects.
 - 3) Be dated and list the period of performance for which payment is requested.
 - 4) Include a breakdown of direct labor hours by classification of labor, phases and tasks, if applicable. For reporting purposes, however, the amounts can be combined for phases that are paid from the same funding source.
 - 5) Not include overtime rates unless the Municipality's Local Project Manager provides prior written approval, if applicable. Information regarding overtime can be found in 48 CFR Ch. 1, Section 22.103.

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- 6) Be accompanied by documentation to substantiate necessary charges. Documentation of all charges must accompany the original invoice and each copy.
- (f) Meals and Travel Expenses: When applicable for the type of payment specified in the contract, reimbursement of expenses for meals and travel shall be limited to the current, approved in-state rates as determined by the State's non-management bargaining unit labor contract, and need not be receipted. Current in-state expense reimbursement rates may be obtained from the Vermont Department of Human Resources.
- (g) Other Expenses: Expenses for the following items will be reimbursed at reasonable rates as determined by the Municipality. In all instances, receipts or bills indicating costs pertaining to the project identified, inclusive of any discounts given to the contractor, must be submitted.
 - 1. Lodging.
 - 2. Telephone and fax.
 - 3. Printing and reproduction.
For printing and reproduction work performed within the contractor's firm, log sheets are sufficient if they clearly indicate the contract or project copies.
 - 4. Postage and shipping.
Contractor shall choose the most economical type of service (regular mail, overnight express, other) workable for the situation. The use of express mail or overnight delivery should be limited to those instances when such expenditures are warranted.
- Reimbursement of all other expenses is subject to approval by the Municipality and all other reimbursement requests must include receipts or other documentation to substantiate the expenses. Except as otherwise provided in the contract, all requests for reimbursement of direct expenses must reflect actual costs inclusive of any discounts given to the contractor.
- The contractor must attach any sub-contractor invoices, ensure that they adhere to the terms of the contract, and include all necessary receipts and other documentation. **Mark-up on subcontractor invoices is not allowed.**
- (h) Payment Is Not Acceptance: Approval given or payment made under the contract shall not be conclusive evidence of the performance of said contract, either wholly or in part. Payment shall not be construed to be acceptance of defective work or improper materials.
- (i) Payment for Adjusted Work: As adjustments are required for additions, deletions, or changes to the contract, payment for such work shall be in accordance with Subsection 8.02 - Payment for Additions, Deletions or Changes and/or any applicable fees set forth in amendment(s) to the contract.

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- (j) If the contractor discovers error in a submitted invoice or payment, the contractor shall notify the Local Project Manager of the error prior to the submission of any additional invoices. The local project manager will provide direction on how the error is to be resolved.

8.02 PAYMENT FOR ADDITIONS, DELETIONS OR CHANGES: The Municipality may, upon written notice, require changes, additions or deletions to the work/contract. Whenever possible, any such adjustments shall be administered under the appropriate fee established in the contract based on the adjusted quantity of work.

The Municipality may, upon written notice, and without invalidating the contract, require changes resulting from revision or abandonment of work already satisfactorily performed by the contractor or changes in the scope of work.

If the value of such changes, additions or deletions is not otherwise reflected in payments to the contractor pursuant to the contract, or if such changes require additional time and/or expense to perform the work, the contract may be amended accordingly.

The contractor agrees to maintain complete and accurate records, in a form satisfactory to the Municipality, for any extra work or additional services in accordance with Subsection 6.05 - Inspection of Work. When extra work or additional services are ordered, the contractor shall perform such work or services only after an amendment has been fully executed or a written notice to proceed is issued by the Municipality.

8.03 RELIANCE BY THE MUNICIPALITY ON REPRESENTATIONS: All payments by the Municipality under this Agreement will be made in reliance upon the accuracy of all prior representations by the Contractor, including but not limited to bills, invoices, progress reports and other proofs of work.

Section 9: AUDIT REQUIREMENTS

9.01 – AUDIT REQUIREMENTS. All Contractors shall provide information to verify the fiscal capacity of the firm and the acceptability of its accounting system to meet federal funds management requirements.

9.02 – INDIRECT COST CERTIFICATION. All contractors entering into a contract to provide engineering and/or design related services, regardless of amount, must have an audited indirect cost schedule and rate calculation completed according to a federally approved methodology.

9.03 RECORD AVAILABLE FOR AUDIT. The Contractor will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the Municipality, the State

Specifications for Contractor Services

or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The Municipality, the State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.

Section 10: SECRETARY OF STATE

10.01 REGISTRATION WITH SECRETARY OF STATE. The contractor shall be registered with the Vermont Secretary of State to do business in the State of Vermont if the contractor:

- (a) Is a domestic or foreign corporation.
- (b) Is a resident co-partner or resident member of a co-partnership or association.
- (c) Is (are) a non-resident individual(s) doing business in Vermont in his/her (their) individual capacity(ies).
- (d) Is doing business in Vermont under any name other than the Contractor's own personal name.

This registration must be complete prior to contract preparation. Current registration must be maintained during the entire contract term.

Section 11: VERMONT STANDARD TITLE VI/NON-DISCRIMINATION ASSURANCES APPENDICES A and E

11.01 ASSURANCE APPENDIX A. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part

Specifications for Contractor Services

21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

11.02 ASSURANCE APPENDIX E. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non- discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252),

Specifications for Contractor Services

(prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 et seq. and 49 C.F.R. § 303;

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 et seq.

Attachment D:
Burlington Livable Wage Ordinance Certification

Certification of Agreement to Comply with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor"), in connection with a contract for _____

services to be provided to the City of Burlington ("the City"), hereby certify, under oath, that the Contractor (and any of its subcontractors or subgrantees under this contract) shall comply with the City's Livable Wage Ordinance ("LWO"), B.C.O. 21-80 et seq., and that:

- (1) The Contractor shall pay all "covered employees" as defined by the LWO (including covered employees of subcontractors or subgrantees) a livable wage (as determined, or adjusted, annually by the City's chief administrative officer), and shall provide required paid time off for the term of the contract (*or the duration of the contracted project*);
 - (a) Full-time employees are entitled to 12 days of paid time off per year; and
 - (b) Part-time employees are entitled to 12 days of paid time off per year on a prorated basis;
 - (c) For a covered employer that provides employer assisted health care, the livable wage shall be at least \$17.44 per hour; and
 - (d) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least \$18.59 per hour.
- (2) The Contractor shall post a notice regarding the applicability of the LWO in the workplace or in other locations where covered employees normally work, and where such notice can be readily seen;
- (3) Upon request of the City's chief administrative officer, the Contractor, for itself and, as applicable, for any of its subcontractors or subgrantees, shall provide payroll records, health insurance enrollment records, and other relevant documentation, as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of the City's request;
- (4) The Contractor shall cooperate in any investigation conducted pursuant to the LWO by the City's designated accountability monitors or the City's Office of City Attorney & Corporate Counsel;
- (5) The Contractor shall not retaliate, nor allow any of its subcontractors or subgrantees to retaliate, against an employee or other person because such employee or person has exercised rights or is planning to exercise rights protected under the LWO, or has cooperated in an investigation conducted pursuant to the LWO;
- (6) The Contractor is required to insert in all subcontracts the requirements of the LWO. The Contractor is liable for violations of the LWO committed by its covered subcontractors.

Date: _____

By: _____
Contractor, or its duly authorized agent

Subscribed and sworn to before me:

Date: _____

Notary Public

Attachment E:
Burlington Outsourcing Ordinance Certification

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.

By: _____
Duly Authorized Agent

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Attachment F:
Burlington Union Deterrence Ordinance Certification

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

**Attachment G:
Consultant's Certificate of Insurance**

DRAFT - TO BE ADDED FOR FINAL

**Attachment H:
Conflict of Interest Form**

**MUNICIPAL ASSISTANCE BUREAU
CONFLICT OF INTEREST DISCLOSURE FORM
FOR LOCALLY MANAGED PROJECTS**

Name of Firm: Stantec

Project Name/Number: CDS Cherry and RAISE / CDS CD23(1)

Project Sponsor: City of Burlington

After reviewing the conflict of interest information in the VTrans Municipal Assistance Bureau Local Projects Guidebook, the 23 CFR §1.33 and 2 CFR §200.318, I have determined that no real or potential conflicts of interest have been identified for myself, any owner, partner or employee, with my firm or any of my sub-consulting firms providing services for the above local federal-aid project, including family members and personal interests of the above persons.

Signature of Consultant Representative in Responsible Charge

Julia Ursaki

Signature of Municipal Representative in Responsible Charge
(Signature of Municipal Representative only indicates receipt of this form)

cc: AOT Project Supervisor

Attachment I:
Debarment and Non-Collusion Form

**MUNICIPAL ASSISTANCE BUREAU
CONSULTANT DEBARMENT AND NON-COLLUSION FORM
FOR LOCALLY MANAGED PROJECTS**

Name of Firm: Stantec

Project Name/Number: CDS Cherry and RAISE / CDS CD23(1)

Project Sponsor: City of Burlington

I certify that neither I, my firm or its principals have not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive consultant selection in connection with this proposal for the above local federal-aid project.

I certify that neither I, my firm or its principals are presently suspended, debarred, voluntarily excluded or determined ineligible by any Federal or State Agency; do not have a proposed suspension, debarment, voluntary exclusion or ineligibility determination pending; and have not been indicted, convicted, or had a civil judgement rendered against (it, him, her, them) by a court having jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Signature of Consultant Representative in Responsible Charge

cc: Municipal Representative in Responsible Charge
AOT Project Supervisor

Attachment J:
DOT Form 272-040 EF

Certification for Federal-Aid Contracts

The prospective participant certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**Attachment K:
Certification Regarding Lobbying**

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization: _____

Street address: _____

City, State, Zip: _____

CERTIFIED BY: (type or print)

TITLE:

(signature)

(date)

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance		2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award		3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known: 4c			5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:		
6. Federal Department/Agency:			7. Federal Program Name/Description: CFDA Number, if applicable: _____		
8. Federal Action Number, if known:			9. Award Amount, if known: \$		
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		
Federal Use Only:					Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Attachment L:
Contractor's EEO Certification Form (CA-109)

CONTRACTOR'S EEO CERTIFICATION FORM

Certification with regard to the Performance of Previous Contracts of Subcontracts subject to the Equal Opportunity Clause and the filing of Required Reports.

The bidder ☐, proposed subcontractor ☐, hereby certifies that he/she has ☐, has not ☐ participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246 as amended, and that he/she has ☐, has not ☐, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Company	By	Title
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NOTE: The above certification is required by the Equal Employment Opportunity regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5 (Generally only contracts or subcontracts of \$10,000 or under are exempt.) Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration, or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

BTC Public Improvements Overall Budget
Federal/State Cooperative Agreement Projects Only
See CPP (TIF-STR) for other work/budget

1/12/2024
10/18/2023

by Federal Project						by Federal Fiscal Year (October-September)									
REVENUE:			Total	Leahy CDS	RAISE	FY23	FY24	FY25	FY26	FY27	FY28	FY29	TOTAL		
Leahy Congressionally Directed Spending	Cherry Street (Church-Winooski)	\$ 2,400,000.00	\$3,000,000.00				\$ 144,000.00	\$ 518,400.00	\$ 1,080,000.00	\$ 657,600.00	\$ -	\$ -	\$ 2,400,000.00		
City Capital	Local Match - Cherry Street (Church-Winooski)	\$600,000.00					\$ 36,000.00	\$ 129,600.00	\$ 270,000.00	\$ 164,400.00			\$ 600,000.00		
Leahy Congressionally Directed Spending	Cherry Street (Battery - Church)	\$ 9,600,000.00	\$12,000,000.00				\$ 396,000.00	\$ 2,029,600.00	\$ 4,468,000.00	\$ 2,706,400.00	\$ -	\$ -	\$ 9,600,000.00		
Waterfront Tax Increment Financing	Local Match - Cherry Street (Battery - Church)	\$2,400,000.00					\$ 99,000.00	\$ 507,400.00	\$ 1,117,000.00	\$ 676,600.00			\$ 2,400,000.00		
RAISE: Reconnecting Downtown	Bank Street, Balance of work on other streets	\$20,850,000.00			\$22,384,000.00		\$ 1,497,000.00	\$ 3,941,000.00	\$ 9,147,500.00	\$ 6,264,500.00	\$ -	\$ -	\$ 20,850,000.00		
RAISE: Workforce Development	CEDO	\$1,534,000.00					\$ 613,600.00	\$ 613,600.00	\$ 230,100.00	\$ 76,700.00	\$ -	\$ -	\$ 1,534,000.00		
Subtotal		\$37,384,000.00					\$ 2,785,600.00	\$ 7,739,600.00	\$ 16,312,600.00	\$ 10,546,200.00	\$ -	\$ -	\$37,384,000.00		
EXPENSES:															
Cherry Street (Church-Winooski)	CDS - PE	\$ 3,000,000.00		\$ 3,000,000.00			\$ 150,000.00	\$ 90,000.00	\$ 30,000.00	\$ 30,000.00			\$ 300,000.00		
	CDS - ROW							\$ 30,000.00	\$ 30,000.00						\$ 60,000.00
	CDS - CONSTRUCTION								\$ 528,000.00	\$ 1,320,000.00	\$ 792,000.00			\$ 2,640,000.00	
Cherry Street (Battery-Church)	CDS - PE	\$15,330,000.00		\$ 12,000,000.00			\$ 400,000.00	\$ 240,000.00	\$ 80,000.00	\$ 80,000.00			\$ 800,000.00		
	CDS - ROW							\$ 95,000.00	\$ 95,000.00				\$ 190,000.00		
	CDS - CONSTRUCTION								\$ 2,202,000.00	\$ 5,505,000.00	\$ 3,303,000.00			\$ 11,010,000.00	
	RAISE - PE												\$ -		
	RAISE - ROW			\$ 3,330,000.00									\$ -		
	RAISE - CONSTRUCTION								\$ 1,665,000.00	\$ 1,665,000.00			\$ 3,330,000.00		
Bank Street (Pine - Winooski)	PE	\$12,200,000.00			\$ 1,952,000.00		\$ 976,000.00	\$ 585,600.00	\$ 195,200.00	\$ 195,200.00			\$ 1,952,000.00		
	ROW				\$ 244,000.00		\$ 122,000.00	\$ 122,000.00			\$ 244,000.00				
	CONSTRUCTION				\$ 10,004,000.00			\$ 2,000,800.00	\$ 5,002,000.00	\$ 3,001,200.00		\$ 10,004,000.00			
Pine & St. Paul Street	PE	\$5,320,000.00			\$ 798,000.00		\$ 399,000.00	\$ 239,400.00	\$ 79,800.00	\$ 79,800.00			\$ 798,000.00		
	ROW				\$ 111,000.00		\$ -	\$ 111,000.00				\$ 111,000.00			
	CONSTRUCTION				\$ 4,411,000.00			\$ 882,200.00	\$ 2,205,500.00	\$ 1,323,300.00		\$ 4,411,000.00			
Workforce Development	PE	\$1,534,000.00			\$ 1,534,000.00		\$ 613,600.00	\$ 613,600.00	\$ 230,100.00	\$ 76,700.00			\$ 1,534,000.00		
Subtotal		\$ 37,384,000.00		\$ 15,000,000.00	\$ 22,384,000.00		\$ 2,785,600.00	\$ 7,739,600.00	\$ 16,312,600.00	\$ 10,546,200.00	\$ -	\$ -	\$37,384,000.00		

Board of Finance and City Council Submission ChecklistDepartment: Department of Public Works Submitter: Julia UrsakiTitle/Subject: Design Contract Award for CDS Cherry & RAISE Reconnecting Downtown

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	3/1/2024	Norm Baldwin/Jackie Esperti (acting director week on 3/1/24)
Mayor's Office informed and approved memo	Yes	3/4/2024	Jordan Redell
Board/Commission, if required	N/A		Board of Finance
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/1/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/1/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/4/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Yes	Board of Finance

To: Board of Finance
City Council

From: Kara Alnasrawi, Director of Business & Workforce Development

Date: March 11, 2024

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 of 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.

Current Funds:

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

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

BID:

Main Bid: \$858,870

Alternative #1: \$21,000

Alternative #2: \$26,000

Total Bid: \$905,870

The 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 alternative #1 and #2 bids are deemed to be reasonable and sufficient.

Don Weston and Team have executed several projects for the City of Burlington satisfactorily. The improvement work should occur starting in late spring and throughout the summer 2024. No large disruptions are expected and the Marketplace staff will work closely with merchants to maintain a clear flow of communication and will make all attempts to minimize any disruption.

ACTION:

Board of Finance:

To approve and recommend that the City Council authorize the acceptance of the total bid submitted by Don Weston Excavating as detailed herein to perform capital improvements to the Church Street Marketplace; and, to authorize the Director of Business Workforce and Development to execute a contract with Don Weston Excavating for such services in an amount not to exceed \$905, 870, subject to the review of the City Attorney's Office and Chief Administrative Officer.

City Council:

To authorize the acceptance of the total bid submitted by Don Weston Excavating as detailed herein to perform capital improvements to the Church Street Marketplace; and, to authorize the Director of Business Workforce and Development to execute a contract with Don Weston Excavating for such services in an amount not to exceed \$905, 870, subject to the review of the City Attorney's Office and Chief Administrative Officer.

Attachments: RFP, Contract, Bid

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

Javier 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

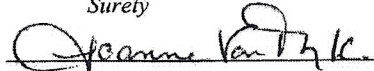


Leo Wrighton

Witness

Don Weston Excavating, Inc.
Principal
 (SEAL)

Fidelity & Deposit Company of Maryland
Surety

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

Printed in cooperation with the American Institute of Architects (AIA) by Fidelity & Deposit Company of Maryland
Fidelity & Deposit Company of Maryland vouches that the language in the document conforms exactly to the language
used in AIA Document A-310, February 1970 Edition.
BID70000ZZ0701f

**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.

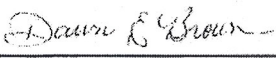
The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

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

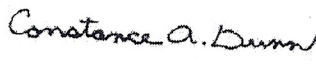

By: **Dawn E. Brown**
Secretary

**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

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

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.



MJ Pethick
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 DWEE ("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: [Signature]
Contractor

Subscribed and sworn to before me:

Date 1/31/24 [Signature]
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

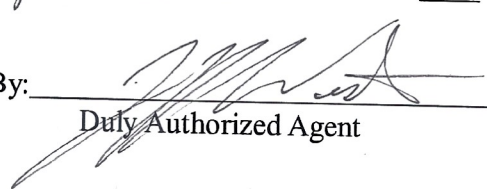
Subscribed and sworn to before me:

[Signature]
Notary

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

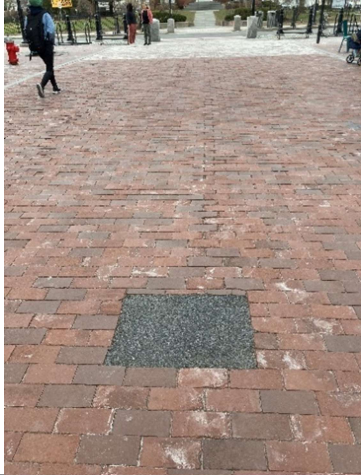
I, Jeff Weston, on behalf of DWEI
(Contractor) and in connection with Church Street Market place Improvements (City
contract/project/grant), hereby certify under oath that DWEI
(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will it
over the life of the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

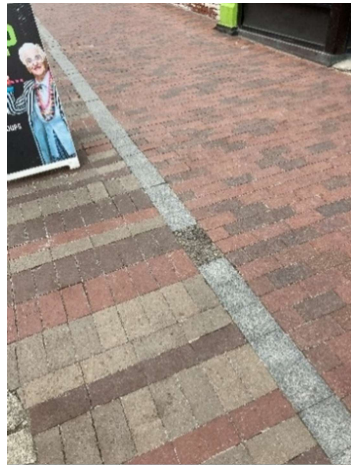
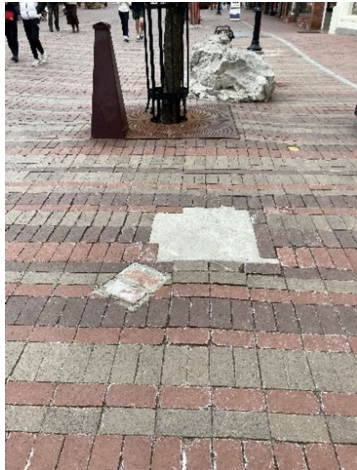
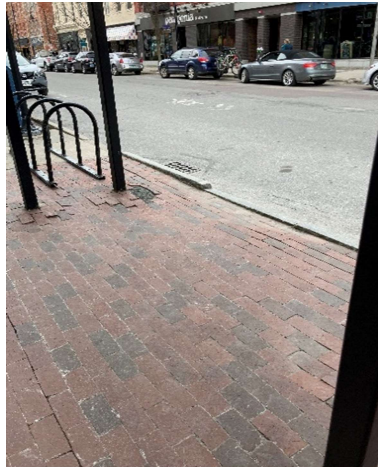
APPENDIX M

 CHURCH STREET MARKETPLACE				Maintenance Items
				Date: 8/9/2023
Item	Category	Description	Photo	Photo Date
1	Paver Spot Replacement (Add Alternate No. 2)	Missing Pavers		4/11/2023
2	Paver Spot Replacement (Add Alternate No. 2)	Paver settle at international city 'Irkutsk' granite paver		4/11/2023
3	Paver Spot Replacement (Add Alternate No. 2)	Missing Pavers		4/11/2023

APPENDIX M

4	Paver Spot Replacement (Add Alternate No. 2)	Missing Pavers		4/11/2023
5	Paver Spot Replacement (Add Alternate No. 2)	International city 'Barranquilla' granite paver edge severely cracked		4/11/2023
6	Pave Over Existing Tree Pit (Add Alternate No. 1)	Empty cobblestone tree pit at northwest corner of Bank & Church Street.		4/11/2023
7	Pave Over Existing Tree Pit (Add Alternate No. 1)	Empty cobblestone tree pit at southeast corner of Bank & Church Street.		4/11/2023

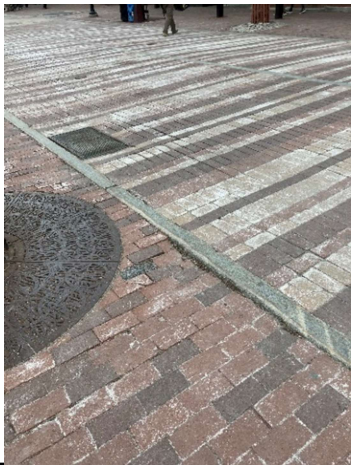
APPENDIX M

8	Paver Spot Replacement (Add Alternate No. 2)	Missing Pavers		4/11/2023
9	Paver Spot Replacement (Add Alternate No. 2)	Brick missing to be replaced		
10	Paver Spot Replacement (Add Alternate No. 2)	Missing Pavers		4/11/2023
11	Paver Spot Replacement (Add Alternate No. 2)	Bricks & curb settle under bus stop roof		4/11/2023

APPENDIX M

12	Pave Over Existing Tree Pit (Add Alternate No. 1)	Abandoned Tree Pit		4/11/2023
13	Paver Spot Replacement (Add Alternate No. 2)	Paver/curb settlement - trip hazard		9/30/2016
14	Paver Spot Replacement (Add Alternate No. 2)	Trip hazard		4/11/2023
15	Grind Concrete Edge (Base Bid)	Concrete pad high - trip hazard		4/11/2023

APPENDIX M

16	Paver Spot Replacement (Add Alternate No. 2)	Settlement by tree grate		4/11/2023
17	Paver Spot Replacement (Base Bid)	Paver/curb settlement		4/11/2023
18	Paver Spot Replacement (Add Alternate No. 2)	Paver/curb settlement		4/11/2023

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



Business & Workforce Development

Church Street Marketplace Improvements

January, 2024

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APPENDIX N: BURLINGTON STANDARD CONTRACT CONDITIONS	

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 January 31st, 2024** 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 March 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 January 22nd, 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=00JAA3YmIxY2M5OC0zYmJLTQ4ZjMtYjY3Yi02ODZhMTViYWUzMmEKAfBvZENhdGFsb2dfKuGXoJFNHKKuKZG9Oqaal&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A5WS0-FPD1-FGRY-B0BN-00008-00&ecomp=h3t7kkk&prid=990be612-8d8b-47d1-a708-b8ab130c9465>

1. 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 VTans 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 VTrans 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)

Pay Unit
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 require 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: _____
(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)

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

Certification of Agreement to Comply with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor"), in connection with a contract for _____ services to be provided to the City of Burlington ("the City"), hereby certify, under oath, that the Contractor (and any of its subcontractors or subgrantees under this contract) shall comply with the City's Livable Wage Ordinance ("LWO"), B.C.O. 21-80 et seq., and that:

- (1) The Contractor shall pay all "covered employees" as defined by the LWO (including covered employees of subcontractors or subgrantees) a livable wage (as determined, or adjusted, annually by the City's chief administrative officer), and shall provide required paid time off for the term of the contract (*or the duration of the contracted project*);
 - (a) Full-time employees are entitled to 12 days of paid time off per year; and
 - (b) Part-time employees are entitled to 12 days of paid time off per year on a prorated basis;
 - (c) For a covered employer that provides employer assisted health care, the livable wage shall be at least \$17.44 per hour; and
 - (d) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least \$18.59 per hour.
- (2) The Contractor shall post a notice regarding the applicability of the LWO in the workplace or in other locations where covered employees normally work, and where such notice can be readily seen;
- (3) Upon request of the City's chief administrative officer, the Contractor, for itself and, as applicable, for any of its subcontractors or subgrantees, shall provide payroll records, health insurance enrollment records, and other relevant documentation, as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of the City's request;
- (4) The Contractor shall cooperate in any investigation conducted pursuant to the LWO by the City's designated accountability monitors or the City's Office of City Attorney & Corporate Counsel;
- (5) The Contractor shall not retaliate, nor allow any of its subcontractors or subgrantees to retaliate, against an employee or other person because such employee or person has exercised rights or is planning to exercise rights protected under the LWO, or has cooperated in an investigation conducted pursuant to the LWO;
- (6) The Contractor is required to insert in all subcontracts the requirements of the LWO. The Contractor is liable for violations of the LWO committed by its covered subcontractors.

Date: _____

By: _____
Contractor, or its duly authorized agent

Subscribed and sworn to before me:

Date: _____

Notary Public

Rights & Responsibilities

Under Burlington's Livable Wage Ordinance

\$17.44/hr

WHEN

employer *provides* employer assisted health insurance

\$18.59/hr

WHEN

employer *does not provide* employer assisted health insurance

and 12 days of paid time off per year*

*prorated for part-time employees

The law requires employers to display this poster where employees can readily see it.

COVERAGE

Any employer who receives City contracts or grants totaling in excess of \$15,000 for any 12-month period is covered. Covered employees are entitled to livable wages, 12 days paid time off per year* for vacation, sick leave, or personal leave, and all rights under the Fair Labor Standards Act (FLSA), as well as other applicable state and federal laws.

Covered contractors are required to include in all subcontracts notice of the Livable Wage Ordinance (LWO), and are liable for LWO violations committed by their covered subcontractors.

ENFORCEMENT

The City is responsible for the administration of the LWO, and has the authority to recover back wages in instances of violations. Employers found in violation of the LWO may be assessed monetary penalties and be barred from future City contracts and grants. The law prohibits retaliation against workers who file a complaint or participate in any proceeding under the LWO.

ADDITIONAL INFORMATION

To obtain additional information about your rights and responsibilities under the LWO, visit the LWO Webpage (<https://www.burlingtonvt.gov/CT/Livable-Wage-Ordinance>) or call 802-865-7000, option 1 (Office of the Clerk/Treasurer).

Livable Wage July 1, 2023 - June 30, 2024

Effective July 1, 2023

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

Board of Finance and City Council Submission Checklist

Department: Business & Workforce Development Submitter: Kara Alnasrawi

Title/Subject: Contract for Church Street Marketplace Improvements

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/20/2024	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	3/6/2024	Click or tap here to enter text.
Board/Commission, if required	Yes	2/21/2024	Unanimous approval
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/4/2024	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/4/2024	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	3/4/2024	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Contract in RFP
Additional Materials, if necessary	Yes	Bid documents
Draft Resolution or Motion?	Yes	Embedded in memo
If for submission to Council, are sponsors identified?	Yes	Board of Finance

Lori Olberg

For complete information /
additional text, please
contact the City Clerk's Office

From: Brackin, Stephanie <Stephanie.Brackin@vermont.gov>
Sent: Tuesday, February 27, 2024 12:04 PM
Subject: FPR Press Release - Funding Awarded to Increase Urban Tree Canopy Across Vermont

[WARNING]: This email was sent from someone outside of the City of Burlington.

PRESS RELEASE

For Immediate Release

FOR INFORMATION ONLY

Contact: Elise Schadler
Program Manager, VT Urban & Community Forestry Program
Department of Forests, Parks, and Recreation
elise.schadler@vermont.gov 802-522-6015

Funding Awarded to Increase Urban Tree Canopy Across Vermont: *Over \$710,000 Allocated for VT Urban & Community Forestry Projects*

Montpelier, VT - The Vermont Department of Forests, Parks, and Recreation's Urban & Community Forestry Program (VT UCF) is pleased to announce the recipients of its 2024 grant program, supporting three key categories: Communities Caring for Canopy, Growing Urban Forests in the Face of Emerald Ash Borer, and Urban & Community Forestry Grants. This year, VT UCF is awarding over \$710,000, marking the largest amount the program has ever distributed, made possible with funding from the USDA Forest Service.

Communities Caring for Canopy will receive \$75,000 to support nine impactful projects aimed at advancing local tree planting programs across the state.

Growing Urban Forests in the Face of Emerald Ash Borer will provide \$126,000 to seven recipients focusing on mitigating the impacts of emerald ash borer, an invasive insect of ash trees, through targeted ash removal and replanting other tree species.

Urban & Community Forestry Grants, funded through an unprecedented one-time allocation from the USDA Inflation Reduction Act, will allocate \$510,000 to twelve projects aimed at increasing and maintaining projects healthy urban tree canopy in under-resourced communities.

"We are thrilled to support these diverse and impactful projects that will enhance the health and resilience of urban and community forests across Vermont," said Danielle Fitzko, Commissioner of Vermont Forests, Parks, and Recreation. "This year's grant program represents a significant investment in our communities' well-being, and we are excited to see these projects come to life."

The awards represent 10 Vermont counties: Addison, Bennington, Caledonia, Chittenden, Lamoille, Orange, Rutland, Washington, Windham, and Windsor.

Notable initiatives include:

- North Branch Nature Center: Creating a seed collection and plant propagation nursery for shade trees and edible shrubs along the North Branch of the Winooski River in Montpelier.
- Edible Brattleboro: Establishing a food forest and a network of tree guilds across Brattleboro and engaging in robust community outreach and trainings.
- Burlington Wildways and Winooski Valley Parks District: Expanding the school-based tree nursery pilot to additional schools in the Burlington School District.
- Vermont Youth Conservation Corps: Establishing a pilot Conservation Forestry work crew for a two-year urban forest management project on 18 acres of Oakledge Park in Burlington.

Lori Olberg

From: Robert <robert.butani@gmail.com>
Sent: Tuesday, February 27, 2024 4:09 PM
To: 'NRB - Act250 Essex'; Karen Paul; permitting@ccrpcvt.org; elizabeth.lord@vermont.gov; 'Murphy, Barry'; 'PSD - VTDPs'; 'AOT - Act 250'; christopher.clow@vermont.gov; 'AGR - Act 250'; 'Dillon, Scott'; 'Peebles, Elizabeth'; 'Trieschmann, Laura'; 'ACCD - Project Review'; 'Von Turkovich, Frank'; ed.vonturkovich@gmail.com; 'Tapper, Ethan'; 'Gobeille, John'; 'Mikula, Toni'; 'Sharon Bushor'; 'Theresa Lefebvre'; 'Paul Bierman'; 'susan butani'; y.house@myfairpoint.net; skelley@sanbornhead.com; 'Brenda Owre'; 'Nancy Kirby'; 'Jacob Wimett'; burlingtontownclerk; lolberg@burlingtonvt.com; Sarah Montgomery; 'ANR - Act 250'; 'Justin M'; 'Andres Torizzo'; 'Theodore von Rosenvinge IV'; 'Dejong, Benjamin'; 'Abby A. Dery, PE'; 'Jeremy Matosky, P.E.'; 'Andrea Dotolo'; 'Eric Licho'; Andrew Montroll
Subject: RE: ACT 250 Case No.: 4C1320 / Butani Statement
Attachments: 2024.02.27 Butani Statement.pdf; 2024.02.27 Butani COS.pdf
Importance: High

For complete information
additional text, please
contact the City Clerk's Office

FOR INFORMATION ONLY

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear ACT 250 Commission:

Please find a statement from Robert and Susan Butani

A *Certificate of Service* confirming notification to all listed parties is attached.

Respectfully submitted,

Robert Butani

Robert K. Butani, CFE

robert.butani@gmail.com

<https://www.linkedin.com/in/robert-butani-cfe/>

(917) 763-5084

Lori Olberg

From: NRB.Act250Essex@vermont.gov
Sent: Wednesday, February 28, 2024 9:52 AM
To: Nathan.Pion@champlainwater.org; joe.duncan@champlainwater.org; Karen Paul; Andrew Montroll; burlingtontownclerk; nrb.act250agenda@vermont.gov; hriehle@sburl.com; jlouisos@sburl.com; permitting@ccrpcvt.org; NRB.Act250Essex@vermont.gov; hrees@southburlingtonvt.gov; anr.act250@vermont.gov; barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov; AOT.Act250@vermont.gov; AGR.Act250@vermont.gov; ACCD.ProjectReview@vermont.gov; Stephanie.Monaghan@vermont.gov
Subject: Act 250 Land Use Permit Amendment 300033-16A - Champlain Water District
Attachments: LUP_Exhibit List_COS 300033-16A.pdf

For convenience information, additional text, please contact the City Clerk's Office

Some people who received this message don't often get email from nrb.act250essex@vermont.gov. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

Attached is Act 250 Land Use Permit Amendment 300033-16A, the exhibit list, and the associated certificate of service for the Champlain Water District. Be advised, the electronic copy is the only copy you will receive. On request, a printed copy can be mailed to you. Please contact the District 4 office with any questions.

Thank you,
Madeline

Act 250 District Office - Essex (District 4 Environmental Commission)
111 West Street
Essex Junction, VT 05452

FOR INFORMATION ONLY

Madeline Cotter NRB Technician
Tel.802-879-5614 | NRB.Act250Essex@vermont.gov
<https://nrb.vermont.gov>

Lori Olberg

From: NRB.Act250Essex@vermont.gov
Sent: Friday, March 1, 2024 8:24 AM
To: epomerleau@vermontrealestate.com; kmerrimanshapiro@getahome.org; clare@watershedca.com; andres@watershedca.com; Chapin Spencer; nrb.act250agenda@vermont.gov; Karen Paul; Andrew Montroll; permitting@ccrpcvt.org; NRB.Act250Essex@vermont.gov; burlingtontownclerk; Sarah Montgomery; Lori Olberg; anr.act250@vermont.gov; barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov; AOT.Act250@vermont.gov; AGR.Act250@vermont.gov; ACCD.ProjectReview@vermont.gov; Kevin.Anderson@vermont.gov
Subject: Act 250 Land Use Permit Amendment 4C0125-6,4C0652-7,4C0438-18
Attachments: LUP_Exhibit List_COS 4C0125-6,4C0652-7,4C0438-18.pdf

For questions or information, please contact the City Clerk's Office

You don't often get email from nrb.act250essex@vermont.gov. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

Attached is Act 250 Land Use Permit Amendment 4C0125-6,4C0652-7,4C0438-18, the exhibit list, and associated certificate of service. Be advised, the electronic copy is the only copy you will receive. On request, a printed copy can be mailed to you. Please contact the District 4 office with any questions.

Thank you,
Madeline

Act 250 District Office - Essex (District 4 Environmental Commission)
111 West Street
Essex Junction, VT 05452

Madeline Cotter NRB Technician
Tel.802-879-5614 | NRB.Act250Essex@vermont.gov
<https://nrb.vermont.gov>

FOR INFORMATION ONLY

Lori Olberg

FOR INFORMATION ONLY

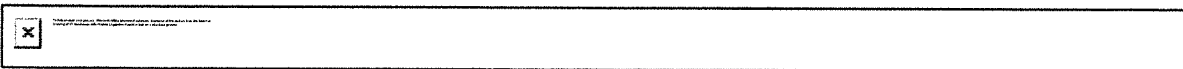
From: VLCT Weekly Legislative Report <info@vlct.org>
Sent: Monday, March 4, 2024 1:39 PM
To: Lori Olberg
Subject: March 1, 2024 - Correction

For information only. If you are
accidental that, please
contact the City Clerk's Office

[WARNING]: This email was sent from someone outside of the City of Burlington.

[Click here to view this email as a web page.](#)

Please note the correction highlighted below. We apologize for the initial error.



Read more about what happened in the State House this week in today's *Weekly Legislative Report*. Don't miss our latest post to Advocacy Updates: Municipal Capacity, Revenue, and Governance which includes good news: **S.55 passed the vote of the full House out of the Senate Committee on Government Operations with some of the amendments we sought. Moreover, H.839, the Budget Adjustment Act, is headed to Governor Scott and includes important flood relief.**

Advocacy updates:

- Testimony Regarding H.629 (Tax Sales)
- Advocacy Updates: Municipal Capacity, Revenue, and Governance
- Advocacy Updates: Climate Change and Disaster Response

Read the Weekly Legislative Report

As always, please stay in touch. We always want to hear your ideas, feedback, and concerns. You can find the latest testimony, updates, and more by visiting our Legislative Reports webpage.



Join Us for the Next Chat!

We will discuss the current topics and more in our next Advocacy Chat on **Monday, 3/11 at 11:00 AM.**

Join us with your questions and thoughts. We rely on hearing your ideas and concerns as the session progresses!

[Register](#)

Resolution Relating to

URGING VERMONT STATE OFFICIALS TO WORK WITH THE USDA THROUGH 2024 TO ENSURE REPORTING AND OTHER CAPABILITY FOR COMPLIANCE AND SUMMER GROCERY BENEFITS PROGRAM ELIGIBILITY IN 2025

RESOLUTION_____

Sponsor(s): Councilors Carpenter, Bergman, Shannon, Grant, Paul, Magee, King, Traverse
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, on January 10, 2024, the U.S. Department of Agriculture (USDA) announced that 35 states, all five U.S. territories, and four Tribes will benefit from new, permanent summer grocery benefits program for children; and

WHEREAS, the program is known as Summer Electronic Benefit Transfer and is slated to launch in the summer of 2024; and

WHEREAS, following the USDA announcement, the State of Vermont announced it would not participate in the program due to the administrative costs and lack of availability of required information technology and data compliance; and

WHEREAS, thousands of Vermont children will not receive meal benefits in 2024 from this program; and

WHEREAS, according to the USDA, “[T]hrough this new program, states will provide families with \$120 per eligible child for the summer to buy food at grocery stores, farmers markets or other authorized retailers – similar to how SNAP benefits are used, Vermont has an opportunity to opt into these benefits in future years;

NOW, THEREFORE, BE IT RESOLVED that the City Council and the Administration urge Vermont State officials, along with Vermont’s Congressional Delegation to work with the USDA through 2024 to ensure reporting and other capability for compliance and Summer EBT eligibility in 2025; and

BE IT FURTHER RESOLVED that key State agencies develop and implement the necessary information technology to best provide a coordinated and efficient information gathering and reporting platform to meet the needs of this program.

SC/Resolutions 2024/Urging Vermont State Officials to Work With the USDA Through 2024 to Ensure Reporting and Other Capability For Compliance and Summer Grocery Benefits Program Eligibility in 2025
2/16/2024

Resolution Relating to

URGING VERMONT STATE OFFICIALS TO WORK WITH
THE USDA THROUGH 2024 TO ENSURE REPORTING
AND OTHER CAPABILITY FOR COMPLIANCE AND
SUMMER GROCERY BENEFITS PROGRAM ELIGIBILITY
IN 2025

RESOLUTION 7.19.

Sponsor(s): Councilors Carpenter,
Bergman, Shannon, Grant, Paul,
Magee, King, Traverse
Introduced: 03/11/24
Referred to: _____

Action: adopted
Date: 03/11/24
Signed by Mayor: 03/13/24

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, on January 10, 2024, the U.S. Department of Agriculture (USDA) announced that 35
2 states, all five U.S. territories, and four Tribes will benefit from new, permanent summer grocery benefits
3 program for children; and

4 WHEREAS, the program is known as Summer Electronic Benefit Transfer and is slated to launch in
5 the summer of 2024; and

6 WHEREAS, following the USDA announcement, the State of Vermont announced it would not
7 participate in the program due to the administrative costs and lack of availability of required information
8 technology and data compliance; and

9 WHEREAS, thousands of Vermont children will not receive meal benefits in 2024 from this program;
10 and

11 WHEREAS, according to the USDA, “[T]hrough this new program, states will provide families with
12 \$120 per eligible child for the summer to buy food at grocery stores, farmers markets or other authorized
13 retailers – similar to how SNAP benefits are used, Vermont has an opportunity to opt into these benefits in
14 future years;

15 NOW, THEREFORE, BE IT RESOLVED that the City Council and the Administration urge Vermont
16 State officials, along with Vermont’s Congressional Delegation to work with the USDA through 2024 to
17 ensure reporting and other capability for compliance and Summer EBT eligibility in 2025; and

18 BE IT FURTHER RESOLVED that key State agencies develop and implement the necessary
19 information technology to best provide a coordinated and efficient information gathering and reporting
20 platform to meet the needs of this program.

21
22 SC/Resolutions 2024/Urging Vermont State Officials to Work With the USDA Through 2024 to Ensure Reporting and Other Capability For
23 Compliance and Summer Grocery Benefits Program Eligibility in 2025
24 2/16/2024

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

Urging..Vermont..State..Officials..To..Work With The USDA Through 2024 To Ensure
Reporting And Other Capability For Compliance And Summer Grocery Benefits Program
Eligibility..In..2025.....

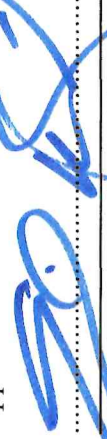
.....

Adopted by the City Council

March 11....., 20 24.....

 Clerk

Approved March 13....., 20 24.....

 Mayor

Vol. Page

* * * * *

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

AN UPDATE TO CHAPTER 23, PEDDLERS AND
SOLICITORS, TO ACCOMMODATE BURLINGTONIANS
AND VISITORS ON APRIL 8, 2024

ORDINANCE _____
Sponsor: Traverse
Public Hearing Dates: _____

First reading: _____
Referred to: _____
Rules suspended and placed in all
stages of passage: _____
Second reading: _____
Action: _____
Date: _____
Signed by Mayor: _____
Published: _____
Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 23, Peddlers and Solicitors, of the Code of Ordinances of the City of Burlington be and hereby is amended to add the following:

23-16 Special 24-Hour Peddler License for April 8, 2024

Purpose. Burlington is in the path of totality for a solar eclipse occurring on April 8, 2024. An unprecedented number of people are anticipated to visit Burlington on this date. To ensure sufficient amenities are available to Burlingtonians and our visitors, the provisions of this article shall be temporarily amended as follows:

- (a) A special 24-hour peddler license may be issued for April 8, 2024, authorizing peddling at any location throughout the city as permitted by Section 23-15 and designated for peddling by the City's Director of Business Workforce and Development pursuant to Sub-Section 23-16(e), provided that the provisions of Section 23-6(a)(1)(d) related to peddling in and around city parks shall remain in place.
- (b) The application requirements for 24-hour peddler certificates set forth in Section 23-15(c)(3)(b) shall apply to all applicants seeking a special 24-hour peddler license, except that applicants seeking to peddle in and around city parks shall also obtain authorization from the Parks Commission. This shall be notwithstanding the use of the term "marketplace" throughout Section 23-15 and shall be understood to mean all applicants seeking a special 24-hour peddler license pursuant to this Section.
- (c) The combined application and license fee for a special 24-hour peddler license shall be one-hundred dollars (\$100.00). The city may also require that peddlers selling food pay the deposit required by Section 23-6(d)(3). This fee and deposit requirements shall apply regardless of a peddler's location.
- (d) All applications for special 24-hour peddler licenses shall be submitted to and subject to final review by the city clerk. Upon receipt of a satisfactorily completed application, the requisite fee, and proof of insurance as required by Section 23-3(h), the city clerk shall issue the special 24-hour peddler license, as long as space is available as provided under this Section, and provided further that the applicant is not in violation of any applicable provision of this Code. Any denial of a special 24-hour peddler license shall be a final determination and there shall be no administrative appeal.

- (e) The Director of Business and Workforce Development may designate any number of peddler sites throughout the city, including those eligible for vehicle endorsement, and any restrictions set forth herein on how far peddlers must be from each other, or a business selling similar produce or wares, may be waived. Such designations shall be submitted to the city clerk forthwith for processing of applications received pursuant to this Section.
- (f) The Director of Business and Workforce Development may in their discretion, as needed to safely and efficiently designate peddling locations as outlined herein or otherwise carry on the business of April 8, 2024 within the City in the same manner, temporarily suspend any provision enumerated in Section 23-11, excepting that relating to discharge of grease, ash, or refuse onto any street or sidewalk.
- (g) Peddlers that receive a special 24-hour peddler license may request a vehicle endorsement that authorizes the placement of a vehicle on a city street or right-of-way, regardless of the peddler's location. If a vehicle for which an endorsement is requested exceeds thirty (30) feet in length, the city clerk may only issue such endorsement after consultation with the Department of Public Works and a determination that the vehicle will not impede the free flow of safe pedestrian, vehicle, or emergency personnel passage.
- (h) A peddler that has already received a peddler license or certificate under this Article may peddle on April 8, 2024 to the extent permitted by their existing license or certificate without having to apply for a separate special 24-hour peddler license.
- (i) Except as set forth in this Section, all other requirements of this Article shall apply to peddlers granted a special 24-hour peddler license.
- (j) This Section shall sunset in its entirety and be stricken from the Code of Ordinances effective April 9, 2024.

*Material underlined added.

BT/hm/Ordinances 2024/*An Update to Chapter 23, Peddlers and Solicitors to Accommodate Burlingtonians and Visitors On April 8, 2024*
March 11, 2024

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

AN UPDATE TO CHAPTER 23, PEDDLERS AND
SOLICITORS, TO ACCOMMODATE BURLINGTONIANS
AND VISITORS ON APRIL 8, 2024

ORDINANCE 7.20.

Sponsor: Traverse

Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all
stages of passage: 03/11/24

Second reading: _____

Action: _____

Date: 03/11/24

Signed by Mayor: 03/13/24

Published: 03/13/24

Effective: 04/03/24

It is hereby Ordained by the City Council of the City of Burlington as follows:

1 That Chapter 23, Peddlers and Solicitors, of the Code of Ordinances of the City of Burlington be and hereby
2 is amended to add the following:

3 23-16 Special 24-Hour Peddler License for April 8, 2024

4 Purpose. Burlington is in the path of totality for a solar eclipse occurring on April 8, 2024. An
5 unprecedented number of people are anticipated to visit Burlington on this date. To ensure sufficient
6 amenities are available to Burlingtonians and our visitors, the provisions of this article shall be temporarily
7 amended as follows:

8
9 (a) A special 24-hour peddler license may be issued for April 8, 2024, authorizing peddling at any
10 location throughout the city as permitted by Section 23-15 and designated for peddling by the City's
11 Director of Business Workforce and Development pursuant to Sub-Section 23-16(e), provided that
12 the provisions of Section 23-6(a)(1)(d) related to peddling in and around city parks shall remain in
13 place.

14
15 (b) The application requirements for 24-hour peddler certificates set forth in Section 23-15(c)(3)(b) shall
16 apply to all applicants seeking a special 24-hour peddler license, except that applicants seeking to
17 peddle in and around city parks shall also obtain authorization from the Parks Commission. This shall
18 be notwithstanding the use of the term "marketplace" throughout Section 23-15 and shall be
19 understood to mean all applicants seeking a special 24-hour peddler license pursuant to this Section.

20
21 (c) The combined application and license fee for a special 24-hour peddler license shall be one-hundred
22 dollars (\$100.00). The city may also require that peddlers selling food pay the deposit required by
23 Section 23-6(d)(3). This fee and deposit requirements shall apply regardless of a peddler's location.

24
25 (d) All applications for special 24-hour peddler licenses shall be submitted to and subject to final review
26 by the city clerk. Upon receipt of a satisfactorily completed application, the requisite fee, and proof of
27 insurance as required by Section 23-3(h), the city clerk shall issue the special 24-hour peddler license,
28 as long as space is available as provided under this Section, and provided further that the applicant is
29 not in violation of any applicable provision of this Code. Any denial of a special 24-hour peddler
30 license shall be a final determination and there shall be no administrative appeal.
31

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,

namely the _____ day of _____, 20____.
Adopted _____ Published _____ Effective _____
_____, City Clerk

Attest:

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

* * * * *
* * * * *

(e) The Director of Business and Workforce Development may designate any number of peddler sites throughout the city, including those eligible for vehicle endorsement, and any restrictions set forth herein on how far peddlers must be from each other, or a business selling similar produce or wares, may be waived. Such designations shall be submitted to the city clerk forthwith for processing of applications received pursuant to this Section.

(f) The Director of Business and Workforce Development may in their discretion, as needed to safely and efficiently designate peddling locations as outlined herein or otherwise carry on the business of April 8, 2024 within the City in the same manner, temporarily suspend any provision enumerated in Section 23-11, excepting that relating to discharge of grease, ash, or refuse onto any street or sidewalk.

(g) Peddlers that receive a special 24-hour peddler license may request a vehicle endorsement that authorizes the placement of a vehicle on a city street or right-of-way, regardless of the peddler's location. If a vehicle for which an endorsement is requested exceeds thirty (30) feet in length, the city clerk may only issue such endorsement after consultation with the Department of Public Works and a determination that the vehicle will not impede the free flow of safe pedestrian, vehicle, or emergency personnel passage.

(h) A peddler that has already received a peddler license or certificate under this Article may peddle on April 8, 2024 to the extent permitted by their existing license or certificate without having to apply for a separate special 24-hour peddler license.

(i) Except as set forth in this Section, all other requirements of this Article shall apply to peddlers granted a special 24-hour peddler license.

(j) This Section shall sunset in its entirety and be stricken from the Code of Ordinances effective April 9, 2024.

*Material underlined added.

BT/hm/Ordinances 2024/*An Update to Chapter 23, Peddlers and Solicitors to Accommodate Burlingtonians and Visitors On April 8, 2024*
March 11, 2024

ORIGINAL

AN ORDINANCE IN RELATION TO

An Update To Chapter 23. Peddlers And Solicitors,
To Accommodate Burlingtonians And Visitors On

On April 8, 2024

Introduced by

Councilor Traverse

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

March 11, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved March 13, 20____.

_____, Mayor.

I, CAO Schad
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.
And the within Ordinance was ordered published for _____ day of _____, 20____.
namely the _____ day of _____, 20____.
Adopted _____ day of _____, 20____.
Published _____ day of _____, 20____.
Effective _____ day of _____, 20____.
CAO Schad
/s/ CAO Schad

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

Attest:

* * * * *

3/9/2024

Subject: Flawed Memorial Block Pre-Development Agreement is not ready for signature

From: Solveig Overby, Ward 2

Communication to City Council President, Karen Paul, and City Councilors Zoraya Hightower, Eugene Bergman, Joe Magee, Sarah E Carpenter, Ben Traverse, Ali N Dieng, Hannah King, Melo Grant, Timothy C. Doherty, Jr., Mark Barlow, and Joan Shannon

Re: City Council Meeting, 3/11/2024, Deliberative Agenda Item 8.2:

8.2. Resolution: Support For The Redevelopment Of The Memorial Block Through Further Due Diligence Of a Public-Private Partnership (Councilors Paul, King)(20 mins.)

City Council is fortunate to have three attorneys as members. They are in the best position to advise their fellow Councilors against approval of the Resolution in Agenda Item 8.2, the “Memorial Block Pre-Development Agreement” sponsored by Council President Paul and Councilor King. I am very concerned that this Agreement is not in the best long-term interests of the City.

The flawed draft agreement, hastily modified at the last minute, is an unfortunate consequence of CEDO’s derailed 2019 Gateway Block RFP process, complicated by the pressure being applied by Mayor Weinberger on City Councilors to approve the document for his signature before he leaves office. No amount of tweaking by City Attorneys after Council passes the Resolution could remedy the problems with this agreement.

Let’s be clear, despite statements made in CEDO communications, this Pre-Development Agreement is not simply committing the City to perform “due diligence” on options for development of the Memorial/Gateway Block with the assistance of developers Eric Farrell and Joe Larkin. Signing this agreement would commit the City to transfer three acres of prime downtown municipal property to these two developers with little more granted back to the City than a vague promise that the redevelopment plan should “reflect” the “visions and goals” of the public in the “Project Principles.” Anyone reading this document should be shocked that it is on the City Council agenda in the form that it is. Councilors should be unwilling to approve it for the reasons offered below.

To start with here are five specific problems with language in the document:

- 1) The Agreement requires the City to find a municipal property to build a replacement for the Central Fire Station including performing zoning and land use analysis by September 30, 2024. The agreement commits the City to this so that the developers can design and build a new fire station to be leased back to the City, making way for decommissioning the downtown Central Fire Station. The initial draft committed the City to transfer a municipal property on Pine Street for the new fire station but that’s been taken off the table. Isn’t Council being hasty committing the City, without knowing anything about

where the proposed replacement “public safety facility” might go and how much it will cost taxpayers to facilitate the relocation?

Shouldn’t Council know more before they vote?

- 2) The agreement is ambiguous about the nature of the land transfer mechanism to be used for granting the 3 acres to the developers. The Agreement is for a:
“legal structure(s) that the Parties determine to be appropriate and in the best interests of the Project and the mutual best interests of each Party.”
The document also says “the City agrees to combine its property with the other parcels that comprise the Memorial Block. “What are the consequences of this?
Is “combining” a property law concept?

Might there be an outright sale? Perhaps yes if the Developers claim they require land ownership rather than a ground lease in order to secure financing.

Might there be a ground lease? Perhaps yes. But if so, under the terms of the agreement, it would be for 99 years, starting from when construction begins, as compared to the 50-year ground-lease recently granted to Beta Technologies at the airport. Why the favoritism in this agreement?

Shouldn’t Council know more before they vote?

- 3) Two odd sentences were added in the Properties clause since Council last saw it during their Feb. 26th work-session.
“For the purpose of creating a comprehensive plan for the redevelopment of all of the parcels subject to this Agreement, the City agrees to combine its property with the other parcels that comprise the Memorial Block. This is not intended to transfer ownership of the City’s properties, but rather to enable the most optimal comprehensive development plan.”

Shouldn’t Council know more before they vote? What does this mean?

- 4) New content was added that implies the that the Fletcher Free Library is on board with the plan to transfer the public parking lot beside the library. The Agreement states that the library has a building redesign completed, fundraising is underway and that
“restoration and preservation components of the Library project are expected to begin at the end of calendar year 2024.” Nothing on the Library’s website makes mention of this imminent restoration and preservation process.

Shouldn’t Council know more before they vote?

- 5) The Agreement effectively transfers all control over what gets developed on those prime downtown three acres to the two developers. Of course, any projects would be

required to follow the City's normal development review processes. Under the terms of the agreement "the public should be included in the process of re-envisioning this area."

The Agreement is not a commitment for the development of anything. It grants few substantive rights to the City. Rather, it grants the developers the authority to establish "pad sites" on the properties, to be transferred or subleased to other developers. The Pre-Development Agreement states:

"The Implementing Documents will allow for the establishment of an air-space condominium, as permitted by the Vermont Common Interest Ownership Act, to facilitate the establishment and transfer of such "pad sites."

The term "air-space condominium" does not appear in the Vermont Common Interest Ownership Act: <https://legislature.vermont.gov/statutes/fullchapter/27A/001>)

Shouldn't Council know more before they vote?

Central to the draft agreement are the terms "feasible" and "viable," but those are nowhere defined. Same for the term "City" which becomes relevant in the zoning context. Is "City" the City Council or some other City entity?

While the agreement allows Developer to walk if it determines the project is not feasible, there is no such provision for the City. What happens if the City determines it is not "feasible" to relocate the fire station and the Developer, having sunk a lot of money into due diligence and planning, disagrees? Usually "feasibility" is a matter of cost. This invites litigation. Seems like the City would want to make clear that it could also walk if, in its sole discretion, it determines that moving the fire station, or any other step, is not "feasible." If the Developer won't agree, the exact meaning of what's feasible ought to be hashed out in advance.

According to the terms of the agreement, the developers can walk if they determine at any point during the due diligence period that the project is not "feasible" or "viable." Presumably, feasibility means they can earn a certain profit with a certain risk-- but how fat a profit and at what level of risk? This becomes quite problematic, because the City is required to use its "best efforts" to change the zoning requirements (as it did for CityPlace) if necessary to make the project "feasible."

Is the project "feasible" if it earns a 10 per cent profit? 50 per cent? No one knows. If the matter went to court, dueling experts might testify about what developers usually consider "feasible." Or maybe bankers would testify about what they would be willing to finance at what interest rate.

If the project is not "feasible" unless the City increases the height limit in that area to 14 stories, is the City liable if a future City Council declines to approve such a change?

The draft agreement says the properties of the City and Developer will be "combined" but that the City would not give up ownership of its property. Is there's such a term or such a concept as that in property law? What happens if Developers default and the bank comes and forecloses? Can it sell the "combined" property if part of a hotel or apartment building or whatever sits atop a parcel that previously belonged to the City? And what if the City wants to sell its property to raise capital, but part of the project is on top of it? And how are property taxes assessed? "Combined" property seems like an invitation to trouble.

The agreement contemplates that the project is to be accomplished in phases, but it does not require Developer to post a bond to cover future phases in case it cannot or chooses not to proceed for whatever reason. This was the key problem with CityPlace. Once the developer, Don Sinex, had demolished everything, he had tremendous leverage to renegotiate the terms, which he did, several times. Then he still couldn't get anything done, so the City was stuck with a giant hole in the middle of downtown for many years. This absolutely is a risk as well with any development of the Memorial/Gateway Block properties. The Agreement should include a requirement for performance bonds to prevent these kinds of problems.

Had the City reviewed Farrell and Larkin's proposal as part of an RFP process, the City would have received and reviewed documentation on their financial capacity in advance. These developers have plenty of other projects on their plate so it's prudent that this step take place before the signing of any agreements. The City should not be waiting until June 1, 2024 for this information, months after signing an agreement like this.

City Council needs to know more. Work needs to be done by the incoming Mayoral administration and the new Council.

3/9/2024

FPF Discussion item posted to ONE Central FPF in 3 parts:

Misleading 1: Memorial Block Pre-Development Agreement

Burlington's Community and Economic Development Office (CEDO) recently posted an announcement that City Council will be voting on Monday, March 11, to sign-off on a sole-bidder deal that will transfer 3 acres of prime downtown City-taxpayer owned property to local developers Eric Farrell and Joe Larkin. Until recently, this City called this block the "Gateway Block." It has recently been renamed the "Memorial Block" in the documents.

The properties to be transferred to the developers include Memorial Auditorium, the Main St./S.Winooski parking lot, the historic Central Fire Station, and the Fletcher Free Library parking lot. The College St. Congregational Church parking lot is also to be purchased by the developers. A yet to-be-determined municipal property is also to be transferred to the developers for the purpose of building a replacement fire station, which the developers will then lease back to the City.

Critical relevant information was omitted from CEDO's recent post. Provided below is clarifying information contained in the actual text of the November 9, 2023 Letter of Intent with developers Farrell and Larkin and the Feb. 28th, 2024 draft Pre-Development Agreement.

CEDO's post said: "On March 11, 2024, the City Council will be considering a resolution that gives the City the ability to continue exploring and carrying out due diligence on the potential redevelopment of the City block that is being called Memorial Block."

Clarification: CEDO, while telling City Councilors it was not binding, persuaded the Council on November 6, 2023 to sign off on a "Letter of Intent" with developers Farrell and Larkin giving them sole and exclusive rights to pursue due diligence for potential development of the Gateway Block. The Letter of Intent says:

"Good Faith Letter of Intent: This Letter of Intent is intended to represent the good faith actions of the parties and therefore binding, subject to the full execution of a Development Agreement on or before March 29, 2024. The City agrees not to solicit any other interest, nor otherwise engage with any other party in connection with the redevelopment of the Gateway Block during the term of this Letter of Intent."

CEDO's post said: "Due diligence in real estate is the process of thoroughly investigating and evaluating all issues impacting a property and determining if a project meets the strategic objectives of the developer. Areas that are typically investigated include: financial analysis, legal and regulatory compliance, property inspection, environmental assessment, title and survey and market analysis for the proposed development."

Clarification: The City omits reference in their Council Memo's history review, that there was a Gateway Block Request for Proposals process underway in 2019 that would have given other developers the option to also perform due diligence on project feasibility and propose alternate options for development of the 3 acres of prime downtown municipal land. On May 15, 2019, the Burlington Public Works Commission received a presentation from Jesse Freedman, CEDO, on the Gateway Block Redevelopment RFP (Request for Proposals) that had been in development for several years. The RFP process defines the goals and constraints that a

municipality wants met by development proposals. Multiple developers interested in being considered for the project, must perform their own due diligence, financial analysis, property inspections, and market analysis prior to filing proposals which the City can evaluate and compare. Developers must provide the City with documentation of their financial capability to complete the project. The Pre-Development Agreement's sole-bidder deal denies the City critical information and results in the City having no alternatives to evaluate and compare.

Misleading 2: Memorial Block Pre-Development Agreement

Part 2 of 3:

Burlington's Community and Economic Development Office (CEDO) recently posted an announcement that City Council will be voting on Monday, March 11, to sign-off on a sole-bidder deal that will transfer 3 acres of prime downtown City-taxpayer owned property to local developers Eric Farrell and Joe Larkin. Until recently, this City called this block the "Gateway Block." It has recently been renamed the "Memorial Block" in the documents.

Critical relevant information was omitted from CEDO's recent post. Provided below is clarifying information contained in the actual text of the November 9, 2023 Letter of Intent with developers Farrell and Larkin and the Feb. 28th, 2024 draft Pre-Development Agreement.

CEDO's post said: "The area being considered includes all of the property that sits on the block bordered by Main St. on the south, S. Union St. on the east, College St. on the north and S. Winooski Ave. on the west. Both the Fletcher Free Library and College Street Congregational Church are included only to ensure that any plans are coordinated to support and enhance upgrades involving both properties."

Clarification: The text in the draft Pre-Development Agreement commits the City to not only transfer Memorial Auditorium, the Main St. /S. Winooski parking lot and the historic Central Fire Station, but also the public parking lot at the Fletcher Free Library. The developers also commit to purchasing the College Street Congregational Church's parking lot. Further included in deal, is transfer of a property on which the developers would build a replacement fire station to be leased it back to the City. The agreement notes, it might be necessary, "in order to facilitate the Developer's financing," for the City to be required to transfer the City-owned property to the Developer.

CEDO's post said: "At this time, CEDO seeks approval to execute what is referred to as a Pre-Development Agreement (PDA). The PDA is essentially an agreement for the parties to work diligently and exclusively in pursuit of a mutually beneficial arrangement to advance the greatest public good with these municipal assets. This Pre-Development Agreement creates a schedule for the due diligence required by both parties to determine the feasibility and financial, legal and operating structure for a comprehensive redevelopment of this important part of our downtown. This agreement and the work that will result from its adoption will lay the foundation for future agreements needed to bring this potential concept to fruition. The PDA does not guarantee that any development will proceed unless and until the City Council authorizes the next steps required in the development process."

Clarification: The City is agreeing to work "diligently and exclusively" with developers Farrell and Larkin, and no others, to facilitate a development that is financially "feasible" for the

developer. The question is: “feasible” as defined by whose standards? The City appears, by this agreement, to be committing to make any necessary zoning or other regulatory changes to facilitate the “feasibility” of the project.

What enforceable commitments are the developers making to deliver financial feasibility for the City which would be giving up control of 3 acres of prime downtown property? What off-ramps are in the agreement for the City to terminate the agreement if the costs or complexities of delivering on promises made to the developers are revealed to be too high? A vague promise to pursue a “mutually beneficial arrangement to advance the greatest public good with these municipal assets” has no enforceable contractual value. It’s merely a feel-good statement of aspirations.

Misleading 3: Memorial Block Pre-Development Agreement

Part 3 of 3

Burlington’s Community and Economic Development Office (CEDO) recently posted an announcement that City Council will be voting on Monday, March 11, to sign-off on a sole-bidder deal that will transfer 3 acres of prime downtown City-taxpayer owned property to local developers Eric Farrell and Joe Larkin. Until recently, this City called this block the “Gateway Block.” It has recently been renamed the “Memorial Block” in the documents.

Critical relevant information was omitted from CEDO’s recent post. Provided below is clarifying information contained in the actual text of the November 9, 2023 Letter of Intent with developers Farrell and Larkin and the Feb. 28th, 2024 draft Memorial Block Pre-Development Agreement.

CEDO’s post said: “The PDA [Memorial Block Pre-Development Agreement] does not guarantee that any development will proceed.....”

Clarification: It’s not credible to believe that once City Council signs off on a sole-bidder Pre-Development Agreement like this, that a future City Council will be in any position to change horses mid-race. The CEDO post says the agreement “lays the foundation for future agreements needed to bring this potential concept to fruition,” Has City Council not learned anything from the costly, painful ten-year history of do-over development agreements for CityPlace?

The Pre-Development Agreement proposes the 3 acres of municipal property be transferred to the developers using a “legal structure” to be determined sometime in the next 9 months. If the agreement uses a ground lease, it would have a term of 99 years, not starting until construction started. Considering that the City recently signed off on a 50-year, long-term ground lease with Beta Technologies at the airport, what’s the reason for the favoritism of a 99-year ground lease being proposed for these two developers?

For those concerned about the fate of the Memorial Auditorium building, the draft agreement offers no comfort. It states

“The Memorial Block should include a Central Public Assembly & Activity Space to replace Memorial Auditorium, although not of equal size nor equivalent in use,” and “If no portion of Memorial Auditorium is retained, then the Central Public Assembly &

Activity Space should include a Veterans Memorial using the plaques that are currently on display in the lobby of Memorial Auditorium.”

The draft agreement and CEDO’s Memo to City Council about it are available at the link below, under Deliberative Agenda Item 8.2, of the March 11, 2024 City Council Meeting. A comprehensive list of problems with the content in the draft Pre-Development Agreement is being provided to City Councilors and will be posted in the Consent Agenda Communications.

<https://burlingtonvt.portal.civicclerk.com/event/6978/files/agenda/10145>

Lori Olberg

From: soverby@sover.net
Sent: Monday, March 11, 2024 9:32 AM
To: Lori Olberg
Subject: Missing and misrepresented timeline items on CEDOs March 11, 2024 Memo re: Memorial/Gateway Block Pre-Development Agreement
Attachments: 2024_03_08_EMAIL_CEDO_Pine_re_03_11_24_CC_Memo_Memorial_with_attachment.pdf

[WARNING]: This email was sent from someone outside of the City of Burlington.

Lori,
Here's one more communication regarding the Memorial Block Pre-Development Agreement on City Council's deliberative agenda tonight at 8.2.
The 3/11/2024 CEDO Memo provided to City Council for agenda item 8.2 has errors. I had communicated with Director Pine about them last Friday night but have not heard back yet. So, attached is my communication with him about those errors.

My communication with Director Pine in the attached document includes the text transcript and presentation that Jess Freedman from CEDO presented on May 15, 2019 to the Public Works Commission on the Gateway Block RFP. My communication with Director Pine points out this missing timeline information and also the misleading title on one of the timeline entries: "2022 RFP for Redevelopment through Public/Private Partnership."
This timeline entry makes it look like the 2022 RFP for the Adaptive Reuse of the Memorial Auditorium building was an RFP for projects covering the entire 3 acres of municipal property in the Memorial/Gateway Block. the 2022 sought only proposals for adaptive reuse of the Memorial Auditorium. That needs to be corrected on the Memo.
Thanks.
Solveig

Missing and misrepresented timeline items on CEDOs March 11, 2024 Memo re: Memorial/Gateway Block Pre-Development Agreement

3/8/24 6:04 PM

From: "soverby@sover.net" <soverby@sover.net>

To: "bpine@burlingtonvt.gov" <bpine@burlingtonvt.gov>

Cc: "gbergman@burlingtonvt.gov" <gbergman@burlingtonvt.gov>, "Melo Grant" <megrant@burlingtonvt.gov>

Brian,

I have a few communications going out but first wanted to let you know I noticed that CEDO's March 11, 2024 Memo to City Council for Monday's meeting, has omitted mention of the Gateway Block RFP that was presented to the Burlington Public Works Commission on May 15, 2019. In addition, the title of the timeline item "2022 RFP for Redevelopment through Public/Private Partnership" is misleading as to the facts.

The CEDO memo timeline:

1990s City began to struggle to keep up with repairs on the building; 1994 Memorial bond vote failed; 1993 bond for a public safety building for the municipal parking lot failed to garner required two-thirds majority for GO bond approval.
 2013 PlanBTV Downtown provides vision for redevelopment of underutilized sites
 2013 YMCA explored adaptive reuse of Memorial Auditorium; balance of block slated for Mixed-Use w/ Student Housing
 2016 UVM Arena with Hotel on "Gateway Block"
 2016 Memorial Auditorium closed to protect public safety
 2018 robust public process by CEDO leading to Adaptive Re-use plans for Memorial Auditorium as a "Community Hub"; 2019: RFP to find a private operator for Memorial Community Hub
 2021 Bond vote that included Memorial renovations failed
 2021 Gateway Block considered but rejected as the site of a new Burlington High School
 2022 Successful bond brings \$1MM to Memorial Stabilization & Exploration of future uses
 2022 Voters approve \$165MM in bonding for new BHS
 2022 RFP for Redevelopment through Public/Private Partnership
 2023 Selected Proposal (Babarosa) withdraws for financial feasibility reasons
 2023 City facilitates strategic visioning exercise with adjacent property owners for Gateway Block Redevelopment

Attached is the text transcript of the May 15, 2019 Public Works Commission meeting, CEDO's presentation to the PWC at that meeting, and the draft Gateway Block RFP that was made available.

CEDO has also included a timeline item that is misleading as to the facts. The timeline item "2022 RFP for Redevelopment through Public/Private Partnership" hides the substance of that RFP. That RFP was for Adaptive Reuse of only the Memorial Auditorium building, not the entire three acres of municipal property owned in the Gateway/Memorial Block. That limited 2022 RFP was titled "Requests for Proposals for the Adaptive Reuse of Memorial Auditorium" RFP, and is available here:

https://www.burlingtonvt.gov/sites/default/files/Requests%20for%20Proposals%20for%20the%20Adaptive%20Reuse%20of%20Memorial%20Auditorium%20FINAL%2010052022_0.pdf

Solveig

Attachments:

- 2019_05_15_PWC_meeting_transcript_Gateway_Block_Redevelopment_presentation_RFP.pdf

3/4/2024

The Burlington Public Works Commission received a presentation on the Gateway Block Redevelopment RFP at its May 15, 2019 meeting. The draft Gateway Block RFP was dated 10/19/2015.

Below is a text transcript from the CCTV recording the of the Public Works Commission's May 15, 2019, Agenda item 7 presentation on the RFP, provided by CEDO employee Jesse Freedman. Following that is Freedman's PowerPoint presentation and the draft Gateway Block RFP dated 10/19/2015 that was made available.

Burlington Public Works Commission, 5/15/2019

Agenda Item 7. Main St. & S. Winooski Ave Surface Lot RFP

"Gateway Block ReDevelopment" by Jesse Freedman, CEDO

<https://burlingtonvt.portal.civicclerk.com/event/4984/files/agenda/6615>

CCTV Meeting Recording transcript, PWC 5/15/2019

Starting point of Agenda Item 7 discussion is at time code: 01:54:58:24 - 01:55:27:16 in the full transcript.

Meeting recording from which this transcript was made is at:

<https://www.cctv.org/watch-tv/programs/burlington-public-works-commission-142>

Clean-up corrections or annotations noted in bracket [] symbols

00:00:10:28 - 00:00:38:23

Speaker 1 [PWC Chair Tiki Archambeau]

Just calling to order. We have an agenda. I don't know if there's a projection going on. Maybe at some point we'll get that going to the folks can see the order of events. But the first item on our agenda here is the agenda itself to focus on here. So just as a quick primer of after we discuss the agenda, we will discuss the public forum and give you all a chance to participate in the conversation here.

[first part of transcript omitted]

01:54:57:15 - 01:54:58:21

Speaker 1 [PWC Chair Tiki Archambeau]

Whenever you're ready.

**[START OF AGENDA ITEM 6: Main St. & S. Winooski Ave Surface Lot RFP
See pdf of PowerPoint presentation provided to Public Works
Commissioners for this agenda item, titled: "Gateway Block
Redevelopment, Jesse Freedman, CEDO"
File name: "Gateway_Block_Main St & S Winooski Surface Lot
Presentation_0.pdf"]**

01:54:58:24 - 01:55:27:16

Speaker 10 [Jesse Freedman, CEDO]

Anything. My name is Jesse Friedman [Freedman]. I'm a projects and policy specialist with Zito [CEDO], and I'm here to talk today about the gateway block redevelopment and the surface parking lot as part of that. So what I'd like to do is go over the RFP process that we're currently undertaking and the implications for parking. And then I'll take you back a little bit to the Memorial Auditorium adaptive reuse process that kind of weaves into this and how we got to the RFP process and then the progress that we've made up until 29th 2019 and where we expect to go from there.

01:55:27:23 - 01:55:50:00

Speaker 10 [Jesse Freedman, CEDO]

So we're looking at the 220 main South Street lot. So it's south of New Skeen Main Street. If you're not familiar, probably it's a pretty high profile lot. It's on the gateway block, memorials there in the background, and it's about 50 or so spaces in the area that we're looking at. There's a little under half an acre, about 4/10 of an acre.

01:55:50:03 - 01:56:15:16

Speaker 10 [Jesse Freedman, CEDO]

The lot is divided into two parcels right now. Part of it goes with the fire station and with the library. There's three parcels for all three properties. So none really is in one parcel of its own. So the redevelopment process, what we're looking at is to do an RFP, which is currently in draft form to redevelop the parking lot, and we're leaving it up to the development team.

01:56:15:19 - 01:56:42:10

Speaker 10 [Jesse Freedman, CEDO]

Those ideas to us, that would be the highest and best use of the property. And so we would have a set of development objectives. So statements and ideals that we would have as well as code requirements and meeting the form base code and the municipal development code, that's kind the guardrails for the projects. But the development community, we're inviting them to come and bring us with a variety of proposals of what the best use of this lot would be.

01:56:42:13 - 01:57:15:11

Speaker 10 [Jesse Freedman, CEDO]

So it's been looked at a long time and we really don't want to have anyone end with any one proposal. So that includes adjacent properties. So there are some in holders between the properties that we own and the memorial interim and the corner lot. And so we're leaving it up to the development community what they want to propose if they want to join forces and do a larger property or if they want to propose something just

on that corner, as long as it meets the code requirements and then satisfies the objectives and the development, that's something that we would consider as part of that.

01:57:15:11 - 01:57:39:19

Speaker 10 [Jess Freedman, CEDO]

The parking lot, which I said has about 50 spaces. We would require the developer to replace all of those in kind in addition to whatever parking spaces that they would have to add per code. The code currently allows for them to put spaces up to a thousand off site, so we would be willing to consider whatever they propose to us that would meet the needs of downtown parking.

01:57:39:19 - 01:57:58:17

Speaker 10 [Jess Freedman, CEDO]

So if that is an off site that they, you know, property owner that they partner with or if that is building structured parking underneath that, which as you might know, the ravine kind of runs through there and the property is a bit of a brownfield. So structure parking could be expensive. We don't know anything about the geotechnical kind of conditions underneath the site, so we're not really sure.

01:57:58:17 - 01:58:17:06

Speaker 10 [Jess Freedman, CEDO]

Structure parking is expensive on a good site. So if the best to use is to have retail on the first floor and parking be located somewhere else, that's something that we would be willing to consider. We're really leaving it up to their ingenuity and creativity as well as we're not requiring them to make it a publicly owned lot that we built for us.

01:58:17:06 - 01:58:37:15

Speaker 10 [Jess Freedman, CEDO]

If they wanted to do a kind of a public private partnership like at Eagles, where there's some kind of revenue sharing to replace their lost revenue because that does bring in a lot of money. We don't want to hit the parking fund with a big deficit. It's about 100, \$250,000 of revenue annually from that parking lot. So we want to make sure that that is replaced as well.

01:58:37:18 - 01:59:02:10

Speaker 10 [Jess Freedman, CEDO]

So taking a step back, the Memorial Auditorium process, as you might know, began about a year ago and a pretty long public engagement process that started off with a series of public meetings and survey, culminating in a survey that reached about 2500 residents that identified the top uses for Memorial Auditorium, which focused on it a civic space, a performance space, went to a farmer's market.

01:59:02:16 - 01:59:29:21

Speaker 10 [Jess Freedman, CEDO]

And so from there we engaged some consultants to look at the financials of the project as well as do high level conceptual drawings of the uses and the main floor of the next level of the whole site. And so we had some public workshops with that and the parks and art parks and Culture

Committee and that rolled us into December where we presented a number of options to to the park in a public meeting, including the conceptual drawings.

01:59:29:21 - 01:59:51:04

Speaker 10 [Jess Freedman, CEDO]

And what we proposed was a series of four concepts. So Memorial Auditorium was facing a funding gap. We just don't have the capacity debt capacity between tax increment financing and geo bonds to be able to fund the project. So there were four options. One was to just leave it as is, which, you know, the building doesn't see any additional renovation.

01:59:51:04 - 02:00:15:05

Speaker 10 [Jess Freedman, CEDO]

It just kind of idles. And that continues to cost us quite a bit on an annual basis because it does have a lot of deferred maintenance and there are some safety concerns with the building. There was a basic renovation, which is to just bring it up to code, make it habitable and make it safe. And that was slightly more expensive but not really meeting the goals of what the community had told us in the workshops and in the survey.

02:00:15:07 - 02:00:50:12

Speaker 10 [Jess Freedman, CEDO]

There was a more community oriented one that met all of those needs that had the performance space, but we still had a large funding gap, and the final option was the gateway block. We would use the gateway block just for the redevelopment of the block to spur development and have additional tax increment financing capacity to be able to fund the gap and right now, we're still working through the finances of that, but we're getting much closer than we started with the, you know, 10 to \$20 million funding gap to get something that's a little bit manageable with some value engineering and some kind of scoping.

02:00:50:12 - 02:01:17:12

Speaker 10 [Jess Freedman, CEDO]

And so that's how we ended up coming back to the parking lot. So in 2019, we hired a specialized arts consultant to look at the programing, the market feasibility to kind of get a better idea of how the memorial would operate. And we also had our consultant create an operating proforma for the building and for the redevelopment of the lot that looked at the development potential, what we might expect in revenues, and then that's what we might expect in debt capacity from there.

02:01:17:12 - 02:01:34:26

Speaker 10 [Jess Freedman, CEDO]

We also met with a couple of folks from the development community to kind of gauge their interest and see what folks have been considering. And then we started creating the RFP and we've been going through that over the last couple of weeks trying to figure out what would best meet the goals of both of those projects. On that block.

02:01:34:26 - 02:01:55:06

Speaker 10 [Jess Freedman, CEDO]

We're doing kind of simultaneously trying to see if we can block and have Memorial be fully funded at the same time. And so it's been a balancing act. But I think we're we're pretty happy with where we are now in the process. And so that just to summarize that the this RFP is really to spur the redevelopment of the block.

02:01:55:08 - 02:02:14:07

Speaker 10 [Jess Freedman, CEDO]

This is the gateway block. It's what a lot of folks see when they first come down Main Street into Burlington. And there are some buildings there that are a little bit falling apart and there's opportunities for redevelopment there. We are going to put a set of development objectives in the proposal so that there will be guideposts so that it will meet all of code.

02:02:14:07 - 02:02:35:27

Speaker 10 [Jess Freedman, CEDO]

But Also, any objectives like parking or like energy efficiency, anything that we wanted to put into kind of encourages the developers to do certain things. We're also not obligated at all to proceed with any of these, which is a request for proposals that we don't get any ideas that meet our needs. Then we don't have to proceed with that.

02:02:35:29 - 02:02:50:13

Speaker 10 [Jess Freedman, CEDO]

And then as I said earlier, that this is really intended to close the funding gap of Memorial. And it's also a project that has been on our radar for some time. And we're we're excited to see if we can get some good proposals back from a development community.

02:02:50:15 - 02:02:52:20

Speaker 2

Thank you.

02:02:52:22 - 02:03:00:04

Speaker 1 [PWC Chair Tiki Archambeau]

Commissioners. I'm just kind of looking around to gauge any questions. Commissioner Gilman, any thing come to mind? No majority.

02:03:00:07 - 02:03:26:22

Speaker 9 [Commissioner Solveig Overby]

But I just have a question about the this is obviously a publicly owned piece of property on that corner. And the question is, is RFP presuming that there would be a sale of the property as part of this redevelopment, or could they use the 99 year lease since we really don't know what's going to be going on in Burlington and in 99 years and that would be a longer than a lifetime of that particular any project that could come forward with an RFP.

02:03:26:24 - 02:03:47:03

Speaker 10 [Jess Freedman, CEDO]

Yeah. So as I said, we're trying to kind of keep it flexible so that developers can propose business terms that make sense for them. So we would consider a sale. We would also consider a lease, any kind of public

private partnership, whatever best meets the financial interest and the community interest is what we're likely to pick. So we're not restricting them to any one business model.

02:03:47:03 - 02:03:51:20

Speaker 10 [Jess Freedman, CEDO]

We want to see what they can propose to us that might work for them and for for us.

02:03:51:22 - 02:04:13:08

Speaker 9 [Commissioner Solveig Overby]

Yeah, I just I just philosophically have a problem with selling public property and not knowing what could be going on with the need for, you know, municipal uses. So I was hoping that you were going to say that we would consider that that would be a requirement of the RFP, but it sounds like it could be just sold as part of the deal as if that's what a developer wanted.

02:04:13:12 - 02:04:14:20

Speaker 9 [Commissioner Solveig Overby]

Is that what you're saying?

02:04:14:21 - 02:04:20:02

Speaker 10 [Jess Freedman, CEDO]

Yeah, we don't really know yet exactly what makes the most sense for.

02:04:20:04 - 02:04:40:11

Speaker 2

That, right? Hi, guys. Hi. So I think the point is that what we're doing is we're just asking we're asking the development community, what do they want to do? So we don't want to put an artificial box around them if they all come in with 99 year leases that make you really happy, they all came in with for sale.

02:04:40:13 - 02:04:59:13

Speaker 2

Know that would make you happy. But maybe there are conditions in there that would make you happy. Maybe that condition creates some other scenario. So we're not putting any limitations on it and we're not. The goal of this project is not to sell the lot. The goal of this project is merely to get ideas and see what the development community wants to do.

02:04:59:15 - 02:05:06:04

Speaker 2

So that's really it right now to make sense.

02:05:06:07 - 02:05:13:25

Speaker 5

That is in case you don't know, that's Jeff Padgett, the interim assistant director of Public Works.

02:05:13:28 - 02:05:16:14

Speaker 1 [PWC Chair Tiki Archambeau]

I never thought I'd see you going to have.

02:05:16:16 - 02:05:17:16

Speaker 5

To ask him to introduce.

02:05:17:16 - 02:05:20:26

Speaker 2

Himself, but.

02:05:20:28 - 02:05:34:06

Speaker 1 [PWC Chair Tiki Archambeau]

We can formally ask that as the commissioner, right. Thank you for the introduction, Mr. Padgett. Commissioner, Overview. Any other questions at this point? Okay.

02:05:34:09 - 02:05:59:29

Speaker 9 [Commissioner Solveig Overby]

That that's, to me, philosophically an important thing as far as our, you know, preserving. It's been people have commented to me about selling off, you know, municipal property because it sort of is a privatization of things. And and I philosophically do not think it's a good idea for the city to sell off property. And when it when when 99 years is is is more than long enough for any building to stay standing.

02:06:00:01 - 02:06:17:07

Speaker 9 [Commissioner Solveig Overby]

And so I feel like that's really philosophically important that we set a precedent. Obviously, I'm not you know, public works doesn't have any control over other than this is parking and there's revenue. But I just I just really think that the you know, I get it. You're just saying this. What do they want to do? Well, no developer is going to say, I want a 99 year lease.

02:06:17:09 - 02:06:38:24

Speaker 9 [Commissioner Solveig Overby]

It's just you have to insist on that. If you're a community that thinks that's an important thing and. That's why I wanted to see if that was part of what was in. And the and I hear it's it's open. It's open to whichever option is going to happen. And I'm I'm going to be concerned if it's if if the proposal that all the proposals are like we just we just want to we want that we need to buy the property.

02:06:38:27 - 02:06:42:01

Speaker 9 [Commissioner Solveig Overby]

We're not going to do our deal, our development that puts us in a much.

02:06:42:01 - 02:07:01:04

Speaker 2

Better position to have the discussion to say, okay, these are the holding conditions. Again, they were all sale conditions. Then you had to say, all right, do we abandon these ideas or do we approach the developer with the best idea that we have that has this one thing that we don't want and negotiate on that? So that's where we're creating a playing field at this point.

02:07:01:04 - 02:07:12:15

Speaker 2

That's all that's happening. There's no obligation. It's just a glorified discussion. Basically, we're asking the development community to compete a little bit on, you know, good, that's all.

02:07:12:22 - 02:07:41:17

Speaker 9 [Commissioner Solveig Overby]

Well, it's sort of like the transition is, again, you know, with our discussions about bike lanes and and cars, you know, we're in a transition phase with that. And this would be a novel situation of saying the community wants to retain ownership. So I know it's you know, it's a it's a it's a it's a it's not something you normally would have in an RFP, for sure, but it's something that is, again, like bike lanes are sort of not feeling so good to people that want to keep parking.

02:07:41:19 - 02:08:01:17

Speaker 9 [Commissioner Solveig Overby]

99 year lease is not so feeling so good to people that are used to just, you know, doing developments and having ownership. And that's just philosophically an important thing that I think we need to think about. And it would have been I think it would be an important factor. Obviously, it's it's new. So your developers are not going to probably say, that's my preference.

02:08:01:20 - 02:08:25:17

Speaker 9 [Commissioner Solveig Overby]

Nobody is, you know, So I'm just wanted to bring that out to find out what what was in the RFP. Was it Burlington is important and keeping ownership of this municipal property. That's an important criteria to our our citizenry and our maintaining our integrity of our community. And and if it's not, well, then then it's not. But I think it's an important thing for us to consider.

02:08:25:21 - 02:08:35:14

Speaker 9 [Commissioner Solveig Overby]

So that was why I was asking the question, if it's part of the RFP. But it's not it's just not.

02:08:35:17 - 02:08:36:09

Speaker 2

Okay.

02:08:36:11 - 02:08:40:00

Speaker 1 [PWC Chair Tiki Archambeau]

Thank you. We'll go around the board here. Commissioner Hogan, I thought.

02:08:40:02 - 02:08:42:26

Speaker 2

We should all have good bark. Mr. O'Neal.

02:08:43:02 - 02:08:44:21

Speaker 3

Yep.

02:08:44:24 - 02:08:45:12

Speaker 1 [PWC Chair Tiki Archambeau]
That microphone.

02:08:45:12 - 02:09:15:01

Speaker 8 [Commissioner O'Neill-Vivanco]
Now. Exactly. Women power here in the pie in the sky. What's not going to be in the RFP? I think I would like see some opportunities to include the actual infrastructure for electric vehicle charging, which I think is really important for our city to kind of, you know, keep moving forward on. You know, you said you can't necessarily guarantee or anything that it is just this opening night for a starting point for conversations.

02:09:15:04 - 02:09:33:02

Speaker 8 [Commissioner O'Neill-Vivanco]
But I do think let's be realistic and let's think where where do we want Burlington to be in the next 510, 15 years with with this property and looking at those 50 car park spots. Let's get to maybe charging infrastructure in there. Thanks.

02:09:33:05 - 02:09:54:29

Speaker 1 [PWC Chair Tiki Archambeau]
Thank you. We'll go to I guess we can get a public comment at this point if there is any public comment. Most of the public cleared out and see no one approaching here, I guess, is back to us. Just one thought to reflect on my part. You know, I agree a lot with the commissioner of his sentiment on this.

02:09:54:29 - 02:10:12:21

Speaker 1 [PWC Chair Tiki Archambeau]
I think it's fine to do what you're doing, so you actually have to get to understand what's out there and what's realistic in order to know to draw boundaries so it's all good at the same time. I'm struck as you were talking, I was thinking, okay, so we're going to fund Memorial Auditorium rehab by selling off a parking lot.

02:10:12:23 - 02:10:42:17

Speaker 1 [PWC Chair Tiki Archambeau]
And that seemed to be the idea before. Exactly. We've seen this movie and that that that is so wrong. I can't even on so many levels, I just it does not ring good for me. We've run up the credit card so much that we now have to consider selling a public asset to fund Memorial Auditorium. Wow. We have \$20 million that we that the city approved in TIFF funds two for a crater in the middle of our city right now that may or may not be developed.

02:10:42:17 - 02:11:03:11

Speaker 1 [PWC Chair Tiki Archambeau]
So I mean, that's just one example of that debt allowance that we have, that a credit card, if you will. I'm I'm a little bit stunned right now, so I apologize. This is nothing on you. I think you're doing what you

need to do. is is definitely a higher level thing that that kind of appalls me.

02:11:03:11 - 02:11:24:18

Speaker 1 [PWC Chair Tiki Archambeau]

So I'll be keeping an eye on this one to be sure to see where that goes. But, you know, Commissioner OVERBY has an ally in me. in terms of the outlook for that piece of personal. All right, barring no other comments on this one, it looks like we're done with this item.

[End of Agenda Item 6. "Main St. & S. Winooski Ave Surface Lot RFP"]

[last part of transcript omitted]

The page features abstract green geometric shapes. On the left, a thin, elongated triangle points downwards. On the right, a larger, more complex shape composed of several overlapping triangles of varying shades of green is positioned. The main title is centered between these two shapes.

Gateway Block Redevelopment

Jesse Freedman
CEDO

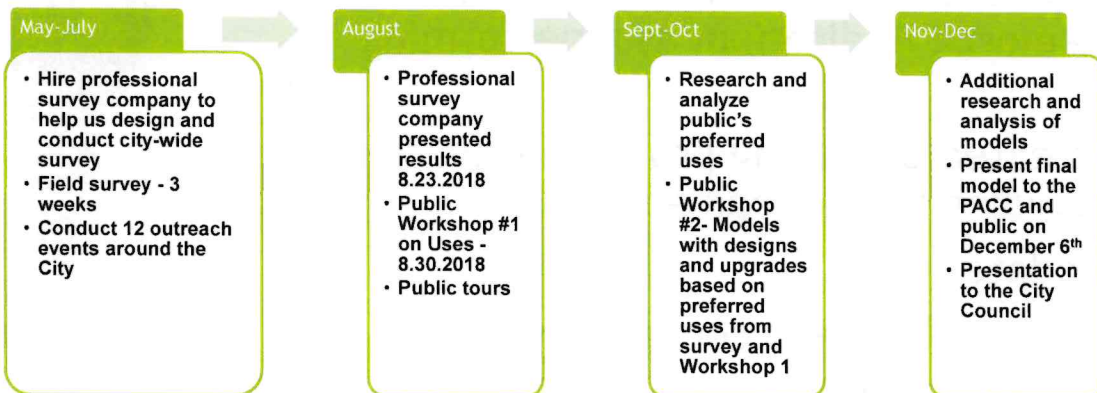
Redevelopment of the 220 Main St Lot



Redevelopment of the 220 Main St Lot

- ▶ Request for Proposals (RFP) to redevelop parking lot
 - ▶ City is seeking ideas for the highest and best use of the site
 - ▶ We are leaning on the creativity and capability of the development community to replace the spaces
 - ▶ Goal is to spur redevelopment of block and help close Memorial renovation funding gap
 - ▶ RFP will contain Development Objectives as parameters
- ▶ RFP will require developer to replace all parking spaces
 - ▶ May be off-site, within 1000 feet of site
 - ▶ May be privately owned/operated and publicly accessible
 - ▶ Some form of profit sharing to replace lost revenue

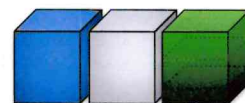
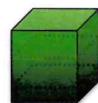
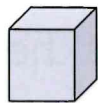
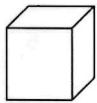
2018 Public Process



Progress in 2019

- ▶ Hired consultant to conduct market and feasibility studies of Memorial Auditorium as a performing arts venue
- ▶ Consultant created operating pro forma for Memorial including redevelopment of lot
- ▶ Additional update to PACC
- ▶ Meetings with development community
- ▶ Initial planning for RFP process

Summary: Four Concepts



	Mothball	Basic	Community	Gateway Block
Pros	Preserves options	Reopens building and allows basic programming	Modern space meets diverse community need	Allows full renovation at price City can afford; unlocks gateway block value
Cons	Building continues to deteriorate	Spaces not modern or flexible; large events limited	\$9-18M funding gap exists	Stretches timeline for renovation

Summary

- ▶ RFP is intended to spur redevelopment of the block
- ▶ Development objectives set guideposts, but wide latitude given potential respondents
- ▶ City is under no obligation to proceed with any proposals
- ▶ Helps close Memorial funding gap

Gateway Block Combined Request for Proposals (RFP) – DRAFT

Memorial Auditorium and Gateway Parking Lot Community and Economic Development Department October 19, 2015

The Community and Economic Development Office (CEDO) of the City of Burlington is soliciting redevelopment and development proposals for the Gateway Block, which includes Memorial Auditorium and the City-owned corner parking lot at the intersection of South Winooski Avenue and Main Street in downtown Burlington. Proposals may include one or both properties. Redevelopment of either parcel will involve significant public processes, and both sites are eligible for Tax Increment Financing (TIF) through the City's Downtown TIF District.

I. Background

A. Memorial Auditorium (145 South Union Street)

Memorial Auditorium is an historic structure built in 1927 that includes a gymnasium with a proscenium stage, large lower level room that currently houses Generator (a maker space), pottery and arts studio currently occupied by Burlington City Arts (BCA) programs, the 30-year home of Burlington Parks Recreation and Waterfront's (BPRW) music venue 242 Main, and major server operations for Burlington Telecom. The 57,562 SF (45,148 finished) building sits on a 0.88-acre corner lot. (See attached Assessor record and State Register of Historic Places description.) The building has served as an event space for years, and important events still take place there – most significantly the Burlington Farmer's Market in cold weather months – though they have dwindled significantly in the last 15 years. The building also serves as a memorial to those who have died in military service (see attached 9-28-2013 BFP story.)

It is operated by BPRW. The on-site parking facilities serving the building are limited, but there are several parking garages and lots within several blocks of the property. The property is bounded to the south by Main Street, the east by Union Street, the north by the College Street Congregational Church and the Library parking lot, and the west by a privately owned mixed use duplex (234-36 Main St) currently housing a tattoo business and residential uses.

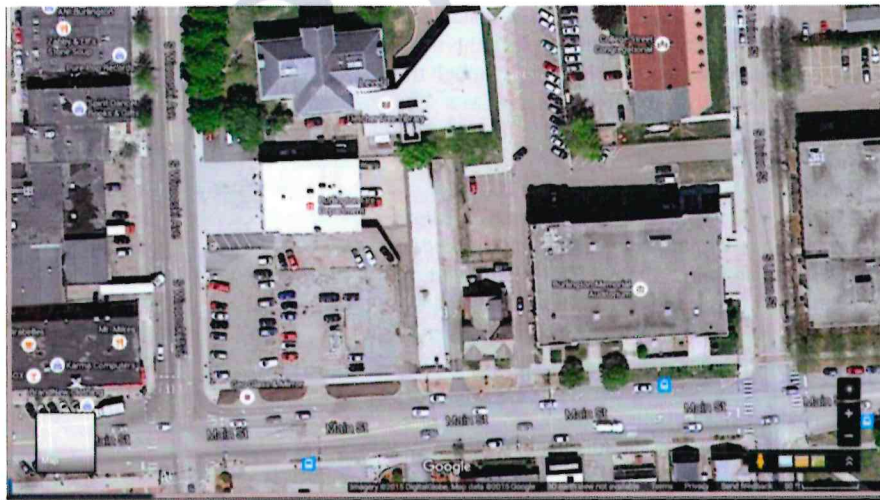
The building has extensive deferred maintenance detailed in three separate reports from 1991, 2008, and 2014 – available upon request. The building costs the City of Burlington roughly \$250,000 annually to operate before addressing any deferred maintenance and currently generates no property tax revenue and limited tax revenue from its events. In a recent memo to the Mayor and City Council (October 13, 2015,) Martha Keenan of the Department of Public Works reported that \$260,000

of immediate investment in the building's roof and heating system is necessary to minimize further deterioration of the building and prepare for a potential failure of the boiler system. In addition, a further \$4M plus is required in the following two fiscal years in order to safely support current building activities. Significant additional spending would be necessary to reconfigure the building for any other uses.

B. Gateway Parking Lot (220 Main Street)

The City-owned 0.23-acre corner parking lot at Main and South Winooski currently serves as transient parking for downtown visitors, with just over 40 parking spaces. (See attached Assessor record.) It has a varied history that includes in its earliest days as a ravine that drained the higher ground to north and east of the site and was the site of an early railroad station. The ravine was later filled but still carries a key part of the City's stormwater system. As a result, a significant amount of non-structural fill underlies the parking lot (see attached 8-3-2013 BFP story and 5-2-1991 engineering report.)

The parking lot sits at one of the primary entrances to the downtown and is currently operated by the Department of Public Works (DPW). The property is bounded to the south by Main Street, to the east by the privately held Mid-Town Motel (230 Main St), to the north by a Burlington City Fire Station #1, and to the west by North Winooski Avenue. Some environmental assessments have already been conducted and are available upon request.



II. Development Goals

The City has multiple development parameters/objectives for the redevelopment of these two sites. These include:

A. Memorial Auditorium Goals

- Adaptive reuse of this prominent and important civic building located on the **gateway to the city's downtown core.**
- Preserve and restore the historic character and façade of the building, particularly on the sides facing Union Street and Main Street.
- Preserve and/or honor in some fashion the memorials within the building.
- Generate positive cash flow to the City's finances through adaptive reuse of the building, to the benefit of taxpayers and fiscal stability.
- Address all deferred maintenance.
- Preserve or specifically address the relocation of the Burlington Telecom hub in redevelopment plans (estimated moving cost approximately \$1M).
- If Tax Increment Financing (TIF) is proposed as a redevelopment source, generation of new tax dollars must be created in sufficient increment at either or both development sites to support the requested public investment; **and the proposal should indicate how "but for the public investment" redevelopment as proposed could not occur.**
- Work with City-based entities with existing uses in the building to determine whether or not a future development of the building is the appropriate place to re-house an iteration of those uses or not. If not, include a proposed process to determine potential new locations with a commitment to assist with relocation.

B. Gateway Parking Lot Goals

- Utilize great urban design:— architecturally innovative and forward-looking but grounded in context of downtown Burlington.
- Active first floor uses are required – with a two-story high retail corner at Main & S. Winooski as a goal.
- Minimum 15-foot wide active pedestrian area along Winooski Avenue frontage.
- Height should be maximized within current zoning; density is a priority for downtown developments in this location or a strategy for rezoning should be proposed.

C. Shared Goals

- Parking
 - No at-grade, street fronting parking (off-street).
 - If proposed, any parking structure should be right-sized and shared-use, based on the principles of the Downtown Parking Plan.
 - If proposed, any parking structure **MUST** participate in whatever parking

management district is formed to serve downtown through the City's ongoing Downtown Parking efforts; if a new structure is proposed to be built utilizing City dollars, it is highly likely that structure will be owned by the City or downtown-wide parking entity.

- Parking spaces must be unbundled from units/leasable space.
- Bike parking and bike amenities should be prioritized.
- Housing is highly encouraged at one or both sites and will be considered favorably, but is not a required parameter.
- The reintroduction of on-street parking on Main Street, if deemed workable by the City's DPW.
- Utilize sustainable design practices and green infrastructure extensively.
- Public art should be incorporated into the interior and exterior.
- Should have thoughtful interfaces with firehouse, library, existing Church, and other neighbors. Project proposals that support and incentivize successful re-development of Memorial are a priority.
- Loading and unloading should be shielded from the street.
- Waste and external services should be shared as much as possible for efficiencies.
- Reference Plan BTW: Downtown & Waterfront for broader conceptual framework.

III. Proposal Process

Proposals will be accepted from:

- Developers seeking to develop solely one property or the other;
- Developers seeking to develop both properties;
- Separate developers working in partnership to develop both parcels;
- Proposals from or partnering with adjacent land owners; and
- City of Burlington departments.

The City reserves the right to proceed with one property and not the other based on proposals received, staff capacity, and available funding.

Proposals will be vetted by a CEDO-led team, but will also go through a public process to ensure citizen input on the project(s). If a project seeks Tax Increment Financing, the project will ultimately have to go through a public vote.

Sale of either or both properties is possible, but respondents are strongly urged to consider ground lease proposals or other mechanisms that give the City a measure of long-term control of the parcel itself, with more flexibility for the ownership structure of the developments.

The City will conduct a two-tier submission process.

A. Tier One Submission Materials (Request for Qualifications)

Proposals are limited to no more than 12 pages total (6 pages double-sided or 24 single-sided.)

1. Proposed Concept – address how each City parameter is met, include one visual
2. Finances – project cost estimate
3. Experience – Brief annotated list of comparable projects

Public input will be solicited on the concepts at this stage, and two to three finalists will be chosen to advance to the second tier based on the response to the qualifications.

B. Tier Two Submission Materials (Request for Proposals)

Proposals are limited to no more than 24 pages total (12 double-sided or 24 single-sided).

1. Proposal narrative detailing how each applicable parameter will be addressed in the project proposal.
2. Proposed financial structure:
 - a. Acquisition purchase price and/or general proposed lease terms.
 - b. Requested Tax Increment Financing with anticipated annual tax revenue generated by the project(s) to support the TIF investment
3. Rough time estimate for project (the start date is unknown as the schedule of the public process has not yet been clearly defined).
4. Detailed experience of project team.
5. At least 3 visuals of the project, including at least one viewpoint from the middle of Main Street east of Memorial Auditorium looking west.

C. Proposals Evaluation

Proposals will be evaluated on the following:

- The proposed development's adherence to the parameters above.
- If critical to the development proposal, demonstrated partnership with adjacent site owners OR commitment to achieve a formal partnership within 90 days of submission with adjacent site owners. If no partnership is formed, and adjacent sites (not owned by the City) are critical to the redevelopment, the proposal will NOT be considered.
- Experience working in urban sites, and if proposing for Memorial, with redevelopment of historic structures.
- Experience working within complex regulatory environments, including with Tax Increment Financing
- A documented history of delivering projects on-time and on-budget.
- Experience working within public processes and highly scrutinized projects.
- Proposed financial terms.

Commented [JF1]: If proposals are going to be scored, the scoring matrix should be included in this RFP.

D. Timeline

Submit one digital copy to YYYY, the project manager at CEDO, and 5 hard copies by 5:00 PM on Month, XX, 2015. Late submittals will not be accepted.

DRAFT

Lori Olberg

From: Jak Tiano <jaktiano@me.com>
Sent: Monday, March 11, 2024 3:16 PM
To: Zoraya Hightower; Joseph Magee; Gene Bergman; Ali Dieng; Lori Olberg
Subject: Re: Inclusionary Zoning Resolution

You don't often get email from jaktiano@me.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Lori, please add this as a public communication for tonight's city council meeting, as I won't be able to attend to raise these points in person during public forum.

=====

Councilor Hightower (and the other IZ resolution sponsors that I am looping in),

I want to clarify that my ask is focused on re-phrasing the resolution to be focused on reassessing our affordable housing policy holistically, instead of being prescriptive about IZ PILOT fee increases. With all due respect, I don't believe that the resolution sponsors (or really anyone, without performing research and data analysis) have the expertise to know how changes like this will interact with feedback loops in our housing policies. I think that we'll end up with better policy if you ask the Planning Commission to instead take a look at how other cities around the country have succeeded and failed to fund affordable housing initiatives over the past 35 years, while also keeping in mind the changing development landscape and the new zoning regulations we are rolling out in Burlington. Our IZ ordinance was introduced in 1990, a year where Burlington built *four* units of housing in total, and 4 years before the city implemented its most restrictive zoning code in its history in 1994. We are in a very different world now, and I think that we need to rethink our affordable housing funding mechanism.

To add more detail to my personal hesitancy to double down on IZ as it exists: in an abstract sense, what IZ does is take a number of units in a new development project and gives them a subsidy, and makes the other market rate tenants/buyers pay to offset that subsidy. To be perfectly clear: we are not "making developers pay" for IZ, we are making the occupants of the market rate units pay for it. Since almost all of our IZ units (85%) are rentals and our vacancy rate is so low, this also serves to inflate the prices of market rate rentals city wide. And so, at a high level, we have an affordable housing funding mechanism that only raises money from renters; in my eyes, this is a regressive tax that hurts people with <100% AMI incomes the most. The wealthiest residents of the city—people who own property, and *especially* people who own a lot of property—don't help fund IZ at all (aside from the handful of folks who bought into one of the 12 IZ condo buildings at market rate).

In my longer analysis on the Neighborhood Code, I walked through more of the history of housing policy in Burlington, and made the case for a 1,000 unit per year development pace to alleviate the housing crisis. In more visceral terms, I make the case that without our artificial housing restrictions Burlington should have been a city of 90,000 people right now, and that the past 50 years of restrictive housing policy have been the primary sources of the acute crises we face. I bring this up because, just like the city is currently wrestling with its collective attachment to the current "scale" of the city through the Neighborhood Code ordinance process, I believe we also need to fundamentally rethink our approach to how we build and finance affordable housing. The data shows that Inclusionary Zoning policies work best in cities with robust local housing development ecosystems and healthy vacancy rates, of which Burlington has neither.

-Jak Tiano, Ward 5

On Feb 26, 2024, at 11:57 PM, Zoraya Hightower <Zhightower@burlingtonvt.gov> wrote:

Hi Jak,

With all due respect, I think the any supply is fine model has no proof. We have a real shot in Burlington of building a lot of housing in the next 20 years. We also have enough upper-class demand from that this could go **entirely** to luxury condos and homes and not build a single affordable unit. And I think we would have lost. We have SO much proposed building right now. Literal skyscrapers. Incorporated IZ is the only way we can ensure any of it goes to working-class homes.

I have seen so much of IZ is working best - there are several housing complexes in my Ward from Riverwatch to 81 South Williams where 10 - 15% of homeowners and renters are quietly benefitting from IZ without their neighbors knowing. Or a whole building in the old Burlington College (although I support the integrated projects more).

Getting 15% of the development to be rented at 1.4k for a 2BR unit or sold at a similarly affordable prices isn't a hinderance (or even a huge ask) - its a must have. You only have to pay-up if you don't do that.

Zoraya

From: Jak Tiano <jaktiano@me.com>
Sent: Monday, February 26, 2024 3:21 PM
To: City Council <citycouncil@burlingtonvt.gov>
Cc: Lori Olberg <lolberg@burlingtonvt.gov>
Subject: Inclusionary Zoning Resolution

[Some people who received this message don't often get email from jaktiano@me.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hi Lori,

Please also add this separate communication on the Inclusionary Zoning Resolution to the public communications for tonight's meeting.

Thanks

=====

Councilors,

I wanted to make a brief recommendation on the Inclusionary Zoning Resolution that will be in front of the council tonight.

The resolution as-written I think is conflating outcomes with processes. Its goal is to increase the

availability of affordable housing, but it is prescriptive in its approach of doing so by increasing PILOT fees for IZ units.

My worry is that research continues to show that IZ may actually be a net-negative policy for housing affordability when assessed holistically, and in my conversations with local middle-income developers, the existing IZ policy can be incredibly difficult to make new construction work in our current regulatory and financial environment (and even before). Dramatically increasing the IZ PILOT fees may have the unintended consequence of further cooling our pace of new housing construction (and further inflating market rate housing costs) when we need to be rapidly increasing our pace of development (see my much longer email on Neighborhood Code and the Housing Crisis for details).

The underlying goal of the resolution—of increasing the availability of affordable housing—is a goal we fundamentally share. All of my advocacy work is in service of that goal. I would ask that the resolution be re-worded to focus on that outcome of the policy assessment, and not to be prescriptive in how we get there. I think this would be a more impactful use of the Planning Commission's attention, because as written I think that they may find that the proposed solution doesn't work, and won't have any better solutions to show for their time.

-Jak Tiano, Ward 5

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Lori Olberg

From: Michael Long <mjlongvt@gmail.com>
Sent: Monday, March 11, 2024 3:36 PM
To: Lori Olberg
Subject: Concerns Regarding Neighborhood Code as Currently Drafted

[WARNING]: This email was sent from someone outside of the City of Burlington.

Councilors:

Despite noble intentions, Neighborhood Code remains an unfinished work-in-progress and should be returned to committee to get it right.

At present, it pursues extreme density — come what may. It does not yet address stormwater, parking demand, off-campus student housing pressure, architectural standards, flawed computer-generated mapping data, the tax implications of upzoning, or even the affordability that's purportedly its central concern.

It relies on market forces that have proven unreliable and that have already enabled opportunistic investors to profit from high priced and poorly maintained units in formerly diverse neighborhoods now given over to monoculture student zones.

When Neighborhood Code is finished and ready to advance the goal of more affordable quality housing of various kinds for a variety of people and families, it will not double upzone a missing middle neighborhood like the one between Willard and Mansfield. That neighborhood currently is about 60% single family houses on small lots, about 20% duplexes, and 20% triplexes, fourplexes, and larger multi-unit buildings. This is a healthy, dense, diverse neighborhood now. Double upzoning and hyper-density would push it toward monoculture and absentee, investor ownership instead — with all of the attendant negative impacts. Only the least civic-minded subset of landlord-investors would profit.

When Neighborhood Code is finished and ready, it will not permit 8 or 10 units on any lot. Like the many states and localities that have upzoned in recent years, it will permit two, three, or four units on lots where only one unit might have been permitted before.

A significant density increase like this would be exactly what we were told Neighborhood Code would lead to. That's exactly what the Planning Department said at the October NPA: duplexes, triplexes, and fourplexes. No mention was made of 8 or 10 units on a lot — or of two residential structures — at the NPA in October, November, or December. And as late as February, a councillor's "Blue Letter" stated that a lot in the "RL zone could have four dwelling units on it." Again, no mention of 8 or 10 units.

When Neighborhood Code is ready, you should not be voting on a level of density that is more than twice what the community was told it would be and that is more than twice what other communities have enacted across the nation.

Sincerely,

Michael



To: Board of Finance
City Council

From: Megan Moir, Division Director Water Resources
James Sherrard, Stormwater Program Manager

Date: March 11, 2024

Cc: Chapin Spencer, DPW Director

RE: Authorization to Accept MS4 Community Formula ARPA Grant Funds

REQUEST

The Department of Public Works, Water Resources Division seeks Board of Finance and City Council authorization for the acceptance of \$762,678 of American Rescue Plan Act (ARPA) funds through the execution of a MS4 Community Formula Grant agreement with the Vermont Department of Environmental Conservation (VTDEC). These funds will be dedicated to the design and/or implementation of stormwater management practices that help Burlington make progress towards meeting the goals of its Integrated Water Quality Plan (IP).

EXECUTIVE SUMMARY

Background

The purpose of the Municipal Separate Storm Sewer Systems (MS4) Community Formula Grant is to assist MS4 communities such as Burlington with permit compliance and to reduce the adverse impacts to water quality from urban stormwater runoff. Grant recipients must use the grant to design and/or implement eligible stormwater management practices that help the MS4 community make progress towards phosphorus reduction targets assigned within their Phosphorus Control Plan or IP. Burlington, as a community that has developed and integrated plan, may additionally assign these funds to other eligible stormwater management practices such as those addressing combined sewer overflow (CSO) discharges, projects reducing the phosphorus load to Lake Champlain, and projects identified in a Flow Restoration Plan (FRP). The Grant also allows applicants to accept funds without committing to a specific project if the City asserts that the chosen project/s will meet standard performance measures as outlined by the State. Knowing this, the City has chosen two separate projects for consideration, each of which has been deemed eligible under this grant by the State. These include a gravel wetland and CSO reduction projects which are discussed in more detail in the Project Funding section.

Match Requirements for the Grant

There is a 20% local match requirement (\$190,669.50) for this grant to result in a total water quality improvement expenditure of \$853,347.50. Fortunately, this local match can be met through “leveraging” in the form of demonstrated non-ARPA dollars spent on implementation of other eligible projects in the community that meet water quality goals laid out in a State approved clean water plan. Eligible projects include those taking place through a public private partnerships (P3) where the private

dollars that are spent in the community can be counted as this leverage. It is the intent of the Stormwater Program to leverage dollars expended on recently approved P3 project to meet this grant requirement.

Match Project: P3 Project with Pomerleau/CHT/Burlington¹

- DEC Grant # 06140-2022-ARPA-CWB-03 providing ARPA funding of \$705,000.
- Estimated construction cost totaling \$2.6 million.
- Private dollars covering the remaining costs total \$1.9 million.
- The entirety of the private dollars spent are eligible as leverage for the MS4 Community Formula Grant, thus meeting the 20% match/leveraging requirement.

Project(s) anticipated to be funded with the grant

The MS4 Community Grant Funds are anticipated to be used for the construction of a gravel wetland and at least one, if not two CSO reduction projects. The gravel wetland would be a design build project, while the CSO reduction projects would be solely a construction effort as the Stormwater Program already has 100% designs in place. This grant is flexible so long as project funds are spent on water quality improvements, so the final projects selected for funding can change as necessary.

Proposed Gravel Wetland

- Gravel wetlands are shown to have the best performance for phosphorus reduction; the proposed gravel wetland would improve the water quality for runoff coming from a residential area and City roadways which currently drains to Blanchard/Oakledge Beach, a public beach.
- *Estimated costs*
 - Design estimate has been obtained totaling \$55,000.
 - Gravel wetland would be approximately 12,000 ft² in size
 - A range of estimates for gravel wetland installations in S. Burlington from 2022 are summarized in the following table.

sf	Low	High	Low \$/sf	High \$/sf
31,000	\$ 265,000	\$ 540,000	\$ 8.55	\$ 17.42
13,300	\$ 136,500	\$ 207,000	\$ 10.26	\$ 15.56
22,700	\$ 150,000	\$ 305,000	\$ 6.61	\$ 13.44

- In 2022 dollars, the higher end estimate for a 12,000 ft² gravel wetland could approach \$210,000, if not more.
- Including design, capital costs, and 35% for contingency and RE services this project is currently estimated to cost \$360,000.

CSO Reduction Projects

- Two proposed locations for implementation are shown highlighted in green in the below table.

¹ Grant acceptance for this P3 Project was approved by City Council on June 5, 2023.

System #	Location	CSO	Cost	2022 Cost Estimate	Imp Managed (ac)	Infiltrated Volume (af)	P Reduction kg/yr	Est. \$/Imp. (ac)	Est. \$/Vol (af)
9	North Champlain	Above	\$327,079.80	\$542,952.47	1.918	0.326	3.26	\$283,082.62	\$1,665,498.37
10	Cedar	Below	\$237,042.89	\$393,491.20	2.584	0.324	4.33	\$152,279.88	\$1,214,479.00
13	Intervale	Below	\$297,304.56	\$493,525.57	2.748	0.418	4.69	\$179,594.46	\$1,180,683.18
12P1	Summer and Park	Below	\$171,392.24	\$284,511.12	2.649	0.344	4.52	\$107,403.22	\$827,067.21
12P2	Park	Below	\$73,111.83	\$121,365.63	1.13	0.155	1.94	\$107,403.22	\$783,004.10

- N. Champlain (System #9) is the highest priority system as it is located above an active combined sewer overflow outfall. Depending on the success and cost of implementing the gravel wetland, we may have additional funds remaining to contribute towards implementation of a second location (System #12P2) if we are able to contribute additional capital funds.

As the Grant allows project selection to be flexible, it is possible the Stormwater Program may select alternate phosphorus or CSO reduction projects for implementation.

ARPA funds must be expended by December 2026.

ATTACHMENTS

- FFA Standard Grant Agreement (ARPA Funding): FINAL_Burlington_06140-ARPA-CWF-MS4-02

MOTIONS

The Water Resources Division of the Department of Public Works respectfully requests the Board of Finance and City Council approve the following motions:

Board of Finance:

- To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute an MS4 Community Formula Grant Agreement with Vermont DEC for up to \$762,678 of ARPA funds for the design and implementation of stormwater management practices, subject to final review and approval by the City Attorney's Office.

City Council:

- To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute an MS4 Community Formula Grant Agreement with Vermont DEC for up to \$762,678 of ARPA funds for the design and implementation of stormwater management practices, subject to final review and approval by the City Attorney's Office.

STATE OF VERMONT GRANT AGREEMENT

Part 1-Grant Award Detail

SECTION I - GENERAL GRANT INFORMATION

¹ Grant #: 06140-ARPA-CWF-MS4-02		² Original ☒ Amendment # _____	
³ Grant Title: ARPA CWF-MS4			
⁴ Amount Previously Awarded: \$0.00		⁵ Amount Awarded This Action: \$762,678.00	
⁶ Total Award Amount: \$762,678.00			
⁷ Award Start Date: Upon Signature		⁸ Award End Date: 09/30/2026	
⁹ Subrecipient Award: YES ☒ NO ☐			
¹⁰ Supplier #: 0000040096		¹¹ Grantee Name: Burlington City Treasurer	
¹² Grantee Address: 149 Church Street, City Hall Room 22			
¹³ City: Burlington		¹⁴ State: VT	
¹⁵ Zip Code: 05401		¹⁶ State Granting Agency: Department of Environmental Conservation	
¹⁷ Business Unit: 06140		¹⁸ Performance Measures: YES ☒ NO ☐	
¹⁹ Match/In-Kind: \$190,669.50		Description: Programmatic Match	
²⁰ If this action is an amendment, the following is amended: Amount: ☐ Funding Allocation: ☐ Performance Period: ☐ Scope of Work: ☐ Other: ☐			

SECTION II - SUBRECIPIENT AWARD INFORMATION

²¹ Grantee Identifier [UEI] #: EN7YVLHMT773		²² Indirect Rate: 10.00 %		²³ FFATA: YES ☒ NO ☐	
²⁴ Grantee Fiscal Year End Month (MM format): 6		(Approved rate or de minimis 10%)		²⁵ R&D: ☐	
²⁶ Entity Identifier [UEI] Name (if different than VISION Vendor Name in Box 11): City of Burlington					

SECTION III - FUNDING ALLOCATION

STATE FUNDS

Fund Type	²⁷ Awarded Previously	²⁸ Award This Action	²⁹ Cumulative Award	³⁰ Special & Other Fund Descriptions
General Fund			\$0.00	
Special Fund		\$290,054.00	\$290,054.00	Clean Water Fund
Global Commitment (non-subrecipient funds)			\$0.00	
Other State Funds			\$0.00	

FEDERAL FUNDS

(includes subrecipient Global Commitment funds)

Required Federal Award Information

³¹ CFDA#	³² Program Title	³³ Awarded Previously	³⁴ Award This Action	³⁵ Cumulative Award	³⁶ FAIN	³⁷ Federal Award Date	³⁸ Total Federal Award
21.027	Coronavirus State and Local Fiscal Recovery Fund		\$472,624.00	\$472,624.00	SLFRP4407	03/03/2021	\$1,049,287,303.00
³⁹ Federal Awarding Agency: U.S. Department of the Treasury		⁴⁰ Federal Award Project Descr: American Rescue Plan Act					
			\$0.00				
Federal Awarding Agency:		Federal Award Project Descr:					
			\$0.00				
Federal Awarding Agency:		Federal Award Project Descr:					
			\$0.00				
Federal Awarding Agency:		Federal Award Project Descr:					
			\$0.00				
Federal Awarding Agency:		Federal Award Project Descr:					
Total Awarded - All Funds		\$0.00	\$762,678.00	\$762,678.00			

SECTION IV - CONTACT INFORMATION

STATE GRANTING AGENCY NAME: Nicole Streeter TITLE: Grants Specialist PHONE: (802) 461-6668 EMAIL: nicole.streeter@vermont.gov	GRANTEE NAME: Chapin Spencer TITLE: Director of Public Works PHONE: (802) 865-7000 EMAIL: cspencer@burlingtonvt.gov
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FFA - STANDARD ARPA GRANT AGREEMENT

1. **Parties:** This is a Grant Agreement between the State of Vermont, Department of Environmental Conservation (hereinafter called "State"), and Burlington City Treasurer with principal place of business at 149 Church St, City Hall Room 22, Burlington, VT 05401, (hereinafter called "Subrecipient"). It is the Subrecipient's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Subrecipient is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter:** The subject matter of this Grant Agreement is to assist Municipal Separate Storm Sewer Systems (MS4) Communities with MS4 permit compliance to reduce the adverse impacts to water quality of a discharge or stormwater runoff, pursuant to the federal American Rescue Plan Act of 2021 and the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions, attached hereto. Detailed scope to be provided by the Subrecipient are described in Attachment A.
3. **Maximum Amount:** In consideration of the scope of work to be performed, the State agrees to pay Subrecipient, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$762,678. Attachment B, Payment Provision provides details on how the grantee will be reimbursed. Up to \$290,054 in State Clean Water Fund (CWF) dollars can be used as match for the purpose of obtaining additional federal funds by the subrecipient without written approval from the State. The remaining federal American Rescue Plan Act dollars cannot be used as match for the purpose of obtaining additional federal funds by the subrecipient without written approval from the State.
4. **Procurement:** The Subrecipient certifies that for any equipment, supplies, and/or services outside of their organization, that they have and will follow their procurement policy.
5. **Ownership and Disposition Assets:** At the end of the grant term, Sub-awardee will retain any pipes, valves, pumps, tanks, or other equipment installed under the grant agreement and described in the scope of work for the same use and intended purpose as outlined in this agreement.
6. **Source of Funds:**

___ General	__X__ Federal	__X__ Other – State Clean Water Fund
\$	\$472,624	\$290,054

 - a. For grants funded with federal dollars only.

CFDA Title	Coronavirus State and Local Fiscal Recovery Fund
CFDA Number	21.027
Award Name	American Rescue Plan Act (ARPA) Vermont State Recovery Fund
Award Number	SLFRP4407
Award Year	2021
Federal Granting Agency	US Department of the Treasury
Research and Development Grant?	☐ Yes ☒ No
7. **Grant Term:** The period of Subrecipient's performance shall begin upon date of execution, signified by the date of signature by the State and end on September 30, 2026.
8. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Grant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Subrecipient. No amendment will be considered without a detailed justification to support the amendment request. Failure to provide an adequate justification may result in

the denial of the request. Any request for an amendment to this agreement must be made in writing at least 30 days prior to the end date of this agreement or the request may be denied.

9. Cancellation: This Grant Agreement may be cancelled by either party by giving written notice at least 30 days in advance.
10. Fiscal Year: The Subrecipient's fiscal year starts 7/1 and ends 6/30.
11. Work product ownership: Upon full payment by the State, all products of the Subrecipient's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, become the sole property of the State of Vermont and may not be copyrighted or resold by Subrecipient.
12. Attachments: This Grant consists of the following attachments that are incorporated herein:
 - Attachment A - Scope of Work to be Performed
 - Attachment B – Budget and Payment Provisions
 - Attachment C - Customary State Grant Provisions
 - Attachment D – Other Grant and Contract Provisions
 - Attachment F – State Fiscal Recovery Fund (SFR) Program Assurances
 - Attachment G- Terms and Conditions for Federal Subrecipients

Legal Name and Unique Entity Identifier (UEI) on File with the www.sam.gov (1):

City of Burlington
Print Legal Name

EN7YVLHMT773
UEI (2)

Did this business or organization (the legal entity to which the UEI provided belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?*

☐ Yes ☒ No

If yes, please list the top five highest paid senior executive salaries that are not available to the public:

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS GRANT.

STATE OF VERMONT

SUBRECIPIENT

By:

By:

Commissioner

Name: (Print) _____

Dept of Environmental Conservation

Title: _____

Attachment A

Scope of Work to be Performed

Part or All of the Scope May be Sub-Awarded

I. **Project Overview:** The purpose of the Municipal Separate Storm Sewer Systems (MS4) Community Formula Grant is to assist MS4 communities with MS4 permit compliance to reduce the adverse impacts to water quality of a discharge or stormwater runoff. Grant recipients must use the grant primarily to design and/or implement eligible stormwater management practices that help the MS4 community make progress towards phosphorus reduction targets assigned within their Phosphorus Control Plan (or Integrated Water Quality Plan). If a participating MS4 community has already achieved and reported to the State the phosphorus reduction targets assigned within their Phosphorus Control Plan (PCP), they may use these funds to design and/or implement other eligible stormwater management practices the MS4 community has identified as necessary to achieve the pollution reductions identified in any associated Flow Restoration Plans or other eligible MS4 Community Formula Grant projects that provide a phosphorus reduction benefit and will be reported to the State Stormwater Program.

Eligible MS4 Community Formula Grant projects are clean water projects that:

- A. Are preliminary (30%) design, final (100%) design, implementation stormwater or road projects as described in the Clean Water Infrastructure Program (CWIP) Project Types Table (available here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>),
- B. Meet all the applicable eligibility criteria in the most current CWIP Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>), and
- C. Are currently or plan to be listed in either the MS4 Community's Phosphorus Control Plan, Flow Restoration Plan, or Integrated Water Quality Plan or otherwise reported as a regulatory project to the State Stormwater Program.

Table 1: SFR Program Information

SFR Program	Infrastructure
SFR Expenditure Category	EC 5.6 Clean Water: Stormwater
SFR Project Name	MS4 Formula Award – City of Burlington
SFR Project ID No.	ANR-6140892207-011
Primary Place of Performance	149 Church St, Burlington, VT 05401
National Pollutant Discharge Elimination System (NPDES) Permit # (if applicable)	N/A
Public Water System ID # (if applicable)	N/A
Median Household Income for Service Area	\$50,089
Lowest Quintile Income for Service Area	\$9,344

II. **Statement of Need:** The Clean Water Service Delivery Act ([Act 76 of 2019: https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT076/ACT076%20As%20Enacted.pdf](https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT076/ACT076%20As%20Enacted.pdf)) established the Municipal Stormwater Implementation Grant Program to provide grants to municipalities to assist with their compliance efforts under regulatory stormwater permits. Per 10 V.S.A § 928 , “The Secretary shall administer a Municipal Stormwater Implementation Grant Program to provide grants to any municipality required under section 1264 of this title to obtain or seek coverage under the municipal roads general permit, the municipal

separate storm sewer systems permit, a permit for impervious surface of three acres or more, or a permit required by the Secretary to reduce the adverse impacts to water quality of a discharge or stormwater runoff.” The statutory intent of 10 V.S.A § 928 is met through four different funding initiatives. Since agencies and programs within the State of Vermont already provide grants to municipalities to attain permit compliance under the municipal roads general permit and the Stormwater General Permit 3-9050 (which includes stormwater management requirements for properties with three or more acres of impervious surface), this grant program is directed to Municipal Separate Storm Sewer System (MS4) communities to meet the final statutory intent of 10 V.S.A § 928.

III. Population Served: This will serve all the community residents of the City of Burlington. As of the 2020 Census the population of the City of Burlington is 44,595.

IV. Scope of Work: The subrecipient shall ensure the following are completed related to the MS4 agreement:

- A. Project eligibility screening and selection (with DEC Technical Project Manager (TPM) support as needed):
 1. Submit to TPM completed Project Eligibility Screening form for each proposed project, with identified list of permits needed (if applicable). Eligibility Screening Form is available here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>
 2. Submit proposed project information into ANR Online Clean Water Project – New Project Form (a step required in Project Eligibility Screening as well) (if applicable)
 3. Work with TPM to finalize and document initial portfolio of projects that will be pursued and supported with this award. TPM will provide MS4 Project Tracking and Reporting form for this.**
- B. Launch projects
 1. Update Project Status in Watershed Projects Database (WPD): Submit project funding information through ANR Online Clean Water Project – Update Form (if available). Otherwise, submit to TPM project funding information in format requested by TPM who will then update WPD with funding status and amount.
 2. Complete standard milestones and deliverables per project type as outlined in CWIP Funding Policy Appendix B: CWIP Project Types Table
- C. Quarterly check-ins with the State Technical Project Manager in format requested by TPM and quarterly progress reports on template to be provided by TPM (MS4 Project Tracking and Reporting form). Submit any other data as requested by the State.
- D. Final reporting and deliverables submission:
 1. Close out project in WPD: Submit ANR Online Clean Water Project – Project Closeout Form for each completed project (if available). Otherwise submit Final Performance Report Spreadsheet following standard required CWIP performance measures and BMP data.
 2. Submit final deliverables per project type as outlined in CWIP Funding Policy Appendix B: CWIP Project Types Table
 3. Submit final invoice
 4. Submit any other data as requested by the State

**TPM will review grantees’ proposed portfolio of projects to confirm eligibility, cost reasonability, and mutual understanding of leverage strategy and expected milestones and deliverables. Grantee may change which projects they are pursuing with the award dollars after consultation with and approval from the TPM following the same evaluation as applied to the initial portfolio of projects. Initial portfolio of projects should have a cumulative cost estimate at or above the award value. If portfolio of projects changes over time and cumulative estimated costs fall below the award value, grantee will only be eligible to invoice for total actual costs (not to exceed award value). A minimum of one project must be completed by the end of the grant agreement period. “Completed” is defined as achievement of all standard milestones, and submission, review and approval of all standard

deliverables for the project based on its Project Type, as outlined in the CWIP Project Types Table (available here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>)

V. Expected Responsibilities: The Subrecipient shall ensure the following responsibilities are met related to the MS4 agreement:

- A. Read the Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>), subsequent updates, and review or attend associated trainings. Contact CWIP staff with any questions, points of clarification, or needs for policy interpretation.
- B. Adhere to the CWIP Funding Policy and the State agreement terms and conditions. This includes but is not limited to:
 1. Ensuring proposed projects meet eligibility criteria,
 2. Performing due diligence to avoid or minimize natural and cultural resource impacts,
 3. Completing projects in alignment with standardized milestones and deliverables as listed in the CWIP Funding Policy Appendix B: Project Types Table and further described in the CWIP Funding Policy Appendix C: Project Types Table Explanation of Items, and
 4. Ensuring spent funds directly support the project's clean water purpose.
- C. Ensure projects do not run over budget. See CWIP Funding Policy Managing Project Spending section for more details (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>).
- D. Secure all local, state, and federal permits at the end of final design or at the start of the implementation phase and prior to any construction begins.
- E. Oversee subcontractor work, if applicable. This includes ensuring all subcontractor work proceeds in alignment with any guidance or direction provided by State staff, regulatory programs, and the CWIP Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>).
- F. Pause implementation/construction and contact the Vermont Division of Historic Preservation in the event that identifiable artifacts are discovered at a project site.
- G. Maintain timely reporting, invoicing, and proactive communication with the State Technical Project Manager.
- H. Maintain and comply with an up-to-date procurement policy.
- I. Meet and document leverage requirements. Grantee is responsible for at least 20% of the total "Project" cost and the state is responsible for up to 80% of the total cost. Attainment of phosphorus control plan goals can be considered a single "project" such that individual stormwater best management practices funded by the grantee can be used as in-kind leverage against a best management practice installed with award funds. More information on leverage requirements for this award including eligible sources of leverage and timing of leverage can be found in the CWIP Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>).

Table 2. Milestone and Deliverables schedule:

Project Implementation	#	Milestone	Deliverable	Due Date
	1	Project eligibility screening and selection (with	a. Submit to TPM completed Project Eligibility	

		TPM support if necessary)	Screening form with identified list of permits needed (if applicable) b. Submit proposed project information into ANR Online Clean Water Project – New Project Form c. Initial portfolio of projects under pursuit documented in format requested by TPM.	
2	Launch Project		a. Update Project Status in WPD: Submit project funding information through ANR Online Clean Water Project – Update Form (if available). Otherwise, submit to TPM project funding information who will then update WPD with funding status and dollar amount. b. Complete standard milestones and deliverables per project type as outlined in Appendix B: CWIP Project Types Table	3 months from grant execution
3	Quarterly check-ins with and reporting to the State Technical Project Manager (TPM)		a. Engage in Progress Meeting with TPM quarterly. b. Submit Quarterly Progress Reports on MS4 Project Tracking and Reporting form	Due 3 days after the close of each quarter (December 29 th , March 29 th , June 28 th , September 28 th) for the life of the agreement.

			c. Submit any other data as requested by DEC	
Project Close-out	4	Deliverable Submission and Project Close-out	a. Close out project in WPD: submit ANR Online Clean Water Project – Project Closeout Form (if available). Otherwise submit Final Performance Report Spreadsheet following standard required CWIP performance measures and BMP data. b. Submit final deliverables per project type as outlined in Appendix B: CWIP Project Types Table c. Submit final invoice d. Submit any other data as requested by DEC	September 30, 2026
TOTAL BUDGET AVAILABLE (with a minimum of 10% held for final deliverables)				\$ 762,678

* Due dates for interim deliverables can be extended upon written approval by the State

VI. Results:

Grantees must provide reporting for both American Rescue Plan Act (ARPA) progress tracking as well as for Clean Water Fund results. The State will provide the MS4 Project Tracking and Reporting form to support these data requirements. Performance measures for both are listed below.

A. ARPA Performance Measures:

1. Percent of award dollars spent
2. Number of communities served
3. Number of clean water projects completed (this must be at least one by the end of the agreement period)

B. Clean Water Performance Measures:

Grantees are responsible for ensuring that selected projects meet all eligibility requirements enumerated in the most recent Clean Water Initiative Funding Policy. This includes selecting projects that meet the project type

definitions and will result in the standard performance measures outlined in the CWIP Project Types Table. For this grant program, the applicable standard clean water performance measures are listed below.

Table 3: Clean Water Performance Measures

Performance Measure	Project Type
a. Number of preliminary (30%) designs completed	Road Project – Preliminary Engineering Design Stormwater – Preliminary Engineering Design
b. Number of final (100%) designs completed	Road Project – Final Engineering Design Stormwater – Final Engineering Design
c. Number of drainage structures installed/repaired d. Linear feet of road drainage improved	Road Project – Implementation
e. Acres of impervious surface treated f. Acres of impervious surface removed (if applicable)	Stormwater – Implementation

VII. Evaluation: The Grantee shall comply with all milestones and deliverables outlined in the agreement and associated MS4 Project Tracking and Reporting form. Performance will be discussed and assessed during quarterly check-ins with the Technical Project Manager, with a focus on addressing challenges. Payment provisions will be cost-reimbursable contingent on satisfactory continued performance as evaluated at regular TPM check-ins.

VIII. Equity Impact: This is one of 15 agreements to provide funding to MS4 communities. The Total Program Budget is split across all agreements following a specific Formula. Guidance from Agency of Administration in its Bulletin 3.5 and Bulletin 5.0 requirements for programs supported by American Rescue Plan Act (ARPA) funds requires that equity considerations be applied when assigning funds or evaluating applications. Because this is a Formula Award with ARPA support, CWIP is complying with this directive by incorporating two equity factors in the calculation of the awards.

IX. Reporting:

A. Quarterly Reporting: Grantees are required to submit quarterly progress reports for the quarters ending December 29, March 29, June 28, and September 28 on the MS4 Project Tracking and Reporting form by the 3rd day after the end of each quarter. Grantee shall also meet with the TPM on or shortly before the end of each quarter to discuss progress and review the MS4 Project Tracking and Reporting form content. Frequency of meetings may be adjusted at TPM discretion.

B. The State will submit required ARPA reporting on behalf of the Subrecipient.

C. Final Reporting: Grantees are required to follow project close out procedures by submitting the ANR Online Clean Water Project – Project Closeout Form (if available) otherwise are required to submit

a Final Performance Report Spreadsheet to the TPM, and any other data as requested by the State.

X. Other Requirements:

- A. Subrecipient will own and operate and maintain (in good condition) the Project for its useful life (or cause it to be so operated and maintained).
- B. Subrecipient shall follow prevailing Vermont Wage Rate.
- C. When bidding contracts using Federal funds, the Subrecipient must consider applicable Federal procedures for solicitation and award and required contract clauses. The basic authority for the Federal requirements, the Federal Office of Management and Budget's "Uniform Guidance", is 2 CFR Part 200. <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1> .
- D. The Grantee is responsible for ensuring that all standard milestones and deliverables as listed by project type in the most current CWIP Project Types Table are complete and submitted, and that they report on all standard performance measures for the funded project type. The current CWIP Project Types Table can be found as a stand-alone excel spreadsheet here: <https://dec.vermont.gov/water-investment/cwi/grants/resources#ProjectTypes>.
- E. Submitted deliverables may be made publicly available on the Watershed Projects Database.

Attachment B

Payment Provisions

1. This is a performance-based grant with cost-reimbursable terms. Grant recipients may submit invoices (as opposed to proof of payment) to demonstrate incurred costs. Grant recipients should follow payment provision guidelines enumerated in the grant agreements. 10% of the full award amount will be held until all deliverables have been received and approved by the TPM. Grant recipients may invoice no more frequently than monthly. Payment is contingent on continued satisfactory performance.
2. The "Budget Categories" in the Form 430, attached, are eligible for payment associated with deliverables outlined in Table 2.
3. The State will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. The State may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

4. Risk-Based Assessment:

Risk Level: Moderate

Risk Level	Monitoring Requirements
Moderate	- Grantee is required to submit biannual progress report. Progress report must include: summary of progress made on deliverables within reporting timeframe, milestone status updates, technical/cost/schedule issues encountered, and work planned for next period.

- a. These monitoring requirements are required deliverables even when not listed explicitly in the deliverables table in Attachment A.
 - b. If you are required to have a Single Audit, you are to report to Vermont DEC the audit, findings, Management Response Letter including corrective actions within 9 months after the end of your fiscal year.
5. Final Payment: Final payment will be paid upon receipt and satisfactory review of all deliverables, as described in the scope of work, a final financial report documenting expenditure of 100% of grant funds, and where appropriate, documentation of required match.
6. The Subrecipient shall:
- ☒ Maintain a copy of all receipts on file for review upon request by the State,
- ☐ Include a copy of all receipts for costs requested for reimbursement.
- ☐ Other:

7. Other Provisions

- a. All invoices must be received within 90 days after the end date of this agreement. Any invoices received after 90 days may not be honored.
- b. Subrecipient is conferred blanket approval from the State to execute any subgrant or subcontracts associated with this Agreement and related amendments according to Attachment C, #19. As part of the procurement process, the Subrecipient must verify and document that none of its subcontractors/subgrantees are listed on the federal debarment list located at <https://sam.gov/content/home> or the State debarment list maintained by the Vermont Buildings and General Services (BGS) and located at: <https://bgs.vermont.gov/purchasing-contracting/debarment>. Both the name of the entity and name of the primary point of contact must be checked.

Upload all completed forms to: <https://anronline.vermont.gov/home>



Vermont Department of Environmental Conservation

Agency of Natural Resources

Form 430 Request for Funds

Form must be filled out entirely before payment is released

Subrecipient Name: **Burlington City Treasurer** Grant #: **06140-ARPA-CWF-MS4-02**

Date Range: Payment#: Amount Requested:

<u>Invoice Table: Budget Categories</u>	Budget Amount	Amount Requested	Amount Previously Requested	Remaining Amount
1 – (Match eligible) - Project Implementation	\$ 472,624.00			
2 - (non-match eligible) - Project Implementation	\$ 213,786.20			
3 - (non-match eligible) Project Closeout (A minimum of 10% of total award held until final deliverables received)	\$ 76,267.80			
Total	\$ 762,678			

Approvals for Payment

Signed by:

Subrecipient: _____ Date: _____

Title: _____

The Subrecipient certifies that deliverables being billed on this invoice have been completed as outlined in the grant agreement.

Please upload this form to: <https://anronline.vermont.gov/home>

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED DECEMBER 4, 2023

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee, or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. 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 regarding 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:

- A. 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.

- B. 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.
- C. 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.
- D. 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 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: During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: [https://aoa.vermont.gov/Risk- Claims-COI](https://aoa.vermont.gov/Risk-Claims-COI).

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: Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) 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. Use and Protection of State Information:

A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").

B. With respect to State Data, Party shall:

- i. take reasonable precautions for its protection;
- ii. not rent, sell, publish, share, or otherwise appropriate it; and
- iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.

- C. With respect to Confidential State Data, Party shall:
- i. strictly maintain its confidentiality;
 - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
 - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
 - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
 - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
 - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.3 above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
- i. industry-standard firewall protection;
 - ii. multi-factor authentication controls;
 - iii. encryption of electronic Confidential State Data while in transit and at rest;
 - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
 - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;
 - vi. training to implement the information security measures; and
 - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential 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 United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
- H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.
- 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 this 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, and shall include this provision in all subcontracts for work performed in Vermont. 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. Offset: The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

16. Taxes Due to the State: 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.

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, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. 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), as amended by Section 17 of Act No. 142 (2010) and by Section 6 of Act No. 50 (2011).

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 ("Confidentiality and Protection of State Information"); 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. Regulation of Hydrofluorocarbons:** Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.
- 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:
<https://bgs.vermont.gov/purchasing-contracting/debarment>.
- 23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.
- 24. Vermont Public Records Act:** Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information 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 lockouts) ("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 use the State's logo or otherwise 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 this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement 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 Agreement immediately, and the State shall have no obligation to pay Party from State revenues.
 - B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power, or remedy under this Agreement shall not impair any such right, power, or remedy, or be construed as a waiver of any such right, power, or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to, and use of, State facilities, which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. A Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission.

C. Mandatory Disclosures: In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

A. Certification Regarding Use of State Funds: If Party is an employer and this Agreement is a State-funded grant in excess of \$1,000, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

B. Good Standing Certification (Act 154 of 2016): If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify; and (ii) that it will comply with the requirements stated therein.

(End of Standard
Provisions)

ATTACHMENT D – OTHER GRANT AND CONTRACT PROVISIONS

Risk Management approval required for modification of Attachment C.8 insurance clause.

☐ YES ☒ NO

RISK Approved: __N/A__

VERMONT STATE INSURANCE SPECIFICATION- REVISED NOVEMBER 1, 2023

1. **Applicability and Definitions.**

- a. This Specification applies to providers of goods or services under a contract or grant (either is “the Agreement”) for the State of Vermont and is incorporated, whether directly or by reference, into the Agreement.
- b. “Party” shall mean the Contractor or Grantee as stated in the Agreement.

2. **Operation of this Specification.**

- a. Before commencing work under the Agreement, the Party must provide certificates of insurance to show that each and all of the minimum insurance coverages listed below, which are or may be applicable, are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State throughout the term of this Agreement.
- b. The State does not warrant that the coverages and limits listed in this document or otherwise required for the Agreement 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.
- c. It is the Party’s responsibility to timely ask the State and seek clarification if Party is uncertain of any particular application of any provision.

3. **Additional coverages or amounts required although not stated in this Specification.**

In many circumstances, the Party is required by the State to have insurance coverages in addition to those stated in this Specification, or to have higher limits or terms for listed coverages beyond what is required in this Specification. Those additional requirements may be stated in the Agreement or in other attachments or exhibits to the Agreement. It is the Party’s responsibility to meet such additional requirements in the manner and according to the terms stated for coverages listed in this Specification.

4. **General Liability and Property Damage:** With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- a. Premises - Operations
- b. Products and Completed Operations
- c. Personal Injury Liability
- d. Contractual Liability
- e. The policy shall be on an occurrence form and limits shall not be less than:
 - i. \$1,000,000 Each Occurrence
 - ii. \$2,000,000 General Aggregate
 - iii. \$1,000,000 Products/Completed Operations Aggregate
 - iv. \$1,000,000 Personal & Advertising Injury
- f. If the performance of the Agreement involves construction, then:
 - i. a “per project” aggregate endorsement is required; and
 - ii. completed operations coverage must be carried for three years post project completion.

5. **Automotive Liability:** If motor vehicles will be or are used in connection with the Agreement, the Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection

with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. For Contracts involving construction or when performance under the Contract would require a commercial or other specialized driver's license, limits shall not be less than \$1,000,000. When performance includes interstate commerce or transport of hazardous products or materials regulated by the Federal Motor Carrier Administration and set forth in 49 C.F.R. § 387.9, the coverage shall include the MCS-90 endorsement.

6. ***Umbrella or Excess Liability:*** For Contracts involving construction, or when performance under the Contract would require a commercial or other specialized driver's license, the Party shall carry umbrella or excess liability insurance covering over the underlying general and automotive liability policies. Coverage shall be on an occurrence form and limits shall not be less than \$1,000,000 per occurrence, \$1,000,000 general aggregate, unless higher limits are required by the State of Vermont. This requirement need not be met if the Party's applicable underlying coverages meet or exceed \$2,000,000.
7. ***Additional Insured:***
 - a. The General Liability, Property Damage, and Umbrella/Excess coverages required for performance of the Agreement shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds using ISO forms CG2010 and CG2037 or their equivalents.
 - b. If performance of the 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.
 - c. If third-party cyber liability coverage is required, such coverage shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds.
 - d. Additional Insured coverage shall be primary and non-contributory with any other insurance and self-insurance and shall include a waiver of subrogation in favor of the State of Vermont.

8. ***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. The State 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.

For work involving construction, workers compensation coverage shall include a waiver of subrogation in favor of the State of Vermont.

9. ***Professional Liability Insurance:***
Whenever the performance of the Agreement is to involve any of: (a) licensed professional services, such as, but not limited to, attorneys, medical providers, financial professionals like accountants or actuaries, architects, engineers, management consultants, and providers of services requiring occupational licenses; (b) technology professional services; or (c) when otherwise required by the Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under the Agreement, with minimum coverage of \$1,000,000 per claim, or such higher minimum so provided.

Party shall maintain such professional liability insurance for a period of two years following completion of services under the Agreement.

10. ***Cyber Liability and Breach Response Insurance Coverage:***
When the Party's performance involves hosting confidential State data, or services in or on State information technology systems where confidential State data may reside, the Party shall have and maintain cyber liability and breach response insurance coverage at no less than \$1,000,000 per claim, \$2,000,000 aggregate. Such policy shall expressly provide, but not be limited to, coverage for losses arising from the following:

- a. unauthorized use of or access to: computer systems (including mobile devices), servers, client's data, or software;

- b. defense of any regulatory action involving a breach of privacy;
 - c. failure to protect the confidential or proprietary information (personal and commercial information) and intellectual property from unauthorized disclosure or unauthorized access;
 - d. failure to adequately protect physical security of servers and systems including from cyber terrorism;
 - e. the costs for: notification (whether or not required by statute), credit file or identity monitoring, identity restoration, public relations, or legal experts;
 - f. third-party liability;
 - g. cyber extortion and cyber terrorism; and
 - h. no exclusion for actual or alleged breaches of professional services agreements associated with the above.
11. Notice of Cancellation or Change: With respect to all required coverage, there shall be no cancellation, change, potential exhaustion of aggregate limits, or non-renewal of insurance coverage(s) without thirty (30) days prior written notice to the State.

OTHER GRANT AND CONTRACT PROVISIONS

12. For contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.
13. For projects over \$10 million, the following is required to be reported to the State with Quarterly Project Reports, as applicable:
1. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as “baby Davis Bacon Acts”). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - a. The number of employees of contractors and sub-contractors working on the project;
 - b. The number of employees on the project hired directly and hired through a third party;
 - c. The wages and benefits of workers on the project by classification; and
 - d. Whether those wages are at rates less than those prevailing.¹ Recipients must maintain sufficient records to substantiate this information upon request.
 2. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

¹ As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

- a. How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - b. How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
 - c. How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - d. Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
 - e. Whether the project has completed a project labor agreement. c
3. Whether the project prioritizes local hires.
4. Whether the project has a Community Benefit Agreement, with a description of any such agreement

ATTACHMENT F – STATE FISCAL RECOVERY FUND PROGRAM ASSURANCES

An authorized signatory of Subrecipient must attest to the following by checking the box next to the statement and signing this document.

- ☒ 1. I have the authority to request payment from the State of Vermont. I am requesting payment for costs incurred in connection with section 602 of the Social Security Act, as amended by section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (“section 602”).
- ☒ 2. As required by federal law, the SFR will only be used for approved economic support or costs incurred during the period that begins on March 3, 2021 and December 31, 2024, in response to the COVID-19 public health emergency and its negative economic impacts.
- ☒ 3. Subrecipient will report on incurred expenses and/or losses, in a form and at a frequency prescribed by the State of Vermont and will cooperate with the State of Vermont in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 602.
- ☒ 4. To the extent that actual expenditures or demonstrated need is less than the total award amount, Subrecipient agrees to return the balance of unspent funds to the State of Vermont. If the United States Department of the Treasury recoups funds from the State of Vermont based on a determination that these award funds were used in a manner not in compliance with section 602, Subrecipient agrees that the State of Vermont may recover funds from Subrecipient by reducing future funding in State budgets.
- ☒ 5. Subrecipient must repay the award or portion of the award to the Vermont Agency of Natural Resources, Department of Environmental Conservation if: any funds received were issued in error; are based on incorrect representations made to the Vermont Agency of Natural Resources, Department of Environmental Conservation; or any costs forming the basis of an award under this program are covered by other federal funds or federally forgiven loans received by Subrecipient. I agree that the final determination of whether there has been a duplication of benefits and the amount to be repaid, if any, will be made by the Vermont Agency of Natural Resources, Department of Environmental Conservation.
- ☒ 6. Subrecipient shall maintain and make available to the State of Vermont and/or United States Department of the Treasury, upon request, all documents and financial records sufficient to establish compliance with section 602. Records and supporting documentation must be maintained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. Records to support compliance with subsection 602 may include, but are not limited to, copies of the following:
- a. General ledger and subsidiary ledgers used to account for (a) the receipt of SFR payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
 - b. Budget records;
 - c. Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
 - d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;
 - e. Contracts and subcontracts entered into using SFR payments and all documents related to such contracts;

- f. Grant agreements and grant subaward agreements entered into using SFR payments and all documents related to such awards;
- g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
- h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
- i. All internal and external email/electronic communications related to use of SFR payments; and
- j. All investigative files and inquiry reports involving SFR payments.

☒ 7. To the best of my knowledge, neither Subrecipient nor Subrecipient '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.

☒ 8. Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether a Single Audit is required for the prior fiscal year. If a Single Audit is required, Subrecipient will submit a copy of the audit report to the State of Vermont within 9 months. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F.

☒ 9. Subrecipient will submit reports as required by the State of Vermont, Agency of Administration, and/or Vermont Agency of Natural Resources, Department of Environmental Conservation.

☒ 10. The Vermont Agency of Natural Resources, Department of Environmental Conservation may share the information on this federal award with other Vermont state agencies, and other Vermont agencies can share information with Vermont Agency of Natural Resources, Department of Environmental Conservation for the purpose of verifying Subrecipient's eligibility for this or another award or stimulus payment related to the COVID-19 pandemic.

☒ 11. Subrecipient authorizes the State of Vermont to share data relevant to this award with the U.S. Department of Treasury, including but not limited to previously submitted W-9 data that is related to this award.

☒ 12. All of Subrecipient's tax returns are completed and filed through the date of application filing.

☒ 13. Subrecipient complies with local, state and federal labor laws.

☒ 14. Subrecipient is in good standing with the Vermont Secretary of State.

☒ 15. I attest, under penalty of perjury, that all information provided on this form is true and accurate. I understand that the State of Vermont will rely on this certification as a material representation in making this federal award. Further, I understand that intentional misrepresentation of information is fraud and may subject me or my organization to disqualification from receiving further benefits, administrative penalties, and criminal prosecution.

☒ 16. Subrecipient understands that, if Federal guidance on the regulations of the State Fiscal Recovery Fund change, it may change the terms of this award.

- ☒ 17. Subrecipient certifies that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.
- ☒ 18. Subrecipient certifies that that they will require any subcontractors or subgrantees to also certify that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

Printed Name:

Authorized Signature:

Title:

Organization Name:

Date:

**ATTACHMENT G - TERMS AND CONDITIONS FOR FEDERAL SUBRECIPIENTS -
U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS STATE FISCAL RECOVERY FUND AWARD**

1. Use of Funds.
 - a. Participant understands and agrees that the funds disbursed under this award may only be used in compliance with section 602 of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Participant will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Reporting. Participant agrees to comply with any reporting obligations established by Treasury as they relate to this award.
3. Maintenance of and Access to Records
 - a. Participant shall maintain records and financial documents sufficient to evidence compliance with section 602 of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Participant in order to conduct audits or other investigations.
 - c. Records shall be maintained by Participant for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
4. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
5. Conflicts of Interest. Participant understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Participants must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
6. Compliance with Applicable Law and Regulations
 - a. Participant agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602 of the Act, and guidance issued by Treasury regarding the foregoing. Participant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Participant shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Participant Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
7. Remedial Actions. In the event of Participant's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602 of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602 of the Act.
8. Hatch Act. Participant agrees to comply, as applicable, with requirements of the Hatch Act (U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

9. False Statements. Participant understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

10. Publications. Any publications produced with funds from this award must display the following language: “This project is being supported, in whole or in part, by federal award number SLFRP4407 awarded to the State of Vermont by the U.S. Department of the Treasury.”

11. Debts Owed the Federal Government.

- a. Any funds paid to Participant (1) in excess of the amount to which Participant is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 602 of the Act and have not been repaid by Participant shall constitute a debt to the federal government.
- b. Any debts determined to be owed the federal government must be paid promptly by Participant. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Participant knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

12. Disclaimer

- a. The United States expressly disclaims any and all responsibility or liability to Participant or third persons for the actions of Participant or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Participant does not in any way establish an agency relationship between the IFA, United States and Participant.

13. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Participant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Participant, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

- c. Participant shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
-
- 14. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Participant should encourage its contractors to adopt and enforce on-the- job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
 - 15. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Participant should encourage its employees and contractors to adopt and enforce policies that ban text messaging while driving, and Participant should establish workplace safety policies to decrease accidents caused by distracted drivers.

Board of Finance and City Council Submission Checklist

Department: DPW-Water Resources Division Submitter: Megan Moir/ James Sherrard

Title/Subject: Authorization to Accept MS4 Community Formula Grant Funds

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	Click or tap to enter a date.	Chapin Spencer was out of the country and delegated authority to the Division Director
Mayor's Office informed and approved memo	Yes	3/6/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan reviewed the draft grant agreement
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/6/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Draft grant agreement
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



To: Board of Finance
City Council

From: Megan Moir, Division Director Water Resources

Date: March 11, 2024

Cc: Chapin Spencer, DPW Director
Ashley Walenty, Water Resources Engineer

RE: Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds

REQUEST

The Department of Public Works, Water Resources Division (WRD) seeks Board of Finance and City Council authorization for the acceptance of \$3,294,440 of American Rescue Plan Act (ARPA) Statewide Sewer Overflow Elimination and Abatement funds through the execution of a grant agreement with the Vermont Department of Environmental Conservation (VTDEC). These funds will assist with the design and construction of Combined Sewer Overflow (CSO) reduction projects identified in the City's CSO Long Term Control Plan (LTCP).

EXECUTIVE SUMMARY

Background

While the City has implemented numerous projects since the 1990s to successfully reduce the annual volume of combined sewer overflows, there is still more work to be done to continue to reduce the frequency and volume of CSOs in Burlington. In 2016, the State updated its CSO control policy and issued Vermont communities with remaining CSOs 1272 orders in 2019 which required those communities to develop and submit a Combined Sewer Long Term Control Plan (LTCP) by February 2022 (<https://www.burlingtonvt.gov/water/LTCP>). The LTCP identifies the next phase of CSO controls required to eliminate CSOs fully or, at a minimum, to ensure that they are compliant with requirement that a discharge not occur for storm events up to the 5 year, 24 hour design storm. This LTCP was completed as part of the City's Integrated Water Quality Planning effort to ensure that the City was able to prioritize all of its water quality goals (wastewater, combined sewer, stormwater improvements) holistically and to leverage financial capability assessments to inform appropriate implementation schedules.

The LTCP identified (in 2021 \$s) a minimum of \$11.5 million of combined sewer improvements that would need to be implemented by 2030 and an additional potential \$13.4 million total by 2040. This is in addition to funding that is necessary for the upgrade and renewal of the City's wastewater plants, which also includes projects to upgrade the treatment of CSO flows at Main Plant.

The State developed their State ARPA Statewide Sewer Overflow Elimination and Abatement grant program to assist CSO communities with the implementation of projects identified in their LTCPs. Given

that there was less ARPA funding than documented overall CSO need in Vermont, the State awarded funds based on a formula. Burlington was awarded \$3,294,440 for use towards our CSO projects.

While there are a number of CSO projects that would be eligible for expenditure of these funds, WRD currently intends to apply this funding towards our highest priority project, a large underground storage tank located at the lower Callahan Park fields which would substantially reduce the frequency and volume of discharges at our highest priority CSO location, the Pine Street CSO. It is the highest priority CSO given that it is the most frequent, has the highest volume and has a discharge point to the Pine Barge Canal which is more directly connected to Burlington's waterfront than the other CSO locations (which discharge to either the Intervale Wetland waterways or the Winooski River). Based on a preliminary hydraulic and hydrologic model, the LTCP estimated that a 300,000 gallon tank was necessary at a cost of approximately \$4.7 Million.

An updated, calibrated planning model was completed in late 2023, based on updated flow metering and rain events from 2022. Over the next several months, consultants and WRD staff are working to confirm the size of the tank based on the new modeling results and account for any updates in growth projections in the sewershed – including redevelopment of properties within the South End Innovation District. They will also produce an updated cost estimate. It is anticipated that certainly the cost of the original 300,000 gallon tank will increase, and that a larger tank overall may be necessary to meet the 5 year, 24 hour design storm goal required by the State's CSO policy.

It is possible that remaining funding from the 2018 Clean Water Resiliency Plan bond will be sufficient to cover any tank implement costs above the \$3.294M grant funding, but this will greatly depend on the final bids for Stage 0 of the Wastewater Treatment Plant project which are due to be secured later in 2024, as well as any construction subsidy that might be awarded from the Clean Water State Revolving Fund program once the City applies for a loan. If remaining bond authority is not sufficient, the City could either 1) pursue phased construction of a tank system (not ideal) or 2) request additional bonding authority as part of a currently planned Clean Water bond in November 2024 in order to construct the proper sized tank. Alternatively, the City could use the ARPA funding for other CSO flow reduction projects such as additional green stormwater infrastructure projects. The State has requested that the City accept this grant in anticipation of the steps above to ensure that the ARPA award can be encumbered in support of the City's efforts. WRD will not expend any of the ARPA grant funds until it is clear that we can meet the requirements of the grant with an eligible project(s).

ARPA funds must be expended by December 2026.

ATTACHMENTS

- A. Draft FFA Standard ARPA Grant Agreement: 06140-2023-ARPA-CSO-03

MOTIONS

The Water Resources Division of the Department of Public Works respectfully requests the Board of Finance and City Council approve the following motions:

Board of Finance:

1. To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute a 2023 ARPA Statewide Sewer Overflow Elimination and Abatement grant agreement with the Vermont Department of Environmental Conservation for up to \$3,294,440 for the design and implementation of CSO reduction practices, subject to final review and approval by the City Attorney's Office.

City Council:

1. To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute a 2023 ARPA Statewide Sewer Overflow Elimination and Abatement grant agreement with the Vermont Department of Environmental Conservation for up to \$3,294,440 for the design and implementation of CSO reduction practices, subject to final review and approval by the City Attorney's Office.



FFA - STANDARD ARPA GRANT AGREEMENT

1. **Parties:** This is a Grant Agreement between the State of Vermont, Department of Environmental Conservation (hereinafter called "State"), and the Burlington City Treasurer with principal place of business at City Hall Room 22, 149 Church St. Burlington, VT 05401 (hereinafter called "Subrecipient"). It is the Subrecipient's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Subrecipient is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter:** The subject matter of this Grant Agreement is 2023 ARPA Statewide Sewer Overflow Elimination and Abatement, pursuant to the federal American Rescue Plan Act of 2021 and the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions, attached hereto. Detailed scope to be provided by the Subrecipient are described in Attachment A.
3. **Maximum Amount:** In consideration of the scope of work to be performed, the State agrees to pay Subrecipient, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$3,294,440.00. Attachment B, Payment Provision provides details on how the grantee will be reimbursed. This grant award cannot be used as match for the purpose of obtaining additional federal funds by the subrecipient without written approval from the State.
4. **Procurement:** The Subrecipient certifies that for any equipment, supplies, and/or services outside of their organization, that they have and will follow their procurement policy.
5. **Ownership and Disposition Assets:** At the end of the grant term, Subrecipient will retain any pipes, valves, pumps, tanks, or other equipment installed under the grant agreement and described in the scope of work for the same use and intended purpose as outlined in this agreement.
6. **Source of Funds:** ___ General X Federal ___ Other

\$ \$3,294,440.00 \$ Fund

 - a. For grants funded with federal dollars only.

CFDA Title Coronavirus State and Local Fiscal Recovery Fund
CFDA Number 21.027
Award Name American Rescue Plan Act (ARPA) Vermont State Recovery Fund
Award Number SLFRP4407
Award Year 2021
Federal Granting Agency US Department of the Treasury
Research and Development Grant? ☐ Yes ☒ No
7. **Grant Term:** The period of Subrecipient's performance shall begin upon date of execution, signified by the date of signature by the State and end on September 30, 2026.
8. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Grant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Subrecipient. No amendment will be considered without a detailed justification to support the amendment request. Failure to provide an adequate justification may result in the denial of the request. Any request for an amendment to this agreement must be made in writing at least 30 days prior to the end date of this agreement or the request may be denied.

9. Cancellation: This Grant Agreement may be cancelled by either party by giving written notice at least 30 days in advance.
10. Fiscal Year: The Subrecipient's fiscal year starts July 1 and ends June 30.
11. Attachments: This Grant consists the following attachments that are incorporated herein:
- Attachment A – Scope of Work to be Performed
 - Attachment B – Budget and Payment Provisions
 - Attachment C – Standard State Provisions for Contracts and Grants
 - Attachment D – Other Grant and Contract Provisions
 - Attachment E – State Fiscal Recovery Quarterly Project Report Template
 - Attachment F – State Fiscal Recovery Fund (SFR) Program Assurances
 - Attachment G – Terms and Conditions for Federal Subrecipients
 - Attachment H – ARPA CSO Grant Post-Award Form for Project Selection

Legal Name and Unique Entity Identifier (UEI) on File with the www.sam.gov (1):

City of Burlington
Print Legal Name

KXQQKNB2GZL1
UEI (2)

Did this business or organization (the legal entity to which the UEI provided belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?*

☐ Yes ☒ No

If yes, please list the top five highest paid senior executive salaries that are not available to the public:

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS GRANT.

STATE OF VERMONT

SUBRECIPIENT

By:

By:

Commissioner

Name: (Print) _____

Dept of Environmental Conservation

Title: _____

Date: _____

Date: _____

Attachment A

Scope of Work to be Performed

Part or All of the Scope May be Sub-Granted

1. **Project Overview:** This project can involve any of the following: planning, design, construction of combined sewer overflow (CSO) abatement projects found in the Long Term Control Plan (LTCP) dated July 2022 and included in the State Fiscal Year 2023 Clean Water State Revolving Fund (CWSRF) Project Priority List.

Table 1: SFR Program Information

SFR Program	Infrastructure
SFR Expenditure Category	5.4 Clean Water: Combined Sewer Overflows
SFR Project Name	Old N. End and Pine St CSOs
SFR Project ID No.	ANR-6140892205-008
Primary Place of Performance	645 Pine St., Burlington
National Pollutant Discharge Elimination System (NPDES) Permit # (if applicable)	VT0100153; VT0100226; VT0100307
Public Water System ID # (if applicable)	N/A
Median Household Income for Service Area	\$50,089.00
Lowest Quintile Income for Service Area	\$9,344.00

2. **Statement of Need:** Sewer overflows occur in wastewater collection systems that are either co-mingled with stormwater collection systems or are subject to excessive stormwater water infiltration. During heavy rains, the additional stormwater entering the pipes can overwhelm the capacity of the wastewater facility to process the water. Abating combined or sanitary sewer overflows (jointly termed CSOs) is expensive, takes time, and typically requires multiple iterative projects before adequate abatement or elimination is achieved. Burlington's LTCP outlines a need of \$74,000,000 to address their CSOs within the sewer system.
3. **Population Served:** To maintain transparency and reliability, and avoid disparity, the latest census population for the municipality is reported as the "population served". The 2020 Census for the City of Burlington is 44,743 people.
4. **Scope of Work:** Subrecipient shall ensure the following are completed as deemed necessary by the CSO Technical Project Manager dependent on State Revolving Fund (SRF) Project Steps to be funded with ARPA Grant dollars:
 - a. **Project Selection**
 - i. Select project from LTCP dated July 2022. A downloadable copy of the Subrecipient's LTCP can be found here:
<https://anrweb.vt.gov/DEC/IronPIG/DownloadFile.aspx?DID=202788&DVID=0>
 - ii. Complete and submit the ARPA CSO Grant Post-Award Form for Project Selection (Attachment H) to identify projects selected.
 - b. **Step 1 – Preliminary Engineering and Planning**

Project shall follow the CWSRF Preliminary Engineering and Planning process. Deliverables shall follow the Step 1 process outlined on the Water Infrastructure Financing Program webpage:

<https://dec.vermont.gov/water-investment/water-financing/srf/srfstep1>

Subrecipient shall ensure the completion of the following:

- i. Provide information and reports to receive Facility Plan Approval from the State.
 - 1. Preliminary Engineering Report (PER) or LTCP Addendum if needed
 - 2. Environmental Review
 - a. Vermont Division of Historic Preservation Review

c. Step 2 – Final Design

Project shall follow the CWSRF Final Design process. Deliverables shall follow the Step 2 process outlined on the Water Infrastructure Financing Program webpage:

<https://dec.vermont.gov/water-investment/water-financing/srf/srfstep2>

Subrecipient shall ensure the completion of the following:

- i. Provide Design Plans and Specifications for any projects to be funded wholly or in part with these grant dollars:
 - 1. Meeting Agenda, Submittals, Minutes & draft construction documents
 - 2. Final Design Plans
 - a. 30% Preliminary Alignments, Layouts, Hydraulic Profiles, Standard Notes
 - b. 60% Profiles, Elevations, Completed Alignments, Layouts, and Hydraulic Profiles, Standard Details
 - c. 90% Final Profiles, Elevations, Alignments, Layouts, and all Details.
 - d. Final stamped and signed by a Vermont Registered Professional Engineer
 - 3. Technical Specifications
 - a. 30% Table of Contents
 - b. 60% Standard Technical Specifications
 - c. 90% Specialty Technical Specifications
 - d. Final stamped and signed by a Vermont Registered Professional Engineer
 - 4. Contract Documents
 - a. 90% Draft EJCDC Front End Documents
 - b. Final, documents ready to bid, complete with dates for meetings and bids coordinated and accepted by the State Construction Engineer.
 - 5. Project Cost Summary at 90% Design
- ii. Obtain required State Permitting
- iii. Final Design Plans shall be used to determine reporting metrics for construction on the ARPA CSO Grant Post-Award Form for Project Selection (Attachment H).

d. Step 3 – Construction

Project shall follow the CWSRF Construction process. Deliverables following the Step 3 process outlined on the Water Infrastructure Financing Program webpage:

<https://dec.vermont.gov/water-investment/water-financing/srf/srfstep2>

Subrecipient shall ensure the completion of the following:

- i. Progress will be tracked with quarterly grant reporting and the monthly invoicing tracked as a percentage of dollars spent.
- ii. Bid project through a public bidding process using Engineers Joint Contract Documents Committee (EJCDC) 2013 or 2018 front end documents, the Vermont Bid Systems, and per Vermont SRF Guidance Document 25.
<https://anrweb.vt.gov/DEC/IronPIG/DownloadFile.aspx?DID=129141&DVID=0>
- iii. Construct the project per the plans and specifications, as submitted and approved under Step 2.
- iv. Provide Project Closeout Documentation.
 - 1. Updated (or new if it does not exist) Operations & Maintenance Manual for CSO projects with mechanical equipment

2. Water Quality Analysis reports for projects which are directly part of a wastewater treatment facility

e. Project Reporting

- i. During each Step, progress will be tracked on each project with submission of:
 1. Ensure submission of updated ARPA CSO Grant Post-Award Form for Project Selection (Attachment H) at the onset of each new Step.
 2. Ensure submission of SFR Quarterly Project Report (Attachment E)
 3. Ensure submission of monthly invoicing tracked as a percentage of dollars spent

Table 1. Milestone and Deliverables schedule per identified project if more than one:

	#	Milestone	Deliverable	Due Date
Project Implementation	1	Step 1 – Preliminary Engineering and Planning	A. Submit PER or LTCP Addendum B. Submit Environmental Review	
	2	Step 2 – Final Design	A. Submit Final Design Plans and Specifications B. Submit or certify all required permitting has been obtained C. Submit EJCDC Front End Documents	
	3	Step 3 – Construction	A. Bid Phase Please submit the following items: A. Copy of Bid Advertisement B. Right-of-way (ROW) Certificate C. Copy of any Addenda D. Recommendation for Award E. Certified Bid Tab F. Updated “Vermont SRF Standard Project Cost Summary Form” with Bid Information G. Notice of Award H. Executed contract agreement with successful bidder I. Notice to Proceed J. Preconstruction Meeting and Meeting Minutes B. Construction Phase Please submit the following items: A. Placement of Clean Water Project Sign B. Contractor’s Monthly Pay Requests C. Engineer’s Monthly Pay Requests D. Monthly Progress Meetings and Meeting Minutes E. Updated Monthly PCS Statement F. Any Change Orders G. Signed Substantial Completion Certificate and Punch List C. Project Conclusion Submit Close-out Documents: 1. Record Drawings 2. Testing Results	

Final reporting			3. Signed Release of Liens 4. Updated (or new if it does not exist) Operations & Maintenance Manual -if applicable 5. Engineer's or Designer's Installation Certification 6. Water Quality Analysis – if applicable 7. Compliance with all mitigation measures identified in the Environmental Review, permit conditions, and contract requirements 8. Balancing Change Order 9. Final Completion Certificate 10. Project Receipts Received and Approved D. Return of Clean Water Project Sign	9/30/2026
	4	Reporting-Programmatic	a. Attachment H – ARPA CSO Grant Post-Award Form for Project Selection	Submitted for each project at selection. An updated form shall be submitted at the onset of each step.
	5	Reporting - ARPA Quarterly Progress Tracking	a. SFR Quarterly Progress Report (Attachment E)	Due 5 days after the close of each quarter (December 31st, March 31st, June 30th, September 30th) for the life of the agreement
	6	Final Reporting	a. Final ARPA Reporting	Submit SFR Quarterly Progress Report (Section 1 of Attachment E) and Annual Performance Measure Information (Section 3 of Attachment E) with final invoice

* Due dates for interim deliverables can be extended upon written approval by the State.

5. Results: At the completion of the projects, Subrecipient installs the projects in accordance with the approved plans and specifications, and any approved change orders or addenda. The mandatory quarterly performance will measure the following performance measures:

1. Performance Measure: Final Designs Complete
2. Performance Measure: Percent completion by dollars spent
3. Performance Measure: Linear feet of pipe installed

6. Evaluation: During design, we will track progress with the quarterly reporting. During the construction phase the monthly pay requests from the contractor to the Subrecipient will show the itemized costs, which include the percent of completion by dollars spent. Based on the specific project, this will also include linear feet of pipe installed, catch basins removed from combined system, or volume of storage provided. Programmatically, we will also track the number of Long-Term Control Plan Projects completed.
7. Equity Impact: This project will help build a just, equitable, and sustainable COVID-19 recovery by assisting Burlington with the financial costs of implementing the projects in the Long Term Control Plan as required under the Burlington 1272 Order for CSO overflow events. This funding will allow for the project to be built while keeping the costs off the sewer rate payers. These efforts help to reduce pollutants in the surface waters of Vermont.
8. Reporting :
 - a. Subrecipient is required to submit quarterly progress reports for the quarters ending December 31, March 31, June 30, and September 30 on a template provided by the State (Attachment E) by the 5th day after the end of each quarter.
 - b. Subrecipient shall submit Final ARPA Reporting with the final invoice. The final report shall consist of SFR Quarterly Progress Report (Section 1 of Attachment E) and Annual Performance Measure Information (Section 3 of Attachment E)."
9. Other Requirements.
 - a. Subrecipient will own and operate and maintain (in good condition) the Project for its useful life (or cause it to be so operated and maintained).
 - b. Subrecipient will establish, adjust and maintain rates and charges at levels adequate to maintain sufficient revenues to operate and maintain (in good condition) the Project.
 - c. Subrecipient shall seek written pre-approval from the State for minor modifications to construction element locations due to variations in terrain or budget. The scope and site plans in this Agreement portray an ideal situation. Minor adjustments which result in an equivalent end product shall be allowed following State approval.
 - d. Subrecipient shall install and return a Clean Water Project Sign during construction. Vermont DEC requires the use of a Clean Water Project sign for all clean water projects:
 - i. Find guidelines for Clean Water Project Signs at:
https://dec.vermont.gov/sites/dec/files/DEC-CWIP_CleanWaterProjectSignsGuidance_FINAL.pdf
 - ii. Additional sign information:
<https://dec.vermont.gov/sites/dec/files/wsm/erp/docs/2017-09-05%20Clean-Water-Sign-Plan%20Final.pdf>
 - e. When bidding contracts using Federal funds, the Subrecipient must consider applicable Federal procedures for solicitation and award and required contract clauses. The basic authority for the Federal requirements, the Federal Office of Management and Budget's "Uniform Guidance", is 2 CFR Part 200.
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>

Attachment B

Payment Provisions

1. This grant is a performance-based grant with cost reimbursable payment terms. Payments made to the Subrecipient by the State are based on the submittal of invoices not more than monthly and the inclusion of a date range in which activities on this grant were undertaken. Subrecipient is required to keep documentation of all expenses reported to the State on the invoice, and are required to submit those documents with each invoice. The State reserves the right to ask for expense documentation upon request. Invoices must be submitted on the Clean Water State Revolving Fund Request for Reimbursement of Expenses Form
2. The State will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. The State may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

3. Risk-Based Assessment:

Risk Level: High

Risk Level	Monitoring Requirements
High	- Subrecipient is required to submit quarterly progress reports. Progress report must include: summary of progress made on deliverables within reporting timeframe, milestone status updates, technical/cost/schedule issues encountered, and work planned for next period.

- a. These monitoring requirements are required deliverables even when not listed explicitly in the deliverables table in Attachment A.
 - b. If you are required to have a Single Audit , you are to report to the State, the audit, findings, Management Response Letter including corrective actions within 9 months after the end of your fiscal year.
4. Final Payment: Final payment will be paid upon receipt and satisfactory review of all deliverables, as described in the scope of work, a final financial report documenting expenditure of 100% of grant funds, and where appropriate, documentation of required match.
5. The Subrecipient shall:

☐ Maintain a copy of all receipts on file for review upon request by the State,
☒ Include a copy of all receipts for costs requested for reimbursement.
☐ Other:
6. Other Provisions
 - a. Pre-award costs starting March 3, 2021, are allowable under this agreement as determined by the Grant Manager and as related to the scope of work in Attachment A.
 - b. All invoices must be received within 90 days after the end date of this agreement. Any invoices received after 90 days may not be honored.
 - c. Subrecipient is conferred blanket approval from the State to execute any subgrant or subcontracts associated with this Agreement and related amendments according to Attachment C, #19. As part of the procurement process, the Subrecipient must verify and document that none of its subcontractors/subgrantees are listed on the federal debarment list located at <https://sam.gov/content/home> or the State debarment list maintained by the Vermont Buildings and General Services (BGS) and located at: <https://bgs.vermont.gov/purchasing-contracting/debarment>. Both the name of the entity and name of the primary point of contact must be checked.

7. Payment requests must be submitted on the Payment Request Form at the following link:
<https://anrweb.vt.gov/DEC/IronPIG/DownloadFile.aspx?DID=169995&DVID=0>
8. Submit completed forms to: anr.srfpayments@vermont.gov

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED DECEMBER 4, 2023

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee, or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. 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 regarding 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:

- A. 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.

- B. 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.
- C. 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.
- D. 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 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: During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: <https://aoa.vermont.gov/Risk-Claims-COI>.

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: Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) 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. Use and Protection of State Information:

- A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").
- B. With respect to State Data, Party shall:

- i. take reasonable precautions for its protection;
 - ii. not rent, sell, publish, share, or otherwise appropriate it; and
 - iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.
- C. With respect to Confidential State Data, Party shall:
- i. strictly maintain its confidentiality;
 - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
 - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
 - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
 - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
 - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.3 above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
- i. industry-standard firewall protection;
 - ii. multi-factor authentication controls;
 - iii. encryption of electronic Confidential State Data while in transit and at rest;
 - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
 - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;
 - vi. training to implement the information security measures; and
 - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential 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 United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont

Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.

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 this 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, and shall include this provision in all subcontracts for work performed in Vermont. 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. Offset: The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

16. Taxes Due to the State: 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.

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, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. 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), as amended by Section 17 of Act No. 142 (2010) and by Section 6 of Act No. 50 (2011).

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 ("Confidentiality and Protection of State Information"); 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. Regulation of Hydrofluorocarbons: Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.

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:

<https://bgs.vermont.gov/purchasing-contracting/debarment>.

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Vermont Public Records Act: Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information 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 lockouts) ("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 use the State’s logo or otherwise 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 this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement 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 Agreement immediately, and the State shall have no obligation to pay Party from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party’s delay or failure to exercise any right, power, or remedy under this Agreement shall not impair any such right, power, or remedy, or be construed as a waiver of any such right, power, or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party’s performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to, and use of, State facilities, which shall be made available upon request. State facilities will be made available to Party on an “AS IS, WHERE IS” basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. A Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission.
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,000, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify; and (ii) that it will comply with the requirements stated therein.

(End of Standard
Provisions)

ATTACHMENT D – OTHER GRANT AND CONTRACT PROVISIONS

Risk Management approval required for modification of Attachment C.8 insurance clause.

☐ YES ☒ NO

RISK Approved: N/A

VERMONT STATE INSURANCE SPECIFICATION- REVISED NOVEMBER 1, 2023**1. Applicability and Definitions.**

- a. This Specification applies to providers of goods or services under a contract or grant (either is “the Agreement”) for the State of Vermont and is incorporated, whether directly or by reference, into the Agreement.
- b. “Party” shall mean the Contractor or Grantee as stated in the Agreement.

2. Operation of this Specification.

- a. Before commencing work under the Agreement, the Party must provide certificates of insurance to show that each and all of the minimum insurance coverages listed below, which are or may be applicable, are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State throughout the term of this Agreement.
- b. The State does not warrant that the coverages and limits listed in this document or otherwise required for the Agreement 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.
- c. It is the Party’s responsibility to timely ask the State and seek clarification if Party is uncertain of any particular application of any provision.

3. Additional coverages or amounts required although not stated in this Specification.

In many circumstances, the Party is required by the State to have insurance coverages in addition to those stated in this Specification, or to have higher limits or terms for listed coverages beyond what is required in this Specification. Those additional requirements may be stated in the Agreement or in other attachments or exhibits to the Agreement. It is the Party’s responsibility to meet such additional requirements in the manner and according to the terms stated for coverages listed in this Specification.

4. General Liability and Property Damage: With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- a. Premises - Operations
- b. Products and Completed Operations
- c. Personal Injury Liability
- d. Contractual Liability
- e. The policy shall be on an occurrence form and limits shall not be less than:
 - i. \$1,000,000 Each Occurrence
 - ii. \$2,000,000 General Aggregate
 - iii. \$1,000,000 Products/Completed Operations Aggregate
 - iv. \$1,000,000 Personal & Advertising Injury

- f. If the performance of the Agreement involves construction, then:
 - i. a “per project” aggregate endorsement is required; and
 - ii. completed operations coverage must be carried for three years post project completion.
5. **Automotive Liability:** If motor vehicles will be or are used in connection with the Agreement, the Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. For Contracts involving construction or when performance under the Contract would require a commercial or other specialized driver’s license, limits shall not be less than \$1,000,000. When performance includes interstate commerce or transport of hazardous products or materials regulated by the Federal Motor Carrier Administration and set forth in 49 C.F.R. § 387.9, the coverage shall include the MCS-90 endorsement.
6. **Umbrella or Excess Liability:** For Contracts involving construction, or when performance under the Contract would require a commercial or other specialized driver’s license, the Party shall carry umbrella or excess liability insurance covering over the underlying general and automotive liability policies. Coverage shall be on an occurrence form and limits shall not be less than \$1,000,000 per occurrence, \$1,000,000 general aggregate, unless higher limits are required by the State of Vermont. This requirement need not be met if the Party’s applicable underlying coverages meet or exceed \$2,000,000.
7. **Additional Insured:**
 - a. The General Liability, Property Damage, and Umbrella/Excess coverages required for performance of the Agreement shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds using ISO forms CG2010 and CG2037 or their equivalents.
 - b. If performance of the 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.
 - c. If third-party cyber liability coverage is required, such coverage shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds.
 - d. Additional Insured coverage shall be primary and non-contributory with any other insurance and self-insurance and shall include a waiver of subrogation in favor of the State of Vermont.
8. **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. The State 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.
 For work involving construction, workers compensation coverage shall include a waiver of subrogation in favor of the State of Vermont.
9. **Professional Liability Insurance:**
 Whenever the performance of the Agreement is to involve any of: (a) licensed professional services, such as, but not limited to, attorneys, medical providers, financial professionals like accountants or actuaries, architects, engineers, management consultants, and providers of services requiring occupational licenses; (b) technology professional services; or (c) when otherwise required by the Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under the Agreement, with minimum coverage of \$1,000,000 per claim, or such higher minimum so provided.
 Party shall maintain such professional liability insurance for a period of two years following completion of services under the Agreement.

10. Cyber Liability and Breach Response Insurance Coverage:

When the Party's performance involves hosting confidential State data, or services in or on State information technology systems where confidential State data may reside, the Party shall have and maintain cyber liability and breach response insurance coverage at no less than \$1,000,000 per claim, \$2,000,000 aggregate. Such policy shall expressly provide, but not be limited to, coverage for losses arising from the following:

- a. unauthorized use of or access to: computer systems (including mobile devices), servers, client's data, or software;
- b. defense of any regulatory action involving a breach of privacy;
- c. failure to protect the confidential or proprietary information (personal and commercial information) and intellectual property from unauthorized disclosure or unauthorized access;
- d. failure to adequately protect physical security of servers and systems including from cyber terrorism;
- e. the costs for: notification (whether or not required by statute), credit file or identity monitoring, identity restoration, public relations, or legal experts;
- f. third-party liability;
- g. cyber extortion and cyber terrorism; and
- h. no exclusion for actual or alleged breaches of professional services agreements associated with the above.

11. Notice of Cancellation or Change: With respect to all required coverage, there shall be no cancellation, change, potential exhaustion of aggregate limits, or non-renewal of insurance coverage(s) without thirty (30) days prior written notice to the State.

OTHER GRANT AND CONTRACT PROVISIONS

12. For contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.
13. For projects over \$10 million, the following is required to be reported to the State with Quarterly Project Reports, as applicable:
- a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - i. The number of employees of contractors and sub-contractors working on the project;
 - ii. The number of employees of contractors and sub-contractors working on the project;
 - iii. The number of employees on the project hired directly and hired through a third party;
 - iv. The wages and benefits of workers on the project by classification; and
 - v. Whether those wages are at rates less than those prevailing.¹ Recipients must maintain sufficient records to substantiate this information upon request.
 - b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

¹ As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

- i. How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - ii. How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
 - iii. How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - iv. Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
 - v. Whether the project has completed a project labor agreement.
- c. Whether the project prioritizes local hires.
- d. Whether the project has a Community Benefit Agreement, with a description of any such agreement
- e. State and Local Fiscal Recovery Funds (SLFRF) funds may be used to acquire real and personal property, supplies, and equipment. Except for property, supplies, or equipment acquired using revenue loss funds, recipients must follow the applicable provisions of the Uniform Guidance regarding property standards (2 CFR 200.310-316. During the period of performance, a recipient may use property, supplies, or equipment purchased or improved with SLFRF funds for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the eligible use requirements. If a recipient changes the use of an asset to an ineligible use or sells the asset prior to the end of the period of performance, then the recipient must follow the disposition procedures in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315. After the period of performance, the property, supplies, or equipment must be used consistent with the purpose for which it was purchased or improved or for any other eligible purpose in the same category as the purpose reported to Treasury as of the final reporting period. Recipients are responsible for being able to substantiate their determinations on whether the use of an asset is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with their award. Recipients are not required to seek or obtain the approval of Treasury prior to changing the use within the parameters of the authorized purpose.

ATTACHMENT E – STATE FISCAL RECOVERY (SFR) QUARTERLY PROJECT REPORT TEMPLATE

Name: City of Burlington

Contact Completing Report: [Click or tap here to enter text.](#)

Report Date: [Click or tap here to enter text.](#)

Grant Project: 2023 ARPA Statewide Sewer Overflow Elimination and Abatement

Grant ID: 06140-2023-ARPA-CSO-03

Quarter End Date: [Click or tap here to enter text.](#)

Quarterly Information Collected Every Quarter	
Projected/Actual Construction Start Date (month/year):	Click or tap here to enter text.
Projected/Actual Initiation of Operations Date (month/year):	Click or tap here to enter text.
Project Status:	Click or tap here to enter text.

Risk-Based Information High Risk: Collected Every Quarter	
Summary of progress made on deliverables within reporting timeframe.	Click or tap here to enter text.
Milestone status updates	Click or tap here to enter text.
Technical/cost/schedule issues encountered	Click or tap here to enter text.
Work planned for next period	Click or tap here to enter text.

Annual Performance Measure Information Collected Quarter ending on March 31 st	
1. Performance Measure: Final Designs Complete	
2. Performance Measure: Percent completion by dollars spent	
3. Performance Measure: Linear feet of pipe installed	

ATTACHMENT F – STATE FISCAL RECOVERY FUND PROGRAM ASSURANCES

An authorized signatory of Subrecipient must attest to the following by checking the box next to the statement and signing this document.

- ☒ 1. I have the authority to request payment from the State of Vermont. I am requesting payment for costs incurred in connection with section 602 of the Social Security Act, as amended by section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (“section 602”).
- ☒ 2. As required by federal law, the SFR will only be used for approved economic support or costs incurred during the period that begins on March 3, 2021 and December 31, 2024, in response to the COVID-19 public health emergency and its negative economic impacts.
- ☒ 3. Subrecipient will report on incurred expenses and/or losses, in a form and at a frequency prescribed by the State of Vermont and will cooperate with the State of Vermont in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 602.
- ☒ 4. To the extent that actual expenditures or demonstrated need is less than the total award amount, Subrecipient agrees to return the balance of unspent funds to the State of Vermont. If the United States Department of the Treasury recoups funds from the State of Vermont based on a determination that these award funds were used in a manner not in compliance with section 602, Subrecipient agrees that the State of Vermont may recover funds from Subrecipient by reducing future funding in State budgets.
- ☒ 5. Subrecipient must repay the award or portion of the award to the Vermont Agency of Natural Resources, Department of Environmental Conservation if: any funds received were issued in error; are based on incorrect representations made to the Vermont Agency of Natural Resources, Department of Environmental Conservation; or any costs forming the basis of an award under this program are covered by other federal funds or federally forgiven loans received by Subrecipient. I agree that the final determination of whether there has been a duplication of benefits and the amount to be repaid, if any, will be made by the Vermont Agency of Natural Resources, Department of Environmental Conservation.
- ☒ 6. Subrecipient has applied for FEMA-Public Assistance funding first for all FEMA-eligible expenses before applying to this grant. Subrecipient will only use this grant to cover expenses that are not eligible for FEMA-Public Assistance reimbursement.
- ☒ 7. Subrecipient shall maintain and make available to the State of Vermont and/or United States Department of the Treasury, upon request, all documents and financial records sufficient to establish compliance with section 602. Records and supporting documentation must be maintained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. Records to support compliance with subsection 602 may include, but are not limited to, copies of the following:
- a. General ledger and subsidiary ledgers used to account for (a) the receipt of SFR payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
 - b. Budget records;
 - c. Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
 - d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;

- e. Contracts and subcontracts entered into using SFR payments and all documents related to such contracts;
- f. Grant agreements and grant subaward agreements entered into using SFR payments and all documents related to such awards;
- g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
- h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
- i. All internal and external email/electronic communications related to use of SFR payments; and
- j. All investigative files and inquiry reports involving SFR payments.

☒ 8. To the best of my knowledge, neither Subrecipient nor Subrecipient '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.

☒ 9. Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether a Single Audit is required for the prior fiscal year. If a Single Audit is required, Subrecipient will submit a copy of the audit report to the State of Vermont within 9 months. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F.

☒ 10. Subrecipient will submit reports as required by the State of Vermont, Agency of Administration, and/or Vermont Agency of Natural Resources, Department of Environmental Conservation.

☒ 11. The Vermont Agency of Natural Resources, Department of Environmental Conservation may share the information on this federal award with other Vermont state agencies, and other Vermont agencies can share information with Vermont Agency of Natural Resources, Department of Environmental Conservation for the purpose of verifying Subrecipient's eligibility for this or another award or stimulus payment related to the COVID-19 pandemic.

☒ 12. Subrecipient authorizes the State of Vermont to share data relevant to this award with the U.S. Department of Treasury, including but not limited to previously submitted W-9 data that is related to this award.

☒ 13. All of Subrecipient's tax returns are completed and filed through the date of application filing.

☒ 14. Subrecipient complies with local, state and federal labor laws.

☒ 15. Subrecipient is in good standing with the Vermont Secretary of State.

☒ 16. I attest, under penalty of perjury, that all information provided on this form is true and accurate. I understand that the State of Vermont will rely on this certification as a material representation in making this federal award. Further, I understand that intentional misrepresentation of information is fraud and may subject me or my organization to disqualification from receiving further benefits, administrative penalties, and criminal prosecution.

☒ 17. Subrecipient understands that, if Federal guidance on the regulations of the State Fiscal Recovery Fund change, it may change the terms of this award.

☒ 18. Subrecipient certifies that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

☒ 19. Subrecipient certifies that that they will require any subcontractors or subgrantees to also certify that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

Printed Name:

Authorized Signature:

Title:

Organization Name:

Date:

**ATTACHMENT G - TERMS AND CONDITIONS FOR FEDERAL SUBRECIPIENTS -
U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS STATE FISCAL RECOVERY FUND AWARD**

1. Use of Funds.
 - a. Participant understands and agrees that the funds disbursed under this award may only be used in compliance with section 602 of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Participant will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Reporting. Participant agrees to comply with any reporting obligations established by Treasury as they relate to this award.
3. Maintenance of and Access to Records
 - a. Participant shall maintain records and financial documents sufficient to evidence compliance with section 602 of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Participant in order to conduct audits or other investigations.
 - c. Records shall be maintained by Participant for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
4. Conflicts of Interest. Participant understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Participants must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
5. Compliance with Applicable Law and Regulations
 - a. Participant agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602 of the Act, and guidance issued by Treasury regarding the foregoing. Participant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Participant shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all

lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

- v. Participant Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
6. Remedial Actions. In the event of Participant's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602 of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602 of the Act.
7. Hatch Act. Participant agrees to comply, as applicable, with requirements of the Hatch Act (U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
8. False Statements. Participant understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

9. Publications. Any publications produced with funds from this award must display the following language: “This project is being supported, in whole or in part, by federal award number SLFRP4407 awarded to the State of Vermont by the U.S. Department of the Treasury.”
10. Debts Owed the Federal Government.
- a. Any funds paid to Participant (1) in excess of the amount to which Participant is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 602 of the Act and have not been repaid by Participant shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Participant. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Participant knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
11. Disclaimer
- a. The United States expressly disclaims any and all responsibility or liability to Participant or third persons for the actions of Participant or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
 - b. The acceptance of this award by Participant does not in any way establish an agency relationship between the IFA, United States and Participant.
12. Protections for Whistleblowers.
- a. In accordance with 41 U.S.C. § 4712, Participant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Participant, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
 - c. Participant shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
13. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Participant should encourage its contractors to adopt and enforce on-the- job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

14. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Participant should encourage its employees and contractors to adopt and enforce policies that ban text messaging while driving, and Participant should establish workplace safety policies to decrease accidents caused by distracted drivers.

Place saver for Attachment H – ARPA CSO Grant Post-Award Form for Project Selection

Board of Finance and City Council Submission Checklist

Department: DPW-Water Resources Division Submitter: Megan Moir

Title/Subject: Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	No	Click or tap to enter a date.	Chapin Spencer was out of the country and delegated authority to the Division Director
Mayor's Office informed and approved memo	Yes	3/6/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan has reviewed the draft grant agreement
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/6/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Draft grant agreement
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



Church Street Marketplace Commission

Annual Report Fiscal Year 2023

THE MISSION of the Church Street Marketplace District Commission is to provide responsible management leading to an economically successful downtown, which is vibrant, clean and safe, for the benefit of the fee-payers, community members, and visitors.

To: Burlington City Council

From: Church Street Marketplace District Commission

Commissioners: Mark Bouchett, *Chair*; Becky Holt, *Vice Chair*; Sam Tolstoi, *Treasurer*; Linda Magoon, *Secretary*; Sara Beal; Erik Munson; Cara Tobin; Chris Haessly; Romeo von Herman.

Marketplace Activities

For the first time since March of 2020 the Church Street Marketplace has resumed its full slate of annual events and has even added new events and activities in an effort to keep the street programmed as much as possible.

- **New Commissioners**
 - This year we welcomed Sam Tolstoi and Chris Haessly to the Commission.
- **The Marketplace hosted many beloved annual events this year.**
 - August saw the return of the Festival of Fools. This event, presented by BCA, is a perennial favorite and is a big part of what keeps Church Street the sought-after destination that it is.
 - September was Outright Vermont's Fire Truck Pull. This is just part of the Marketplace's commitment to welcoming and including all people to enjoy and be a part of the downtown Burlington community.
 - October had "The Halloween Bike Ride" filled with costumed bicyclers making their way up Church Street. Our relatively new event "Howl'ween Dog Costume Contest" was a terrific success that celebrates Burlington's best dressed canines.
 - November: This year's tree lighting was truly a heartwarming event. Hundreds of Vermonters gathered together to kick off the start of the holiday season that's so important to the businesses on the street and to downtown over all. Events like this one also disprove the narrative that families can't safely visit downtown Burlington in the evenings and are critical to the social and economic success of our city.
 - December is packed with so many events and activations that I won't list them all here; however, I will point out that the Marketplace staff absolutely rose to the occasion. The Holiday shopping guide, Santa's Mailbox, and the Hot Chocolate Program are just a few of the many items that made the season so special and delighted visitors to the Marketplace.
 - March, April and May had: Saint Patrick's Day Parade (Thanks to S.D. Ireland), Earth Day On The Marketplace, and The Vermont City Marathon (Since 1989)
 - Finally, June was filled with Music and Culture. The Discover Jazz Festival was, as it always is, a huge success. As all of downtown fills with music The Marketplace fills a uniquely special role during Jazz Fest, providing the venue for area schools to show off their students' talents and all of the hard work that they have poured into their school bands. These performances bring multi-

generational Vermonters from all over the state to celebrate our kids and enjoy the hospitality of the Church Street Marketplace. The summer also had face painters, a movement series, silent disco, Music on the Bricks and more.

- The Marketplace is also very proud to participate in the city-wide Juneteenth event to celebrate Black liberation and highlight the fact that in Burlington everyone is welcome and everyone has a place.

- **Focus On The Brand**

- The Church Street Marketplace staff has worked diligently to market the most positive aspects of the street. This effort stands as an important counter balance to the less favorable aspects of downtown that the media is forced to report on. This includes advertising events of interest to the community, preparing promotional materials for the street and for businesses, as well as maintaining a vibrant and engaging social media presence.

- **Adjusting to the structural changes**

- The structural changes that came as a response to the Covid pandemic and resulted in the city picking up a large percentage of the Marketplace salary budget have raised questions regarding possible issues with the divided attention of our Executive Director. It is the opinion of this Commission that there have been no deleterious effects as a result of this change. The addition of staff, as budgets allowed, and the effective management of our director have ensured that The Church Street Marketplace met all of its obligations as laid out in its charter and has met or exceeded previous years with regards to adding value by means of marketing and programming. Also notwithstanding new social challenges facing the Marketplace, maintenance such as snow removal, trash removal, and brick maintenance have not suffered at all as a result of these changes.

Marketplace Challenges

- **Maintenance**

- While the typical maintenance of the Church Street Marketplace has remained constant, we have seen a number of new behaviors manifest on Church Street as well as on adjacent sidewalks that have greatly impacted the efforts of the maintenance crew to keep the street clean and the right-of-way clear. These behaviors include: skateboarding, bicycling, camping in store doorways, open drug and alcohol use, littering, public urination, public defecation and loitering within the 9-foot pedestrian right-of-way. While the behaviors described here are all in violation of city ordinances, it is not within the purview of the Church Street Marketplace to enforce these ordinances. It nevertheless falls upon the maintenance crew to clean up after them.

- **Managing Perception**

- As a result of the above-described behaviors and the well-reported increase of violence, particularly gun violence associated with the downtown, the perception that the Church Street Marketplace as a clean, safe, family-friendly space has taken a blow. This Commission maintains that while the perception is, in fact, worse than the reality, we must still do everything in our power to both counter that narrative and to improve the reality wherever we can.

- **Safety And Security**

- Much of the time and talk of the last year has concerned itself with the important issue of public safety and security. The vast majority of public comment has been about this issue. The director, and the commissioners have received many emails, and calls looking for help with these issues. We want to be clear, when this commission uses the term "Safety and Security" we are referring to the safety and security of all those who use the Marketplace. We want everyone who comes to Church Street to be welcome, safe and respectful while enjoying this wonderful shared space. We

must ensure the safety of those less advantaged regardless of their housing circumstances. We need to care for those among us who suffer from mental health issues or struggle with addiction. We also need to make sure that downtown workers, visitors and residents are and feel safe in their city and that the latter need not come at the cost of the former; we must do both.

Marketplace Going Forward

- **Programming**

- We think that programming of the street is a vital part of the Church Street Marketplace mission. It is one very good way to make sure that activity on the street stays positively balanced. While the staff is close to capacity in this regard, we think that encouraging more private/public activations may be a very good way to keep the street busy with wonderful things for visitors of all ages to do.

- **Common Area Fees**

- In May 2023, this commission voted, for the first time in seven years, to increase the Marketplace fees by 5%. In an effort to lessen the effects of business closings caused by the Covid pandemic The Church Street Marketplace did not raise and in fact waived the collection of fees (which are passed onto tenants) for fiscal year 2021-2022. Aside from the regular warnings and inclusion on previous agendas the Chair reached out to as many fee payers as possible to explain the increase and to offer an opportunity for feedback. We believe that this was the minimum raise possible to cover cost of living increases and inflation to maintain the Marketplace. The increase was passed unanimously and with no public comment.

- **Structure**

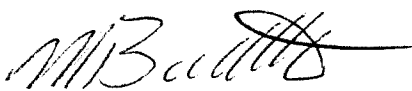
- The commission has occasionally discussed and welcomes the idea of an expanded district.

- **Burlington CityPlace Project**

- The commission is very encouraged by the movement on this project. We are especially glad that it includes local partners and look forward to all of the new Burlington residents that it will bring with the completion phase 1.

- **Vendor Cart Program**

- The Church Street Marketplace office has worked diligently to expand and increase the diversity of our Street Vendor Program. Working together with the small business support side of the office and through extensive outreach the Marketplace team has been able to provide grants and loan opportunities to new entrepreneurs hoping to get their start as so many others have, right here on Church Street.



Mark Bouchett (Chair)



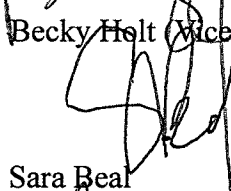
Becky Helt (Vice Chair)



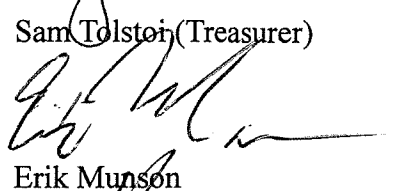
Sam Tolstoi (Treasurer)



Linda Magoon (Secretary)



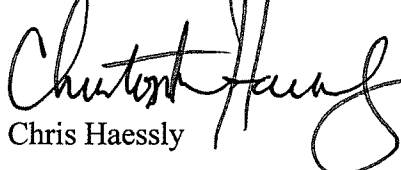
Sara Beal



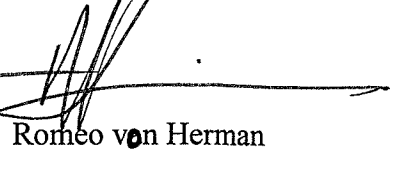
Erik Munson



Cara Tobin



Chris Haessly



Romeo von Herman

Resolution Relating to

SUPPORT FOR THE REDEVELOPMENT OF THE
MEMORIAL BLOCK THROUGH FURTHER DUE
DILIGENCE OF A PUBLIC-PRIVATE PARTNERSHIP

RESOLUTION_____

Sponsor(s): Councilors Paul, King
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City’s ‘Gateway Block’ has long been at the forefront of discussions about how to
2 augment Burlington’s vibrant Downtown; and

3 WHEREAS, the ‘Gateway Block,’ also known as the ‘Memorial Block,’ encompasses the properties
4 between Main Street and College Street and South Union Street and South Winooski Avenue and contains
5 approximately 3.81 acres of land in the heart of downtown Burlington; and

6 WHEREAS, The City of Burlington owns approximately 2.95 acres, or 77% of the block which
7 includes the historic Central Fire Station, the Fletcher Free Library, Memorial Auditorium and the Main and
8 Winooski Parking lot; and

9 WHEREAS, over the past several decades, the City’s Administrations and community members have
10 engaged in processes to reimagine this central block that has long served as a valuable community epicenter;
11 and

12 WHEREAS, the ‘Memorial Block’ is an important point of entry into Downtown Burlington, and as
13 such, needs to achieve the planning goals of our community as a vibrant and attractive gateway to the
14 downtown welcoming residents and visitors alike, providing new housing, public space, parking and long-
15 term economic benefits for the community; and

16 WHEREAS, after many attempts to revitalize the properties on this block, the City has identified an
17 opportunity to achieve the long held community goals that appear to resolve the previously identified barriers
18 to redevelopment;

19 NOW, THEREFORE, BE IT RESOLVED that the City Council supports further exploration and due
20 diligence centered around redeveloping the ‘Memorial Block’ in a public-private partnership; and

21 BE IT FURTHER RESOLVED that in consideration of the covenants, considerations and mutual
22 benefits set forth in the Pre-Development Agreement and other good and valuable consideration, the receipt
23 and adequacy of which is hereby acknowledged, the City Council authorizes the Mayor to execute the Pre-
24 Development Agreement in substantial conformance with the documents attached hereto, subject to final
25 review and approval of the Office of the City Attorney.

26

27

28

29

30

SD/KP/JP/Resolutions 2024/*Support For The Redevelopment Of The Memorial Block Through Further Due Diligence Of A Public-Private Partnership*
March 11, 2024



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

To: City Council

From: Samantha Dunn, Asst. Director of Community Works, CEDO
Brian Pine, Director, Community & Economic Development Office
Jeffrey Glassberg, Development Consultant, Renaissance Development Company

Date: March 11, 2024

Subject: Memorial Block Pre-Development Agreement

Request

This memorandum requests that the Burlington City Council adopt the attached resolution which authorizes the Mayor to execute the Pre-Development Agreement for the Memorial Block. This Pre-Development Agreement sets a schedule for the due diligence required to determine the feasibility and deal structure for a comprehensive redevelopment of this important part of our downtown. This agreement and the work that will result from its adoption will set the foundation for future agreements.

Background

Memorial Auditorium was built in 1927 as a World War I Memorial and Public Assembly Space. Since that time, Memorial Auditorium has hosted public performances, private functions, athletic events, farmers' markets, exhibits, a day care, and a teen center. In 1988, Memorial Auditorium was listed on the National Register of Historic Places as a contributing building with the Main Street - College Street Historic District - many in Burlington and the surrounding area have a favorite memory linked to this building. While the building served many important uses, the City struggled to maintain the capital requirements to preserve the historic structure. The building was shut down at the end of 2016, when it was no longer safe to occupy as the City faced more pressing demands on the constrained capital improvement budget.

Memorial Auditorium sits on the corner of Main Street and South Union Street, a city block (also bounded by College Street and South Winooski) including a total of 3.81 acres of land – 77% of which is owned by the City and almost half of which is occupied by surface parking.

Over the past three decades, the City has simultaneously struggled to keep up with the growing maintenance needs of Memorial Auditorium and explored a series of potential plans for redevelopment of the building and the entire block. The City has previously engaged in RFPs for Memorial and a strong public process, but those earnest and robust efforts did not come to fruition in a project that could move forward. The timeline below summarizes the City's efforts since the 1990s with respect to both Memorial and the municipal parking lot:

1990s City began to struggle to keep up with repairs on the building; 1994 Memorial bond vote failed; 1993 bond for a public safety building for the municipal parking lot failed to garner required two-thirds majority for GO bond approval.

2013 PlanBTV Downtown provides vision for redevelopment of underutilized sites

2013 YMCA explored adaptive reuse of Memorial Auditorium; balance of block slated for Mixed-Use w/ Student Housing

2016 UVM Arena with Hotel on “Gateway Block”

2016 Memorial Auditorium closed to protect public safety

2018 robust public process by CEDO leading to Adaptive Re-use plans for Memorial Auditorium as a “Community Hub”; 2019: RFP to find a private operator for Memorial Community Hub

2021 Bond vote that included Memorial renovations failed

2021 Gateway Block considered but rejected as the site of a new Burlington High School

2022 Successful bond brings \$1MM to Memorial Stabilization & Exploration of future uses

2022 Voters approve \$165MM in bonding for new BHS

2022 RFP for Redevelopment through Public/Private Partnership

2023 Selected Proposal (Babaroosa) withdraws for financial feasibility reasons

2023 City facilitates strategic visioning exercise with adjacent property owners for Gateway Block Redevelopment

Barriers to the success of previous efforts have included: failed bond votes for investment into Memorial Auditorium; the ravine sewer running diagonally across the Main Street/South Winooski parking lot; lack of control over the three privately held parcels in the middle of the block; and the financial infeasibility of the investment required to repair and renovate Memorial Auditorium as a stand-alone development.

Exploration of Public/Private Partnership

Redevelopment of this block is necessary to chart the direction for key capital activities in the downtown, activate underutilized properties, address the City’s chronic housing shortage and replace blight and potential liability with a range of public benefits.

In the summer of 2023, two local developers – Eric Farrell and Joe Larkin – gained site control of the three privately held parcels in the middle of the block and approached the Administration with a proposal to explore a partnership with the City on a redevelopment that would meet many of the City’s goals, and the goals identified through the public process that CEDO undertook in 2018. The Administration brought this proposal to the City Council in the fall of 2023, outlining this opportunity for partnership with a local, experienced development and management team, with a proven track record of performance in Burlington, including under Development Agreement(s) with the City, site control of a portion of the block, a vision that aligns with key City goals and comes from a love for Burlington and a long record of securing major project financing.

In November of 2023, the City Council passed, pursuant to public consideration, a resolution supporting further exploration for this opportunity, and authorizing the Mayor to sign a Letter of Intent (LOI) to explore the feasibility of entering into a development agreement to provide the framework for comprehensive redevelopment of the block. The LOI was edited to incorporate City Councilor comments and executed on November 9, 2023.

Since that time, with the help of real estate development consultant, Jeffrey Glassberg, the City has been working closely with Eric Farrell and Joe Larkin to gain consensus on key terms and direction to advance the public interest. CEDO also presented the redevelopment concept at the Ward 1, Ward 2/3, Ward 5 and Ward 6 NPA Meetings (CEDO received no response from Ward 4/7 and Ward 8 to our request). Public feedback from these sessions generally supported taking a comprehensive approach

(looking at the whole block) and recognized that there is an urgent need to expand our housing stock and address the future of Memorial Auditorium. There was also support for maintaining the veterans' memorial plaques on site and for a generous amount of civic space, including space for youth programming.

Proposed Next Steps / Pre-Development Agreement

The City is now proposing to enter into a Pre-Development Agreement that will set the foundation for future agreements. The proposed Agreement sets a schedule for the due diligence required to determine the feasibility and deal structure for a comprehensive redevelopment of this important part of our downtown. The Pre-Development Agreement outlines processes and a timeline for completing physical, financial and programmatic due diligence that, if determined feasible, will lead to the development of a set of binding agreements for implementation of the redevelopment project. In this agreement, the area being considered for redevelopment is referred to as the "Memorial Block," as an homage to the landmark building that anchors its southeast corner (see ortho photo map of the subject area appended to the Council's authorizing resolution).

At this time, the Parties anticipate that the project will include a mix of housing, hotel, and commercial uses, both indoor and outdoor civic space and below grade public parking to serve the block and surrounding area. The new development is expected to include all of the parcels that have frontage on Main Street as well as the Central Fire Station and surface parking lots between the library and the church. It is anticipated that the City will maintain ownership of its land underlying the development and that the improvements will revert back to the City in the future.

The work being proposed under the pre-development agreement includes:

- Physical Due Diligence – including further evaluation of the feasibility of preserving and re-purposing portions of the Memorial Auditorium, including the memorial plaques in the lobby area;
- Programmatic Due Diligence – including the development of a detailed program of uses and conceptual plans, market feasibility assessment, regulatory feasibility assessment, preliminary budget, and appraisals;
- Developer Due Diligence – confirmation of capacity to implement the development plan;
- Central Fire Station Relocation Feasibility – including the exploration of a new public safety facility which is intended to meet the near- and long-term public safety needs of the City. CEDO will be working closely with the Fire Department and other departments to ensure the public safety needs of the first responders and the community are incorporated. The City will be responsible for identifying a location and providing specifications for the new facility. It is anticipated that the Developer will finance the construction of the new facility and the City will make lease payments until such time that the City has the capacity to bond for its purchase.
- Further Agreements & Implementing Documents - if the City and Developer determine the project is feasible at the end of the due diligence period, the Parties will negotiate a Development Agreement detailing reciprocal commitments and then a ground lease, or other implementing documents, to convey the right of development to the Developer and to dictate what the City will receive in return. The City development team acknowledges the Council's stated objective to retain ownership of the existing public property that is included in the redevelopment area, and will endeavor to ensure continued public ownership of the same.

- Public Engagement - as indicated in the LOI, there is a commitment to include the public in the process of re-envisioning this area. The role for public input will inform the priorities for the new civic spaces to be incorporated into the redevelopment. We also anticipate making regular updates to City Council as we move through the Due Diligence period. As the project progresses past due diligence, the Developer will commit to a design process that engages public participation and solicits public feedback.

This agreement grants the Developer a period of nine months to conduct due diligence and present the City with a proposal. This agreement is a binding commitment on the City's part to give the Developer the requisite time to investigate the property and propose a project that is responsive to the City's needs and wishes and is desirable and financially feasible. While the City is obligated to act in good faith under this agreement, the City is not obligated to accept the Developer's proposal or to proceed beyond the due diligence phase.

Proposed Timeline

March 2024	Execution of Pre-Development Agreement
July 2024	Determination of developer capacity
October 2024	Determination of Central Fire Station relocation feasibility
December 2024	Determination of viability of the project
June 2025	Development Agreement and Implementing Documents
November 2026	Construction start

Conclusion

The PDA is essentially an agreement for the parties to work diligently and exclusively in pursuit of a mutually beneficial arrangement to advance the greatest public good with these municipal assets. As stated in the opening paragraph of this memo, this Pre-Development Agreement creates a schedule for the due diligence required by both parties to determine the feasibility and financial, legal and operating structure for a comprehensive redevelopment of this important part of our downtown. This agreement and the work that will result from its adoption will lay the foundation for future agreements needed to bring this concept to fruition.

Attachments

- Memorial Block Pre-Development Agreement
- Memorial Block Pre-Development Resolution
- Gateway Block Redevelopment Presentation to CC (found at this link [2024_02_26](#))
- November 6, 2023 City Council Resolution: "Support for the Redevelopment of the Gateway Block Through Further Due Diligence of a Public-Private Partnership"
- Letter of Intent executed November 9, 2023

Pre-Development Agreement

This Pre-Development Agreement (“Agreement”) is entered into as of March ____, 2024 by and between the **City of Burlington**, a Vermont municipal corporation (the “City”) and Memorial Block, LLC, a Vermont limited liability company and single-purpose entity under the control of Eric Farrell and Joseph Larkin (“Developer”). Each is referred to individually as a “Party” and collectively as the “Parties.”

Background

- A. The “Memorial Block” is the city block in Burlington, Vermont bounded by Main Street, South Winooski Avenue, College Street, and South Union Street, measuring ±3.81 acres. The City owns ±2.95 acres, or 77%, of the Memorial Block including the historic Central Fire Station (the “CFS”), the Fletcher Free Library, Memorial Auditorium and the Main Street parking lot. The northeast corner of the Memorial Block is owned by the College Street Congregational Church (measuring ±0.58 acres), and Developer holds site control over the remaining ±0.28 acres including the properties numbered 230 Main Street, 234 Main Street and 236 Main Street located between Memorial Auditorium and the Main Street parking lot. An orthophoto outlining the boundaries of the City-owned portions of the Memorial Block is attached hereto as **Exhibit A**.
- B. The City seeks to redevelop the Memorial Block (the “Project”) as anticipated in *planBTV - Downtown and Waterfront Master Plan* adopted on June 10, 2013, and has entered into a Letter of Intent dated November 9, 2023 with Developer’s principals, Eric Farrell and Joe Larkin, in which the Parties agreed to work diligently to execute a formal and binding pre-development agreement on or before March 29, 2024 reflecting the expressions contained therein, including the following description of the Parties’ vision and goals with respect to the Project (such vision and goals being the “Project Principles”¹):

“The redevelopment plan should reflect the following important elements and goals:

- The architectural design of the Memorial Block should be inspirational and welcoming. It should honor both the history of the City and the promise of its future.
- The architectural design of the Memorial Block should reflect its central role as an important point of entry into Downtown Burlington.
- The Memorial Block should represent a meaningful connection between adjacent neighborhoods, encouraging pedestrian movement in support of the businesses and services all along the way.

¹ The Letter of Intent (LOI) refers to the “Gateway Block”; the quoted language below replaces the term “Gateway Block” with the term “Memorial Block” but is otherwise a direct quote from the Letter of Intent.

- The Memorial Block design should embrace the presence of the College Street Congregational Church and the Fletcher Free Library buildings and endeavor to create a vibrant pedestrian streetscape surrounding these important community resources.
- The Memorial Block should maintain the historic integrity of the Central Fire Station, repurposing it to serve in many capacities, such as additional public space, as a function space for an adjacent hotel, or some combination of public and private uses. The potential relocation of the Central Fire Station will be thoroughly studied to ensure the highest level of public safety and to improve the working conditions of fire department members.
- The Memorial Block should include a Central Public Assembly & Activity Space to replace Memorial Auditorium, although not of equal size nor equivalent in use, anchoring the core of the Block and serving as the heart of this new community. Alternatively, such space could be comprised of a combination of a portion of Memorial Auditorium that is retained and new Central Public Assembly & Activity Space. New public space on the Memorial Block should include space dedicated to youth. Such spaces can be either owned privately, or owned by a public/private partnership, or a combination thereof.
- If no portion of Memorial Auditorium is retained, then the Central Public Assembly & Activity Space should include a Veterans Memorial using the plaques that are currently on display in the lobby of Memorial Auditorium,
- After nearly 100 years of public ownership of most of the properties in the Memorial Block, the public should be included in the process of re-envisioning this area.
- The Memorial Block may include hotel use with a minimum of 100 rooms, serving as a vibrant anchor for the Block.
- The Memorial Block should result in the creation of a minimum of 200 units of housing, including a mix of housing types, and both affordable and market-rate units. The affordable housing must satisfy the City's requirement for inclusionary housing units, which requirements will be more specifically articulated in the Development Agreement.
- The Memorial Block should explore secure rooftop greenspaces, where feasible, for the enjoyment of the residents, business employees, hotel guests and the general public, when appropriate (i.e., during public events). Rooftop solar should be considered wherever feasible.
- The Memorial Block should be designed to advance the City's Net Zero Energy goals.

- All parking for the Memorial Block should be located within an understory garage, not visible from the surrounding streets except for the required garage entrances. The garage should include a component of public parking. Incidental surface parking and drop-off zones should be allowed at the entrances to the hotel, residential buildings, Fletcher Free Library, and the College Street Congregational Church. Surface parking should not otherwise be allowed within the Memorial Block.
 - The architectural plans for the Memorial Block should be coordinated with, be complementary to, and otherwise support the significant improvements planned for the Main Street corridor.”
- C. Developer and the City desire to enter into and memorialize certain agreements to reasonably facilitate Developer’s development of the Project substantially in accordance with the Project schedule referenced below.

Now therefore, in consideration of the covenants, considerations and mutual benefits set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and Developer agree as follows:

1. Preliminary Project Schedule. The Parties desire to determine, by December 31, 2024, whether the Project is viable. To determine viability, the Parties agree to work together in good faith to implement the terms of this Agreement and to enter into subsequent agreements as reasonably necessary to achieve mutually desired outcomes. If the Parties determine that the Project is viable, they anticipate negotiating and executing either a formal development agreement or a ground lease and other Implementing Documents (defined below) by June 30, 2025, after which Developer would obtain all necessary municipal, state and federal land use and regulatory permits for the Project (“Project Permits”) by June 30, 2026 and would commence Project construction by October 31, 2026.
2. Due Diligence Period. To determine whether the Project is viable, Developer agrees to undertake and perform due diligence with respect to the Memorial Block, as described below, from the date of this Agreement until December 31, 2024 (the “Due Diligence Period”). In the event the Developer has made a good faith effort to perform its due diligence requirements, as set forth below, but has not been able to complete such undertakings and analysis by December 31, 2024, through no fault of its own, or in part due to the City’s inability to perform its obligations as set forth below, then the Developer shall have the right to extend the Due Diligence Period to June 30, 2025, subject to the consent of the City, which consent shall not be unreasonably withheld.
 - (a) Physical Due Diligence and Title Work. During the Due Diligence Period, Developer agrees to undertake and perform physical due diligence with respect to the Memorial Block in accordance with the following:
 - (i) Developer shall be entitled, during the Due Diligence Period, to perform a physical evaluation of Memorial Auditorium, the Main Street parking lot, and the CFS,

including an engineering and environmental review to ascertain their physical condition, and legal review of the City's title to such property, including but not limited to a review of title and survey records to determine the existence or materiality of any encumbrances affecting use, occupancy, or enjoyment.

(ii) Developer agrees that in conducting any inspections or investigations, Developer and its agents shall: (A) not damage any part of the City's property; (B) promptly pay when due the costs of all tests, investigations, and examinations; and (C) not permit any liens to attach to the City's property by reason of the exercise of Developer's rights hereunder. If any damage occurs to the City's property as a result of Developer's due diligence or any activities upon the Memorial Block by Developer or its agents, Developer shall promptly restore the damaged property to the condition that existed prior to the commencement of the due diligence or such other activities, at Developer's sole cost and expense, and save and hold the City and its successors and assigns harmless from any claim, damage, cost or expense, including reasonable attorneys' fees, for any property damage or for any personal injuries arising in whole or in part from any inspections or investigations performed by Developer or its agents. Developer's obligations under this provision shall survive the termination of this Agreement for any reason.

(iii) During the Due Diligence Period, Developer shall have reasonable access to Memorial Auditorium, the CFS and to the Main Street parking lot for the purpose of performing due diligence as set forth above, provided that (A) Developer shall not perform any invasive environmental testing without the City's prior written consent, (B) all inspections of the CFS shall be coordinated in advance with the Burlington Fire Department and with the Burlington Community Economic Development Office ("CEDO"), and (C) Developer shall only be permitted to enter into Memorial Auditorium while accompanied by a representative of the City. The City shall reasonably cooperate with Developer to facilitate Developer's access to and due diligence of Memorial Auditorium. Developer acknowledges that portions of Memorial Auditorium are being occupied by, or are being used for storage by, others, and Developer agrees that its due diligence shall not disturb such use.

(iv) Developer acknowledges and agrees that this Agreement only provides Developer with a limited license for the purposes described herein and for no other purposes and for no other periods, and does not constitute, and no provision shall be construed to constitute, the grant, conveyance or assignment of any interest in real estate or a lease of any portion of the Memorial Block or any rights extending beyond the period and purposes identified above. The Developer shall at its own cost and expense comply with any and all laws, ordinances, regulations, codes and other legal requirements relating to its activities hereunder.

(v) Throughout the effective period of this Agreement, Developer, at Developer's own cost and expense, will maintain a policy or policies of commercial general liability insurance (or its equivalent) insuring the City and Developer against all claims or demands for personal injuries to or death of any person, and damage to or destruction or loss of property, which may or may be claimed to have occurred on the

Memorial Block or in the vicinity of the same arising from the acts or omissions of Developer. Such policies shall be in an amount not less than Two Million Dollars and 00/100 (\$2,000,000.00) for injury to or death of any one person or for damage to or destruction or loss of property in a single accident or occurrence. The Developer shall deliver to the City certificates evidencing such insurance coverage prior to its entry onto the Memorial Block (other than those portions which Developer already controls), which certificates shall name the City as an additional insured.

(vi) The City shall not be liable for any personal injury or damage to property which Developer or its employees, contractors, agents, or invitees may incur, regardless of the cause thereof, unless the cause of such injury or damage is a willful or grossly negligent act by the City, its officers, employees, and agents. Developer hereby releases the City from all such liability except as otherwise stated, it being the intent of the parties that Developer shall maintain adequate insurance to cover any such losses. Developer hereby agrees to defend, indemnify and hold harmless the City, its officers, employees and agents, from and against any and all damages to the Memorial Block, any personal injuries, claims, damages, losses, suits, judgments, costs and expenses (including without limitation reasonable attorney's fees) arising from Developer's use of and access to the Memorial Block or breach of this Agreement including, but not limited to, the amounts of deductibles on Developer's insurance policies, or any costs resulting from Developer's failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker's compensation or liability claims. The indemnification provisions set forth above shall survive termination of this Agreement.

(b) Programmatic Due Diligence. In addition to its conduct of physical due diligence, during the Due Diligence Period Developer agrees to undertake and perform programmatic due diligence with respect to the Project to determine its viability in accordance with the following:

(i) Program. Develop a program for the Project consistent with the Project Principles, in terms of the various uses of space within the Project (e.g., housing, hotel, retail, office, public assembly, structured parking, park space, photovoltaic power generation, etc.), the square footages and/or unit counts devoted to each use, the quantity and mix of housing units, the number of structured parking spaces, and any other information or metrics relevant to a determination of viability. The number of housing units in the Project may vary from the Project Principles as a result of this effort.

(ii) Concept Plans and Drawings. Engage civil engineers, architects, landscape architects and other professionals to develop concept plans and drawings for the Project, including scaled site plans and elevation drawings, sufficient to depict the proposed program for the Project. The concept (schematic) plans and drawings should depict the Project layout and also identify and describe proposed infrastructure and utility improvements and include a proposed phasing schedule.

(iii) Market Feasibility Assessment. Engage reputable, independent third-party market consultants to assist in the assessment of the feasibility of developing the Project with the proposed program. Such market feasibility assessments should include estimates

of the approximate values of the completed elements of the Project.

(iv) Regulatory Feasibility Assessment. Engage civil engineers, architects, land use attorneys and/or other land use planning professionals to assess the feasibility of obtaining all necessary land use and regulatory permits and approvals to develop the Project with the proposed program. If the regulatory feasibility assessment concludes that current municipal zoning would not permit the Project to be developed as proposed, then it should identify such limitations and propose solutions to overcome or remove such limitations.

(v) Sources and Uses of Funds. Develop a preliminary budget for the Project, including a sources and uses table, to include estimated hard and soft costs typically associated with the development and construction of a project that includes the desired programmatic elements and to include typical development and construction contingencies and forward-looking cost escalators to account for the anticipated construction timeline. If the Project is proposed to be developed in phases over time, then the preliminary budget shall address the first phase with details sufficient to support the commencement of the Project with an estimated timeline, sequence and schematic designs for future phases that demonstrate the financial feasibility of completing the Project over the proposed timeline.

(vi) Appraisal. Developer shall engage a Qualified Appraiser, mutually selected by Developer and the City, to determine the existing value of the Memorial Block and its constituent parcels and improvements (meaning, prior to the construction of the Project), subject to a mutually agreed-upon set of assumptions and parameters to be determined by the Parties (the “Appraisal”). Such parameters shall include, but not be limited to, existing physical deficiencies and/or atypical building and site conditions that would negatively impact the financial feasibility of developing any portion of the Memorial Block. As used herein, the term “Qualified Appraiser” shall mean an MAI-certified appraiser or other professionally licensed appraiser with at least five (5) years’ experience appraising commercial real property similar in location, nature and quality to the properties that comprise the Memorial Block; provided, however, that the term “Qualified Appraiser” shall not include any individual who has any professional, business, family or personal affiliation with a Party that would compromise his or her independence; such exception shall not include work the “Qualified Appraiser” may have performed on behalf of a bank or lending institution in connection with one or more properties owned by the Developer.

(c) Termination. If at any time during the Due Diligence Period Developer determines, in its sole discretion, that the Memorial Block is not suitable for Developer’s intended use, Developer may terminate this Agreement upon written notice to the City, and thereafter the Developer will have no further obligations to the City except for those obligations that explicitly survive termination.

(d) Share Work Product. Developer agrees to share the work-product produced by its activities described in this Section 2 with CEDO staff for their review so that the City can evaluate whether Developer’s proposals implement the Project Principles in a manner that is reasonably likely to be acceptable to the City, and whether the Parties will be able to relocate the CFS in the

manner described below to facilitate the Project. Developer agrees to use good faith efforts to provide its work product by the end of the Due Diligence period so that City staff has sufficient time to review and comment upon such materials in an effort to move the Project beyond the Due Diligence Period.

The Parties acknowledge that if the City, after review by CEDO staff, determines, in its reasonably exercised discretion, that the Project satisfies the requirements set forth in this Agreement, it will be necessary to obtain authorization from the Burlington City Council to deliver site control to Developer in the manner contemplated by Section 7 of this Agreement and to provide Developer with the right, pursuant to the Implementing Documents (as defined in Section 7), to proceed to obtain Project Permits and to work towards the construction of the Project and the relocation of the CFS.

(e) The City acknowledges the Developer will be expending considerable time and expense to satisfy its obligations during the Due Diligence Period; Developer acknowledges that it is undertaking such efforts and incurring such expenses at its own risk, and that the City does not guaranty that the Project will be feasible or that the Project will proceed beyond the due diligence phase.

3. Central Fire Station Relocation. The City commits to **determining the feasibility of relocating the CFS to a new public safety facility** by a date that will facilitate Developer's construction of the Project thereon, subject to Developer's performance under Section 3(b) and Section 3(d). The City acknowledges the Developer's stated need to have the CFS relocated from the current location.

(a) The City agrees to investigate the feasibility of relocating the CFS to a new public safety facility to be constructed on City-owned property including by determining whether existing zoning and land use regulations and institutional controls permit the construction of a new public safety facility on the target property. The City acknowledges and agrees that the relocation of the CFS is an absolute requirement of the Developer for the Project and, accordingly, the City agrees to work diligently and in good faith to identify a City-owned location for the new public safety facility in satisfaction of the requirements set forth in this Section 3, including by completing its zoning and land use analysis by September 30, 2024 in order to afford Developer a reasonable time to fulfill its obligations under Section 3(b).

(b) Developer shall investigate the feasibility of relocating the CFS to a new public safety facility to be constructed on City-owned property (to be identified by the City), including (i) the estimated cost to develop, construct and equip a new public safety facility to the City's specifications, (ii) the proposed timeline for the construction and relocation project, (iii) the availability and cost of financing for the construction and relocation project, and (iv) the projected monthly carrying costs of the completed project.

(c) The City shall participate and support Developer's investigations by providing Developer with specifications and requirements for the new public safety facility sufficient for the Developer to undertake its obligations as set forth herein. Developer shall have the right to determine when the new public safety facility is constructed in coordination with its development

schedule for the Project.

(d) To facilitate the City's relocation of the CFS to a new public safety facility on a schedule that facilitates the Project, Developer agrees to construct a replacement public safety facility to the City's specifications on property that is currently City-owned, and to (i) net lease the new public safety facility to the City, if the City retains ownership of the underlying land; or (ii) if the City is required to transfer the City-owned property to the Developer in order to facilitate the Developer's financing, then to ground lease the land and building to the City until such time as the City's Chief Administrative Officer determines that the City has capacity to bond for its purchase and, if required, the voters shall have authorized the City to bond for its purchase. In the event of (ii) above, the transfer of the City-owned property to the Developer shall be at no cost. The rent payable under the ground lease will be established at a rate that covers Developer's carrying costs with respect to the new public safety facility (i.e., Developer's cost of constructing and owning the new public safety facility, including soft costs, financing costs including a reasonable return on equity and debt service costs). The purchase price for the completed public safety facility will equal Developer's total costs of development, construction and ownership of the new public safety facility, together with any operating and/or carrying costs that shall not have been reimbursed through the payment of rent.

4. City Commitments. To facilitate Developer's ability to develop plans for the Project and to commit to a Project timeline, the City agrees to the following commitments should the Project proceed:

(a) Properties. For the purpose of creating a comprehensive plan for the redevelopment of all of the parcels subject to this Agreement, the City agrees to combine its property with the other parcels that comprise the Memorial Block. This is not intended to transfer ownership of the City's properties, but rather to enable the most optimal comprehensive development plan. The following City properties will be part of the area for which a comprehensive redevelopment plan will be developed: Memorial Auditorium, the CFS, the Main Street parking lot, and the surface parking lot serving the Fletcher Free Library.

(b) Ravine Sewer. Once Developer and the City shall have fully committed to a specific, designed and permitted Project, the City agrees that it will abandon the existing ravine sewer line that runs through the Main Street parking lot, at its expense, by a date that will facilitate Developer's construction of the Project thereon. In this instance, the term "abandon" refers to a standard engineering solution for an old underground sewer system that is being decommissioned, replaced and is no longer needed.

(c) Library Improvements. The Fletcher Free Library staff, the Library Commission, and the Friends of the Fletcher Free Library are in the process of planning future renovations to the Library. The Library has completed the Schematic Design Phase and has begun fundraising. The restoration and preservation components of the Library project are expected to begin at the end of calendar year 2024. The City agrees to work in good faith with Developer to coordinate Developer's planned improvements for the Memorial Block with the improvements the City has planned for the Fletcher Free Library. This reference is to ensure that efforts to redevelop the Memorial Block are coordinated with the Library's efforts.

(d) Public Process. The City agrees to engage the public to solicit feedback regarding desired public uses to be incorporated into the program for the Project.

(e) Review of Developer Submissions. The City will timely review Developer's work product regarding the Project program, design, construction phasing, infrastructure elements, and deal structure, and shall use good faith efforts to timely provide Developer with constructive feedback to indicate its areas of approval and any items of concern.

(f) Funding Sources. The City will investigate and identify potential funding sources and financial benefits that may be available to the Project by reason of the City's involvement, support and/or sponsorship, including the identification of any requirements associated with particular funding sources, and will communicate its findings to Developer to assist the Developer to develop its sources and uses proposal.

(g) Regulatory Assistance. If Developer's regulatory feasibility assessment concludes that current municipal zoning would not permit the Project to be developed as proposed, the City will work with Developer in good faith to develop solutions to, or to overcome or remove, such limitations. If the Parties determine that it will be necessary to amend the City's Comprehensive Development Ordinance ("Zoning Ordinance") to permit the Project to proceed, then the City, acting through CEDO, will use diligent, good faith efforts to facilitate the adoption of an amendment or amendments to the Zoning Ordinance to facilitate the Project, with the understanding that only the Burlington City Council and Planning Commission have the authority to adopt amendments to the Zoning Ordinance, which must be adopted in accordance with applicable laws, ordinances and regulations. Nothing in this Agreement shall be construed to imply that the Planning Commission or City Council is obligated to approve any amendments to the Zoning Ordinance that are deemed necessary or desirable for the Memorial Block redevelopment to proceed.

5. Developer Commitments. Developer agrees to the following commitments should the Project proceed:

(a) Properties. Developer will contribute the following properties to the Project: 230 Main Street, 234 Main Street, and 236 Main Street. Developer represents that it currently controls such properties, and that it holds the option and right to acquire fee title to such properties should the Project proceed. At the time that Developer contributes such properties to the Project, it will provide the City with copies of its title reports, title and survey materials, and title insurance policies with respect thereto.

(b) College Street Congregational Church Parking Lot. Initial efforts have been undertaken to explore the possibility of removing the existing surface parking lot adjacent to the Church and offering replacement parking in the adjacent parking structure that is envisioned for the Project. **The inclusion of the Church parking lot will allow the redevelopment to transform surface parking on the Memorial Block to a higher and better use for church members and possibly for the broader community.** Developer agrees to use commercially reasonable, good faith efforts to (i) acquire fee title to the surface parking lot serving the College Street Congregational Church

for inclusion in the Project, and to contribute such property to the Project should the Project proceed, or (ii) facilitate the repurposing of the surface parking lot into green space to be retained by the Church for its use, in either case consistent with the final plan to develop the Project. At the time that Developer contributes such property to the Project, it will provide the City with copies of its title reports, title and survey materials, and title insurance policies with respect thereto.

(c) Financial Capacity. On or before June 1, 2024, Developer agrees to provide the City with information regarding the experience, qualifications and financial capability of the Developer and its principals, and their ability to implement a feasible plan for the Project (including the identification of possible equity sources, debt sources and associated financial sureties), together with information listing the Developer's real estate development experience managing an investment and development team, including architects, engineers, attorneys, contractors, investors and lenders, capable of designing, financing, constructing, operating and managing the Project long-term. The Parties agree to cooperate as needed to facilitate the completion of these disclosures and assessments, including appropriate treatment of proprietary or confidential information. If the City after reasonable review is not satisfied with such disclosures and assessments, then the City shall have the right to terminate this Agreement.

(d) The City shall make such determination on or before July 1, 2024.

6. Further Agreements. Developer agrees to use good faith efforts to provide City staff with the work product produced by its activities described in Section 2 of this Agreement on or before sixty (60) days prior to the end of the Due Diligence Period, so that City staff has sufficient time to review and comment upon such materials in an effort to move the Project beyond the Due Diligence Period.

If the Parties determine at the end of the Due Diligence Period that the Project is viable and that it is necessary for them to memorialize further agreements with respect to the Project including, without limitation, with respect to the relocation of the CFS, prior to or concurrent with their entry into the Implementing Documents (as further discussed in Section 7, below), the Parties will use good faith efforts to negotiate a Development Agreement to encompass and address such further commitments and agreements for presentation to the Burlington City Council for its review and approval. The intent of the Development Agreement would be for the Parties to make reciprocal commitments covering the period from the end of the Due Diligence Period to the execution of the Implementing Documents described in Section 7 below.

7. Implementing Documents. Upon the expiration of the Due Diligence Period, or the period covered by the Development Agreement referenced in Section 6 above, the Parties intend for Developer to convey to the City those elements of the Memorial Block that the City does not already own, and for the City (a) to ground lease to Developer those portions of the Memorial Block that are to be redeveloped, and/or (b) to establish other legal structure(s) that the Parties determine to be appropriate and in the best interests of the Project and the mutual best interests of each Party (collectively, "Implementing Documents"). In making such a determination, the Parties recognize that an appropriate legal structure for the Project may be one in which the City maintains ownership of all or a portion of the land using a mechanism other than a ground lease, and each Party shall act in good faith to consider the interests of the other Party. If the Parties determine that

the Project is viable and that they desire for Developer to proceed to obtain Project Permits and work towards the construction of the Project and the relocation of the CFS to a new public safety facility, the City would prepare a draft ground lease for review and approval by Developer, and Developer would prepare drafts of the other Implementing Documents for review and approval by the City, in each case with the intent of drafting documents which, upon execution, would deliver site control to Developer. The City's execution of the Implementing Documents will require authorization from the Burlington City Council, and if authorization is granted it would be conditioned on Developer's conveyance of real property to the City, if required by the Implementing Documents, in the manner contemplated by this Agreement. The Parties anticipate that the Implementing Documents would include, without limitation, the following concepts:

(a) The consideration payable to the City pursuant to the Implementing Documents will reflect, among other factors, the value of: Developer's acquisition of 230 Main Street, 234 Main Street and 236 Main Street and contribution of such properties to the Project (as established by the Appraisal); Developer's acquisition of the College Street Congregational Church surface parking lot, if applicable, and contribution of such property to the Project (as established by the Appraisal); the City's contribution of Memorial Auditorium, the CFS, the Main Street parking lot, and the surface parking lot serving the Fletcher Free Library to the Project (as established by the Appraisal); Developer's costs to restore or demolish Memorial Auditorium; the Project's provision of public amenities, including infrastructure upgrades, assembly space, youth-led space, structured parking, and park space; the Project's provision of workforce, affordable and market housing; the Project's effect on the municipal Grand List; the Project's generation of municipal meals and rooms tax; the Project's generation of municipal sales tax, and; the Project's profitability.

(b) The City will reserve easements for water and sewer infrastructure and any other easements deemed necessary for public utilities or infrastructure through portions of the subject property that will be identified on a plan attached to the Implementing Documents.

(c) The Implementing Documents will include infrastructure and construction requirements established by the Burlington Department of Public Works.

(d) The Implementing Documents will be effective upon full execution, but if the Implementing Documents include a ground lease it will not take effect until all Project Permits will have issued and Developer will have satisfied all commencement contingencies and is prepared to commence construction, and in that case the ground lease will provide that once construction commences the lease term will be 99 years.

(e) Commencement pursuant to the Implementing Document will be contingent on (i) the Parties' entry into a mutually satisfactory agreement with regard to the relocation of the CFS, (ii) Developer's receipt of all Project Permits, issued without conditions to which either Party objects, and such permits having become final and unappealable, (iii) the City's approval of the final Project program, plans and specifications, (iv) Developer being able to demonstrate to the City's reasonable satisfaction that it has sufficient financial capacity, through a mixture of equity and a debt financing, and other municipal, state, federal and private sources and considerations, to construct an agreed-upon scope of the work (it being understood that the Project will be constructed in phases), and (v) Developer's entry into a construction contract with a capable,

reputable general contractor or construction manager which establishes either a guaranteed maximum price or lump sum price consistent with Developer's available sources of debt and equity financing, for a fixed construction term, to construct the first phase of the Project. If the contingencies are not satisfied by a date certain, the City shall have the right to the remedies set forth in the Implementing Documents. The Parties acknowledge that it will be necessary for Developer to obtain permits and approvals for the Project from the Burlington Development Review Board ("DRB"), that the DRB is an independent body not under the City's control, and that the City does not and cannot guaranty that the DRB will approve the Project.

(f) Developer will commit to a design process that engages public participation and solicits public feedback regarding the public spaces that are a component of the Project at the commencement of the design process and thereafter at intervals throughout the design process. At a minimum, the Developer will make a presentation to any Neighborhood Planning Assembly that accepts an offer to present information about the Project, and agrees to hold a public hearing at an appropriate City Council meeting.

(g) The City will provide Developer with active support during the regulatory review process.

(h) The Implementing Documents will grant Developer the ability to establish "pad sites", which are defined here to refer to **developable areas of land**, to be transferred or subleased to entities which would then own individual buildings constructed as components of the Project, subject to the Implementing Documents. The Implementing Documents will allow for the establishment of an air-space condominium, as permitted by the Vermont Common Interest Ownership Act, to facilitate the establishment and transfer of such "pad sites".

(i) If the Implementing Documents include a ground lease it will establish a capital reserve requirement and will address the disposition of improvements at the expiration of the lease term.

(j) The Implementing Documents will include provisions designed to anticipate and address the needs of Project lenders.

8. Within one week of the full execution of this Agreement, Developer shall provide the City with an organizational chart which shall, without limitation, confirm that Eric Farrell and Joe Larkin are Developer's principals with operational authority and control over Developer's activities.

9. Confidentiality. Developer recognizes that this Agreement is a public record and that communications and correspondence between the parties are subject to Vermont's public meeting laws and public records laws. The City agrees, however, that to the extent the City requires Developer to disclose to or provide the City with material nonpublic, confidential information or material in connection with the Project, the City will work in good faith with Developer to maintain the confidentiality of such information or material in a manner that complies with applicable law.

10. No Assignment. This Agreement shall not be assigned by Developer without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed so long as Eric Farrell and Joe Larkin hold and exercise executive managerial authority over the assignee.

11. Cooperation; Further Assurances. The Parties shall cooperate and communicate with each other on a regular basis, including by arranging joint meetings with appropriate personnel present to address issues set forth in this Agreement, to discuss any proposed changes to the Project and to discuss the work product generated as the Project progresses, so as to permit the orderly and efficient development of the Project. The Parties agree to execute, acknowledge, if necessary, and deliver such documents, certificates or other instruments and take such other actions as may be reasonably required from time to time to carry out the intents and purposes of this Agreement.

12. Governing Law; Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Vermont, without regard to its conflicts of law rules. The Parties consent to and submit to in personam jurisdiction and venue in the State of Vermont, County of Chittenden, and in the federal district courts which are located in the City of Burlington. The Parties assert that they have purposefully availed themselves of the benefits of the laws of the State of Vermont and waive any objection to in personam jurisdiction on the grounds of minimum contacts, waive any objection to venue, and waive any plea of forum non conveniens. This consent to and submission to jurisdiction is with regard to any action related to this Agreement, regardless of whether the Parties' actions took place in the State or elsewhere in the United States.

13. Severability. If any term, covenant or condition contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice any Party in their respective rights and obligations contained in the valid terms, covenants or conditions hereof, and the Parties shall cooperate to modify the Agreement to cause it to conform to the original language of the Agreement to the extent consistent with the finding of the court.

14. Construction; Headings. The Parties waive the benefit of any rule that this Agreement is to be construed against one Party or the other. The headings in this Agreement are for the purposes of reference only and shall not limit or otherwise affect the meaning hereof.

15. Integration; Modification. This Agreement, together with the exhibits referenced herein and/or attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreements or representations, oral or written, on the same subject. The Agreement can be modified only by written agreement executed by authorized representatives of each Party.

16. No Partnership. The Parties do not intend by this Agreement to create, nor shall this Agreement be deemed to create, a partnership or a joint venture among the Parties; each Party is an independent actor and entity, and nothing in this Agreement shall be deemed to make either Party an agent or partner of the other, or to give either Party the right to bind the other in any way, notwithstanding any reference to the Project as a "public-private partnership."

17. Waiver. The failure of either Party to insist on strict performance of any of the provisions of this Agreement or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the Party granting the waiver.

18. Incorporation by Reference. The content of the Background section to this Agreement, including without limitation the definitions set forth therein, and all exhibits hereto and the terms contained therein and the contents thereof, are incorporated into this Agreement by reference.

19. Authority. Each of the Parties warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and to thereby bind the Party on whose behalf such person, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

20. Notices. Any notices to be given pursuant to this Agreement shall be sufficient if given by a writing: deposited in the United States mails, certified mail or registered mail, return receipt requested, postage prepaid; by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender; or by email (provided that the electronic process used is reasonably secure and not easily susceptible to manipulation) addressed as follows:

If to the City: City of Burlington
 149 Church St.
 Burlington, VT 05401
 Attention: Mayor
 Attention: CEDO Director

If to Developer: Memorial Block LLC
 Attention: Eric Farrell
 Attention: Joe Larkin

With a copy to:

or to such other person, address or number as the Party entitled to such notice or communication shall have specified by notice to the other Party given in accordance with the provisions of this Section. Any such notice or other communication shall be deemed given: (i) if mailed, three days after being deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by courier, the next day after being deposited with the courier, properly addressed and with prepaid; (iii) if sent by email, when transmitted as long as the sender does not receive a delivery failure notification or "out of office" notification.

Signature Page to Follow

DRAFT

In Witness Whereof, this Agreement is executed by the duly authorized officers or representatives of the Parties as of the date first set forth above.

City of Burlington

Memorial Block LLC

By: _____
Name: Miro Weinberger
Title: Mayor

By: _____
Name: Eric Farrell
Title: Authorized Agent

By: _____
Name: Joseph Larkin
Title: Authorized Agent

Exhibit A
Orthophoto of Memorial Block

DRAFT

Memorial (Gateway) Block Redevelopment

February 26, 2024



COLLEGE ST

CHURCH

LIBRARY

FIRE
STATION

AUDITORIUM

WINOOKSI

UNION

Memorial
Block

MAIN ST

Background

1990s City began to struggle to keep up with repairs on the building; 1994 failed bond vote.

2013 PlanBTV Downtown provides vision for redevelopment for underutilized sites

2013 *YMCA to Occupy Memorial Auditorium*; balance of block to be Mixed-Use w/ Student Housing

2016 UVM Arena with Hotel on Gateway Block

2016 Memorial Auditorium closed to ensure public safety

2018 Robust Public Process by CEDO leading to Adaptive Re-use plans for Memorial Auditorium as a "Community Hub"; 2019: RFP to find a Private Operator for Memorial Community Hub

2021 Failed Bond Vote that included Memorial Redevelopment

2021 Gateway Block considered as site of new Burlington High School

2022 Successful Bond brings \$1MM to Memorial Stabilization & Future Exploration

2022 Voters approve \$165MM in bonding for new BHS

2022 RFP for Redevelopment through Public/Private Partnership

2023 Selected Proposal (Babaroosa) withdraws proposal for financial feasibility reasons

2023 City facilitates strategic visioning exercise for Gateway Block Redevelopment

2023 City signs LOI with Eric Farrell and Joe Larkin

Barriers to Previous Projects

- Failed bond votes for investment in Memorial Auditorium
- Ravine Sewer (crossing the Main/Winooski Parking Lot)
- Lack of control of the private land comprising the "hole in the donut"
- City's inability to finance the 2018 vision/City bond capacity limited due to BHS
- Cost of repairing and renovating Memorial Auditorium makes adaptive reuse financially infeasible on its own

Key Priorities for the City

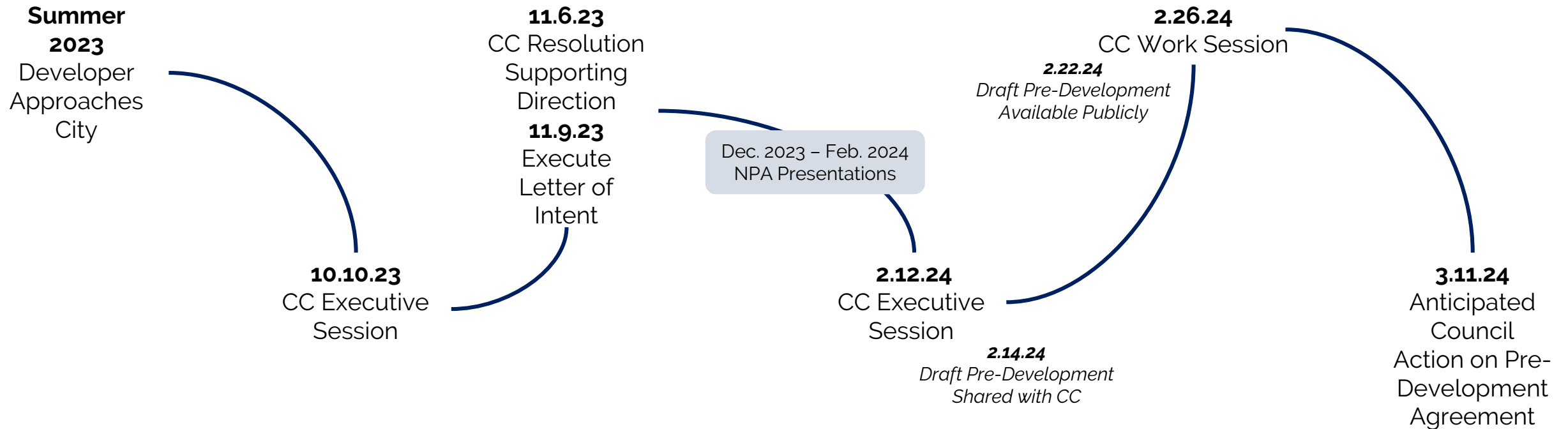
- An attractive and welcoming entrance to the downtown
- Mixed Income Housing
- Preservation of Veterans Memorials
- Inclusion of civic space, including space dedicated to youth, with opportunity for input on programming from the City and Community
- Public Parking
- Grow the Grand List (increased property tax revenue)
- Long-term economic benefit for the community

Public Engagement

Ward 1	12/13/2023
Ward 2/3	12/15/2023
Ward 5	1/18/2024
Ward 6	2/1/2024
Wards 4/7 & 8	No response to our request

- What we heard (Common Themes):**
- Supportive of taking a comprehensive approach (looking at the entire block)
 - Recognition that we need to address the liability of Memorial Auditorium
 - Strong support for maintaining veterans memorial on site
 - Support for generous amount of civic space, including space for youth, on the block
 - Does BFD support relocation?
 - Will the public have an opportunity to make comments about the development?

Pre-Development Agreement Process



Pre-Development Agreement:

- Agreement grants the Developer a period of nine months to conduct due diligence and present the City with a proposal.
- Agreement is a commitment on the City's part to give the Developer time to investigate the property and propose a project that is responsive to the City's needs and wants and is both market and financially feasible.
- While the City is obligated to act in good faith under this agreement, the City is not obligated to accept the Developer's proposal or to proceed beyond the due diligence phase.

What's in the Pre-Development Agreement:

Physical Due Diligence – including further evaluation of the feasibility of keeping a portions of the Memorial Auditorium (including the memorial component).

Programmatic Due Diligence

- Development of a detailed program of uses & conceptual plans
- Market feasibility assessment
- Regulatory feasibility assessment
- Preliminary budget (sources & uses)
- Appraisals.

Programmatic Due Diligence – confirmation of capacity to implement the development plan.

Central Fire Station Relocation Feasibility

- Exploration of a new public safety facility
- City will be responsible for identifying a location and providing specifications for the new facility.
- Developer will finance the construction of the new facility and the City will make lease payments until such time that the City has the capacity to bond for its purchase.

What's in the Pre-Development Agreement:

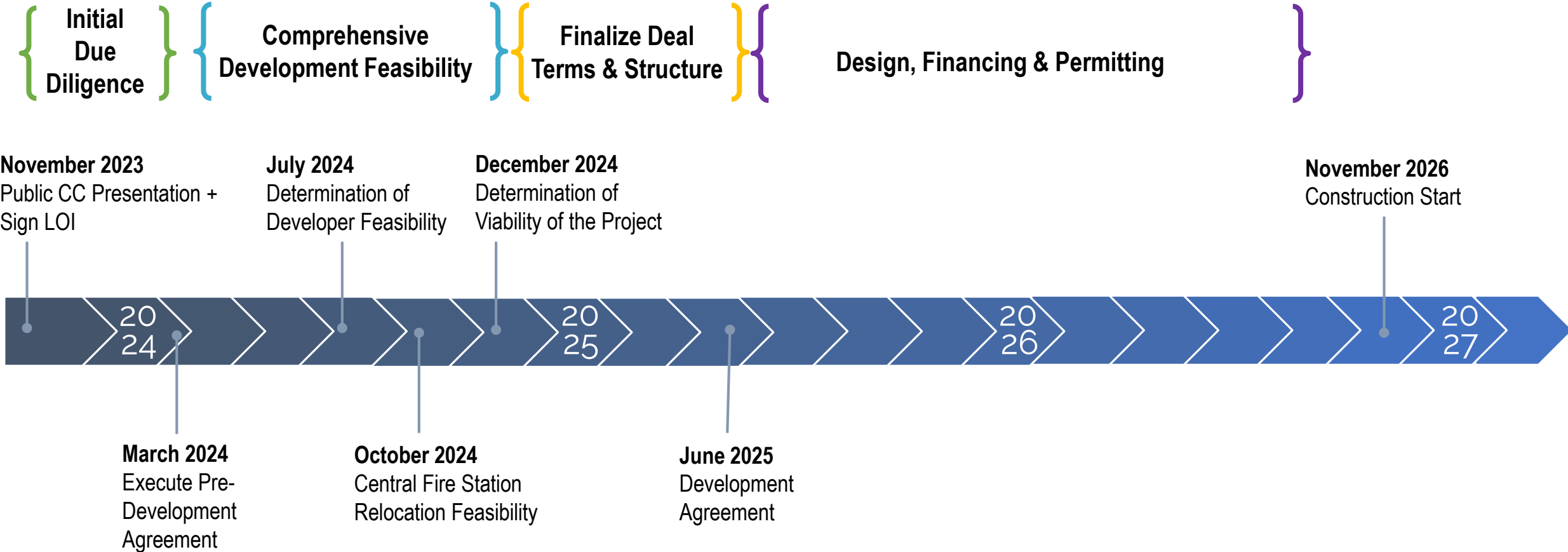
Further Agreements & Implementing Documents

- Development Agreement detailing reciprocal commitments
- Ground lease, or other implementing documents, to convey the right of development to the Developer and to dictate what the City will receive in return.

Public Engagement

- Public input at this time will be in shaping the priorities for the new civic-spaces to be incorporated in the redevelopment.
- Regular updates to City Council
- Developer commits to a design process that engages public participation and solicits public feedback.

Proposed Timeline





LETTER OF INTENT

November 9, 2023

City of Burlington
Attention: Miro Weinberger, Mayor
City Hall, Room 34
149 Church Street
Burlington, VT 05401

Re: Redevelopment of the Gateway Block, Burlington, Vermont

Dear Mayor Weinberger,

This Letter of Intent reflects our expression of interest in forming a Public/Private Partnership for the purpose of redeveloping the Gateway Block as the gateway to the City.

The City and the Developer agree to work diligently to execute a formal and binding Development Agreement on or before March 29, 2024 ("Development Agreement") reflecting the expressions contained in this Letter of Intent.

Developer

A new entity (NEWCO) to be formed by Eric Farrell and Joe Larkin.

Gateway Block

The city block bounded by Main Street, South Union Street, College Street and South Winooski Avenue.

Background

The Gateway Block contains approximately 3.81 acres of land. The City of Burlington owns approximately 2.95 acres, or 77%, of the block including the historic Central Fire Station, Fletcher Free Library, Memorial Auditorium and the Main Street Parking Lot. The Northeast corner (0.58 acres) is owned by the College Street Congregational Church. NEWCO holds site control of the remaining 0.28 acres including the properties numbered 230 Main Street, 234 Main Street and 236 Main Street located between Memorial Auditorium and the Main Street Parking Lot.

Since closing Memorial Auditorium for safety reasons in 2016, the City has sought to return this public asset to active use and to facilitate its redevelopment as part of the so-called Gateway Block as anticipated in *planBTV - Downtown and Waterfront Master Plan* adopted on June 10, 2013.

The City is moving forward the Great Streets Main Street vision from planBTV that will use the City's Downtown TIF district to make major new investments in the public infrastructure of Main Street, introducing a toolkit of amenities to create a vibrant, walkable, and sustainable urban core.

This project, slated to begin construction in the next 6 months, will also relocate the ravine sewer that currently crosses the Main Street Parking Lot, which will prepare that portion of the Gateway Block for redevelopment.

Vision/ Goals of Redevelopment

The redevelopment plan should reflect the following important elements and goals:

- The architectural design of the Gateway Block should be inspirational and welcoming. It should honor both the history of the City and the promise of its future.
- The architectural design of the Gateway Block should reflect its central role as an important point of entry into Downtown Burlington.
- The Gateway Block should represent a meaningful connection between adjacent neighborhoods, encouraging pedestrian movement in support of the businesses and services all along the way.
- The Gateway Block design should embrace the presence of the College Street Congregational Church and the Fletcher Free Library buildings and endeavor to create a vibrant pedestrian streetscape surrounding these important community resources.
- The Gateway Block should maintain the historic integrity of the Central Fire Station, repurposing it to serve in many capacities, such as additional public space, as a function space for an adjacent hotel, or some combination of public and private uses. The potential relocation of the Central Fire Station will be thoroughly studied to ensure the highest level of public safety and to improve the working conditions of fire department members.
- The Gateway Block should include a Central Public Assembly & Activity Space to replace Memorial Auditorium, although not of equal size nor equivalent in use, anchoring the core of the Block and serving as the heart of this new community. Alternatively, such space could be comprised of a combination of a portion of Memorial Auditorium that is retained and new Central Public Assembly & Activity Space. New public space on the Gateway Block should include space dedicated to youth. Such spaces can be either owned privately, or owned by a public/private partnership, or a combination thereof.
- If no portion of Memorial Auditorium is retained, then the Central Public Assembly & Activity Space should include a Veterans Memorial using the plaques that are currently on display in the lobby of Memorial Auditorium,
- After nearly 100 years of public ownership of most of the properties in the Gateway Block, the public should be included in the process of re-envisioning this area.
- The Gateway Block may include hotel use with a minimum of 100 rooms, serving as a vibrant anchor for the Block.

ETZ JPL

- The Gateway Block should result in the creation of a minimum of 200 units of housing, including a mix of housing types, and both affordable and market-rate units. The affordable housing must satisfy the City's requirement for inclusionary housing units, which requirements will be more specifically articulated in the Development Agreement.
- The Gateway Block should explore secure rooftop greenspaces, where feasible, for the enjoyment of the residents, business employees, hotel guests and the general public, when appropriate (i.e., during public events). Rooftop solar should be considered wherever feasible.
- The Gateway Block should be designed to advance the City's Net Zero Energy goals.
- All parking for the Gateway Block should be located within an understory garage, not visible from the surrounding streets except for the required garage entrances. The garage should include a component of public parking. Incidental surface parking and drop-off zones should be allowed at the entrances to the hotel, residential buildings, Fletcher Free Library, and the College Street Congregational Church. Surface parking should not otherwise be allowed within the Gateway Block.
- The architectural plans for the Gateway Block should be coordinated with, be complementary to, and otherwise support the significant improvements planned for the Main Street corridor.

Items to be addressed in a Development Agreement

Roles, Responsibilities & Capacities of the Parties

- NEWCO's ability to complete the project (financial and technical capacity).
- Role of the City in the design of the redevelopment project.
- Identification and applicability of potential funding sources and financial benefits that may be available to the redevelopment through the public/private partnership; identification of any requirements associated with particular funding sources.

Property Valuation, Ownership, Redevelopment Structures

- What is the value of the property being conveyed?
- Will the property be sold or redeveloped under a long-term lease?
- What is the anticipated value of the redevelopment including access to public space, public parking, increased tax revenue, increase in Rooms & Meals taxes?
- Negotiation of Development Agreement including basis for Purchase / Lease price.
- Consideration in the Development Agreement of the potential for an in-kind contribution of new public spaces towards the Purchase / Lease price.

gld JPL



Development Program Priorities & Mutual Efforts to Overcome Potential Barriers

- What is the size, nature, function, and management of the Public Space to be included in the redevelopment?
- How is space dedicated to youth incorporated into the redevelopment?
- Potential constraints of existing zoning regulations.
- Number of anticipated new housing units and application of Inclusionary Zoning requirements.
- Ability to change traffic circulation on South Union Street to support redevelopment.
- Are there any City requirements pertaining to the design of the project or its components.
- Preservation of some portion of the historic fabric of Memorial Auditorium.

Logistics & Interrelated Details

- Timing and cost of relocating the Central Fire Station.
- Project Timeline.
- Other related capital priorities.

This work is intended to result in a Development Agreement that will provide the basis for the public/private partnership required for redevelopment.

Access to the Gateway Block: During the Due Diligence Period, as defined below, the Developer shall have reasonable access to Memorial Auditorium, the Central Fire Station and to the Main Street Parking Lot for the purpose of performing due diligence as set forth below, provided that (a) Developer shall not perform any invasive environmental testing without the City's prior written consent and (b) Developer shall only be permitted to enter into Memorial Auditorium while accompanied by a representative of the City. The City shall reasonably cooperate with Developer to facilitate Developer's access to and due diligence of Memorial Auditorium. Developer acknowledges that portions of Memorial Auditorium are being occupied by, or are being used for storage by, others, and Developer agrees that its due diligence shall not disturb such use.

Preliminary Due Diligence Period: Developer shall have from the date of this Letter of Intent to the later of the date on which the parties execute the Development Agreement or March 29, 2024 (the "Preliminary Due Diligence Period") to perform a project feasibility evaluation of Memorial Auditorium, the Main Street Parking Lot, and the Central Fire Station, including an engineering and environmental review to ascertain their physical condition; legal review of the City's title to such property, including but not limited to review of title and survey to determine the existence or materiality of any encumbrances affecting its use, occupancy, or enjoyment. The City acknowledges and agrees that such preliminary study will not obviate the need for a more comprehensive investigation of the Gateway Block, which investigation will require a substantial outlay of time and expense to be borne by the Developer, which expenses cannot be reasonably incurred by the Developer until after the execution of the Development Agreement. A comprehensive Due Diligence Period will be more fully articulated in the Development Agreement. Developer agrees that in conducting any inspections or investigations, Developer and Developer's Agents shall: (a) not damage any part of the City's property; (b) promptly pay when due the costs of all tests, investigations, and examinations; and (c) not permit any liens to attach to the City's property by reason of the exercise of Developer's rights hereunder. If any damage occurs to the City's property as

Handwritten signature/initials

a result of Developer's due diligence or any activities upon the Gateway Block by Developer or its agents, Developer shall promptly restore the damaged property to the condition that existed prior to the commencement of the due diligence or such other activities, at Developer's sole cost and expense, and save and hold the City and its successors and assigns harmless from any claim, damage, cost or expense, including reasonable attorneys' fees, for any property damage or for any personal injuries arising in whole or in part from any inspections or investigations performed by Developer or its agents. Developer's obligations under this provision shall survive the termination of this Letter of Intent for any reason.

Limitations. Developer acknowledges and agrees that this Letter of Intent only provides Developer with a limited license for the purposes described herein and for no other purposes and for no other periods, and does not constitute, and no provision shall be construed to constitute, the grant, conveyance or assignment of any interest in real estate or a lease of any portion of the Gateway Block or any rights extending beyond the period and purposes identified above. The Developer shall at its own cost and expense comply with any and all laws, ordinances, regulations, codes and other legal requirements relating to its activities hereunder.

Insurance. Throughout the effective period of this Letter of Intent, Developer, at Developer's own cost and expense, will maintain a policy or policies of commercial general liability insurance (or its equivalent) insuring the City and Developer against all claims or demands for personal injuries to or death of any person, and damage to or destruction or loss of property, which may or may be claimed to have occurred on the Gateway Block or in the vicinity of the same arising from the acts or omissions of Developer. Such policies shall be in an amount not less than Two Million Dollars and 00/100 (\$2,000,000.00) for injury to or death of any one person or for damage to or destruction or loss of property in a single accident or occurrence. The Developer shall deliver to the City certificates evidencing such insurance coverage prior to its entry onto the Gateway Block (other than those portions which Developer already controls), which certificates shall name the City as an additional insured.

Liability; Indemnification. The City shall not be liable for any personal injury or damage to property which Developer or its employees, contractors, agents, or invitees may incur, regardless of the cause thereof, unless the cause of such injury or damage is a willful or grossly negligent act by the City, its officers, employees, and agents. Developer hereby releases the City from all such liability except as otherwise stated, it being the intent of the parties that Developer shall maintain adequate insurance to cover any such losses. Developer hereby agrees to defend, indemnify and hold harmless the City, its officers, employees and agents, from and against any and all damages to the Gateway Block, any personal injuries, claims, damages, losses, suits, judgments, costs and expenses (including without limitation reasonable attorney's fees) arising from Developer's use of and access to the Gateway Block or breach of this Letter of Intent including, but not limited to, the amounts of deductibles on Developer's insurance policies, or any costs resulting from Developer's failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker's compensation or liability claims. The indemnification provisions set forth above shall survive termination of this Letter of Intent.

No Assignment. The Developer may not assign this Letter of Intent under any circumstances.

END JFL


Termination: If at any time during the Preliminary Due Diligence Period set forth in this Letter of Intent, the Developer determines, in its sole discretion, that the Gateway Block is not suitable for Developer's intended use, Developer may terminate this Letter of Intent, upon written notice to the City and the Developer will have no further obligations to the City. In addition, the City may terminate this Letter of Intent in the event of breach by Developer of any of the covenants set forth herein following Developer's failure to cure such breach within ten (10) days following written notice by the City.

Confidentiality: Developer recognizes that this Letter of Intent is a public record and that communications and correspondence between the parties are subject to Vermont's public meeting laws and public records laws. The City agrees, however, that to the extent the City requires Developer to disclose to or provide the City with material nonpublic, confidential information or material in connection with the project, the City will work in good faith with Developer to maintain the confidentiality of such information or material in a manner that complies with applicable law.

Good Faith Letter of Intent: This Letter of Intent is intended to represent the good faith actions of the parties and therefore binding, subject to the full execution of a Development Agreement on or before March 29, 2024. The City agrees not to solicit any other interest, nor otherwise engage with any other party in connection with the redevelopment of the Gateway Block during the term of this Letter of Intent.

Miscellaneous: This Letter of Intent constitutes the entire understanding and agreement between the City and the Developer to date with respect to the subject matter hereof, and supersedes all prior agreements, representations, warranties, and understandings of the parties (whether oral or written). No promise, inducement, representation, or agreement, other than as expressly set forth herein, has been made to or by either the City or the Developer. This Letter of Intent may be amended only by written agreement signed by both the City and the Developer. This Letter of Intent may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument; all such counterparts may be evidenced by a copy sent by facsimile, .pdf or other secure electronic format and each such copy shall be deemed an original, shall be binding upon the parties for all purposes herein, and, together with any other counterparts, shall constitute one and the same instrument.

Authority: Each of the undersigned signatories represents that they have the authority to act on behalf of their respective entities. Within thirty (30) days of the execution of this Letter of Intent, the parties will provide each other with evidence of said entity's authority to execute this Letter of Intent and to negotiate the terms of the Development Agreement.

ED JFL



JFL

DEVELOPER

Eric Farrell 11/9/23
Eric Farrell Date

Joe Larkin 11/9/23
Joe Larkin Date

ACCEPTED AND AGREED

City of Burlington

By: Mayor Miro Weinberger 11/9/23
Mayor Miro Weinberger Date

Resolution Relating to

**SUPPORT FOR THE REDEVELOPMENT OF THE
GATEWAY BLOCK THROUGH FURTHER DUE
DILIGENCE OF A PUBLIC-PRIVATE PARTNERSHIP**

RESOLUTION 8.2.

Sponsor(s): Councilor Paul
Introduced: 11/06/23
Referred to: _____
Action: adopted as amended
Date: 11/06/23
Signed by Mayor: 11/09/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City’s ‘Gateway Block’ has long been at the forefront of discussions about how to
2 augment Burlington’s vibrant Downtown; and

3 WHEREAS, the ‘Gateway Block’ encompasses the properties between Main Street and College Street
4 and South Union Street and South Winooski Avenue and contains approximately 3.81 acres of land in the
5 heart of downtown Burlington; and

6 WHEREAS, The City of Burlington owns approximately 2.95 acres, or 77% of the block which
7 includes the historic Central Fire Station, the Fletcher Free Library, Memorial Auditorium and the Main and
8 Winooski Parking lot; and

9 WHEREAS, over the past several decades, the City’s Administrations and community members have
10 engaged in processes to reimagine this central block that has long served as a valuable community epicenter;
11 and

12 WHEREAS, the ‘Gateway Block’ is an important point of entry into Downtown Burlington, and as
13 such, needs to achieve the planning goals of our community as a vibrant and attractive gateway to the
14 downtown welcoming residents and visitors alike, providing new housing, public space, parking and long-
15 term economic benefits for the community; and

16 WHEREAS, after many attempts to revitalize the properties on this block, the City has identified an
17 opportunity to achieve the long held community goals that appear to resolve the previously identified barriers
18 to redevelopment;

19 NOW, THEREFORE, BE IT RESOLVED that the City Council supports further exploration and due
20 diligence centered around redeveloping the ‘Gateway Block’ in a public-private partnership; and

21 BE IT FURTHER RESOLVED that the City Council supports the Mayor entering into the attached
22 Letter of Intent, with the Goals and Visions amended by city staff given Council feedback, to explore the
23 feasibility of executing a development agreement between the parties to provide the framework for
24 comprehensive redevelopment; and

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20
..... Clerk

Approved....., 20

..... Mayor

Vol. Page

Attest:

* * * * *

SUPPORT FOR THE REDEVELOPMENT OF THE GATEWAY BLOCK
THROUGH FURTHER DUE DILIGENCE OF A PUBLIC-PRIVATE
PARTNERSHIP

25 BE IT FURTHER RESOLVED that this process continue to engage the community and encourage
26 public input on the redevelopment and use of the City's 'Gateway Block.'

27

28 SD/KP/JP/Resolutions 2023/*Support For The Development Of The Gateway Block Through Further Due Diligence Of A Public-Private*
29 *Partnership*

30 November 6, 2023

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

Samantha Dunn, CEDO

ORIGINAL

RESOLUTION RELATING TO

Support For The Redevelopment Of The Gateway Block Through Further
Due Diligence Of A Public-Private Partnership
.....

As amended
Adopted by the City Council

.....November 6....., 20 23.....
 Clerk

Approved November 9 20 23.....
 Mayor
Vol. Page

Attest:

Lori Olberg
Licensing and Records Coordinator

* * * * *

Board of Finance and City Council Submission Checklist

Department: CEDO Submitter: Samantha Dunn

Title/Subject: Memorial Block Pre-Development Agreement Update

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	3/11/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	3/6/2024	Brian Pine
Mayor's Office informed and approved memo	Yes	3/6/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/6/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/1/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/4/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Yes	Karen Paul & Hannah King

March 10, 2024

Burlington City Councilors
City Hall
135 Church Street
Burlington, VT 05401

re: Memorial Auditorium/Gateway Block

Dear City Councilors,

This July will mark 50 years since my move to Burlington after university to begin a career as an architect. During that time, I've had the opportunity to work on many projects and with many clients. Much of my career focus has been in affordable housing, but also in other public projects, some with the City of Burlington; in fact, prior to starting Duncan Wisniewski Architecture, I worked at another firm where we specified and reviewed the construction of one of the first single ply roofs ever installed in the area - on Memorial Auditorium, about 1979 or so! If I remember correctly, it came with a 20 year warranty - and I fear that same roof may still be in place! Additionally, about twenty years ago, the City contracted Champlain Consulting Engineers to evaluate the structural and masonry condition of Memorial, and because I also have a background in masonry construction, they asked me to help in the analysis. We concluded that the building was in dire need of repairs, to the tune of over \$1M, but no repairs were ever undertaken. And when the original wood access ramp was so deteriorated it had to be abandoned, I was engaged to design its replacement, now littered with graffiti and overpainting. I mention all of this only as background information about some of the building's history and its neglect.

Many Burlingtonians fondly remember concerts (my favorite, BB King!), basketball games, City caucuses, Stunt Nights, etc., and many of us have long supported the idea of maintaining this Memorial to those who sacrificed their lives in World War 1. But that fondness and appreciation for its history have not translated into commensurate financial support at the ballot box. And several RFP's have been issued, responses received, potential partners selected, and yet here we are, with the latest team having abandoned its attempt to bring new life to Memorial.

After all of this history, including a history of neglect, we citizens have been presented with an unexpected opportunity, one that I fear will not present itself again in the near future. As I mentioned at the outset, I've had the opportunity to work with many clients over the years, one of them being Eric Farrell - having worked with him on multiple projects in Burlington and South Burlington. Eric is truly unique in the development world - he realizes that the best outcomes result when both parties in an endeavor succeed in that endeavor. I only met Joe Larkin on one project where he served on a client committee, and I quickly learned that he was astute, creative, energetic and dedicated to that project - and I believe he'd bring that same energy to the Memorial block. I know and respect both of these men as creative individuals of integrity, and they are known entities who love Burlington and want to make a difference for our city. They will be investing significant time and resources to plan and investigate the feasibility for the future of the "Gateway Block", which will require a very large outlay of \$\$ in design, engineering, legal and other fees. In exchange for their extraordinary effort and investment, the City only needs to agree to allow them to move forward with the planning process. It is important to understand that it would be unwise to attempt to engage in an agreement with Eric and Joe while simultaneously opening an RFP process to solicit other investors/developers. No one would expend such time, energy and money under such conditions, nor should we expect it. Previous RFP efforts have proven that seeking out others will be a waste of time and effort. Having tried that and failed, we'd also lose this opportunity. We have already been through multiple RFP processes over the years so city councilors should not feel that 'due diligence' has not been applied.

255 South Champlain Street
Burlington, VT 05401
802.864.6693

I have no idea where the design of this project will lead, whether Memorial can be saved or not, what other uses may be proposed, or whether the relocation of the fire station is appropriate or feasible. I've heard concerns expressed about the fire station, but I think the process needs to further unfold in order to make that decision; however, my understanding is that even if it is relocated, the intent is to keep the current historic building and breathe new life into it.

Though I have not read the text of the proposed agreement, I trust that it has been thoroughly vetted by legal counsel, and that there must be a series of "deliverables" at the end of this process that will provide appropriate benefits for the City, while at the same time providing acceptable benefits for Eric and Joe to be confident to move ahead (i.e., both parties succeed). And I also trust that there will be numerous opportunities for public engagement and review, prior to any final agreements to move ahead. Therefore, I firmly believe these two people should be given the opportunity to explore what they may be able to do with this gateway block to our City, and that the City Council should enter into this agreement to examine the possibilities for potential development of this important location. And for the record, I have no vested interest in encouraging you to enter into this proposed agreement, other than the desire to see the rejuvenation of that block, in whatever shape and form that may take as the process unfolds.

Sincerely,

A handwritten signature in black ink that reads "Bob Duncan". The signature is fluid and cursive, with the first name "Bob" and last name "Duncan" clearly legible.

Bob Duncan, RA, AIA

cc: Mayor Miro Weinberger
Eric Farrell
Joe Larkin

TO: City of Burlington, City Council

FROM: Jeremy Farkas, MSK Attorneys

DATE: March 11, 2024

SUBJECT: Pre-Development Agreement between the City of Burlington and Eric Farrell and Joseph Larkin, as Developer, with respect to the potential redevelopment of the “Memorial Block”

The City Council has requested a summary of the commitments being made by the City in the proposed Pre-Development Agreement (“PDA”) with Eric Farrell and Joseph Larkin, as “Developer”, with respect to the redevelopment of the Memorial Block (the “Project”).

While the PDA commits the Developer to conduct extensive due diligence with respect to the Memorial Block and with respect to the Project, including to develop a Project design and a program for the Project for the City’s review, the PDA only commits the City to the following actions:

1. Allow the Developer to enter onto City property to conduct due diligence subject to the terms of the PDA.
2. Work with the Developer to select an appraiser to determine existing value of the Memorial Block and its constituent parcels.
3. Direct CEDO staff to timely review the Developer’s submissions and work product regarding the Developer’s financial capacity, the Project program, design, construction phasing, infrastructure elements, and deal structure, and provide constructive feedback to indicate its areas of approval and any items of concern.
4. Investigate the feasibility of relocating the Central Fire Station (CFS) to a new public safety facility to be constructed on City-owned property including by determining whether existing zoning and land use regulations and institutional controls permit the construction of a new public safety facility on the target property.
5. Provide the Developer with specifications and requirements for the new public safety facility.
6. Coordinate Developer’s planned improvements for the Memorial Block with the improvements the City has planned for the Fletcher Free Library.
7. Engage the public to solicit feedback regarding desired public uses to be incorporated into the program for the Project.

8. Investigate and identify potential funding sources and financial benefits that may be available to the Project by reason of the City's involvement, support and/or sponsorship, including the identification of any requirements associated with particular funding sources, and then communicate its findings to Developer to assist the Developer to develop its sources and uses proposal.
9. Work with Developer in good faith through CEDO to develop solutions to, or to overcome or remove, municipal zoning limitations that would not permit the Project to be developed as proposed, with the understanding that only the Burlington City Council and Planning Commission have the authority to adopt amendments to the Zoning Ordinance, which must be adopted in accordance with applicable laws, ordinances and regulations.

If, at the conclusion of all due diligence, the City Council ultimately determines that the Project is feasible, then the City will negotiate a formal development agreement to govern their future actions. If, at the conclusion of all due diligence, the City Council determines that the Project is feasible but that a formal development agreement is not necessary, then the City will negotiate either a ground lease or other legal structure acceptable to the City to facilitate the Project.



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

To: City Council
From: Samantha Dunn, CEDO Assistant Director for Community Works
Cc: Brian Pine, CEDO Director, Katherine Schad, CAO, Cindi Wight, BPRW Director, Kim Bleakley, Central Facilities Manager, BPRW
Date: March 11, 2024
Subject: Memorial Auditorium Stabilization Communication

Background

The FY23 Capital Budget included \$1MM for the stabilization and assessment of Memorial Auditorium funded through the voter approved \$23.8MM General Obligation bond. Following Council approval of the FY23 Capital Budget, the City contracted with Engineering Ventures, structural engineer to complete a review of structural stabilization measures and hazardous materials and provide a proposed scope of work and budget. The report included three main recommendations:

- Roof structure reinforcement;
- Repair parapet to reduce potential for water infiltration;
- Netting of façade or fencing (to provide protection from the potential for falling bricks.

The full report can be found at: <https://www.burlingtonvt.gov/sites/default/files/2022-04-15%20Memorial%20Auditorium%20Structural%20Stabilization%20Review%20-%20Engineering%20Ventures%20PC.pdf>

Work Completed / Expenditures to Date

The structural reinforcement of the roof was completed in 2023 and the fencing is scheduled to be installed this spring.

The table below summarizes how the bond funds have been budgeted (and expended) to date.

	Budgeted	Drawn to Date
Engineering Services	\$45,030.00	\$29,155.00
Legal & Consulting Services	\$40,000.00	\$10,452.50
Roof structural reinforcement	\$128,990.00	\$112,990.00
Fencing	\$131,725.00	\$44,300.00
Utilities & Maintenance	\$5,000.00	\$823.97
Total	\$350,745.00	\$197,721.47

Remaining Funds

It is anticipated that the roughly \$650,000 remaining will be dedicated to preservation of the Veteran Memorials, critical capital needs of the building, and continued predevelopment work and due diligence by the City.

Resolution Relating to

SUPPORT FOR THE REDEVELOPMENT OF THE
MEMORIAL BLOCK THROUGH FURTHER DUE
DILIGENCE OF A PUBLIC-PRIVATE PARTNERSHIP

RESOLUTION^{8.2.}

Sponsor(s): Councilors Paul, King

Introduced: 03/11/24

Referred to: _____

Action: adopted

Date: 03/11/24

Signed by Mayor: 03/13/24

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City's 'Gateway Block' has long been at the forefront of discussions about how to
2 augment Burlington's vibrant Downtown; and

3 WHEREAS, the 'Gateway Block,' also known as the 'Memorial Block,' encompasses the properties
4 between Main Street and College Street and South Union Street and South Winooski Avenue and contains
5 approximately 3.81 acres of land in the heart of downtown Burlington; and

6 WHEREAS, The City of Burlington owns approximately 2.95 acres, or 77% of the block which
7 includes the historic Central Fire Station, the Fletcher Free Library, Memorial Auditorium and the Main and
8 Winooski Parking lot; and

9 WHEREAS, over the past several decades, the City's Administrations and community members have
10 engaged in processes to reimagine this central block that has long served as a valuable community epicenter;
11 and

12 WHEREAS, the 'Memorial Block' is an important point of entry into Downtown Burlington, and as
13 such, needs to achieve the planning goals of our community as a vibrant and attractive gateway to the
14 downtown welcoming residents and visitors alike, providing new housing, public space, parking and long-
15 term economic benefits for the community; and

16 WHEREAS, after many attempts to revitalize the properties on this block, the City has identified an
17 opportunity to achieve the long held community goals that appear to resolve the previously identified barriers
18 to redevelopment;

19 NOW, THEREFORE, BE IT RESOLVED that the City Council supports further exploration and due
20 diligence centered around redeveloping the 'Memorial Block' in a public-private partnership; and

21 BE IT FURTHER RESOLVED that in consideration of the covenants, considerations and mutual
22 benefits set forth in the Pre-Development Agreement and other good and valuable consideration, the receipt
23 and adequacy of which is hereby acknowledged, the City Council authorizes the Mayor to execute the Pre-
24 Development Agreement in substantial conformance with the documents attached hereto, subject to final
25 review and approval of the Office of the City Attorney.

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20
..... Clerk

Approved....., 20

..... Mayor

Vol. Page

* * * * *

Page 2

Resolution Relating to

**SUPPORT FOR THE REDEVELOPMENT OF THE MEMORIAL BLOCK
THROUGH FURTHER DUE DILIGENCE OF A PUBLIC-PRIVATE
PARTNERSHIP**

26

27

28 SD/KP/JP/Resolutions 2024/*Support For The Redevelopment Of The Memorial Block Through Further Due Diligence Of A Public-Private*
29 *Partnership*

30 March 11, 2024

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

CEDO, Brian Pine/Samantha Dünn

* * * * *

ORIGINAL

RESOLUTION RELATING TO

Support For The Redevelopment Of The Memorial Block Through Further Due
Diligence Of A Public Private Partnership
.....

Adopted by the City Council

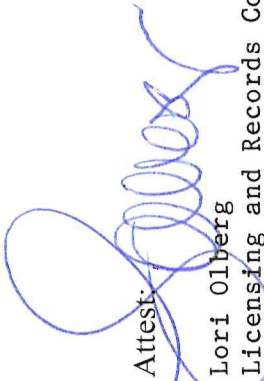
March 11....., 20 24.....

 Clerk

Approved March 13....., 20 24.....

 Mayor

Vol. Page

Attest:

Lori Olberg
Licensing and Records Coordinator

Resolution Relating to

**SUPPORT FOR THE PREDEVELOPMENT AGREEMENT
FOR SOUTH END COORDINATED REDEVELOPMENT**

RESOLUTION_____

Sponsor(s): Councilors Shannon,
Traverse
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....
Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, in July 2023, the City Council unanimously approved the South End Innovation District
2 (SEID) Zoning Amendment, which was developed with the intent to promote a vibrant urban district with a
3 mix of uses, including hundreds of new homes and neighbors coexisting with new spaces for the arts, light
4 manufacturing, higher education and other commercial uses; and
5 WHEREAS, Burlington Community Development Corporation, an affiliate of the City, owns 68 Sears
6 Lane; Ride Your Bike, LLC owns 125 Lakeside Avenue; and Champlain College owns 125 Lakeside Avenue,
7 and collectively these parties (the “Parties”) own contiguous parcels totaling 13.3 acres in the core of the new
8 SEID; and
9 WHEREAS, on January 31, 2023, the Parties entered into a Memorandum of Understanding to
10 facilitate a conceptual design framework and infrastructure assessments for the coordinated redevelopment of
11 these parcels resulting in a vibrant sustainable and accessible mixed-use neighborhood; and
12 WHEREAS, the Parties agree this is a unique opportunity to develop a new sustainable, walkable,
13 bike-friendly, mixed-income neighborhood with public open spaces and resilient green infrastructure, and that
14 coordinated redevelopment will result in a sum that is greater than its parts; and
15 WHEREAS, the Parties acknowledge the ongoing conceptual design must be informed by the overall
16 water, wastewater, stormwater, traffic and parking projections – which in turn will enable the Parties to better
17 understand the magnitude of infrastructure constraints and develop strategies to address such constraints; and
18 WHEREAS, the Parties have been working together over the past year to develop a shared
19 understanding of the infrastructure opportunities and constraints for a transit-oriented-development with
20 funding from the Chittenden County Regional Planning Commission; and
21 WHEREAS, the Parties desire to redevelop these parcels in a coordinated fashion with a mixed-used
22 development project and, in order to do so, desire to continue collaborating and to enter into and memorialize
23 certain agreements for commitments to facilitate project development, as set forth in the draft Pre-
24 Development Agreement accompanying the staff memo;

25 NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the Mayor to execute the
26 Pre-Development Agreement in substantial conformance with the documents attached hereto, subject to final
27 review and approval of the Office of the City Attorney.

28

29 *SD/KP/JP/Resolutions 2024/*
30 *March 11, 2024*

31

32

33

34JP/Resolutions 2023/Name the Resolution

35Date

South End

Coordinated Redevelopment PRE-DEVELOPMENT AGREEMENT

City Council - February 26, 2024



Meagan Tuttle, Director of Planning
Charles Dillard, Principal Planner
Samantha Dunn, Asst. Director of Community Works, CEDO

Purpose of Discussion

1. Provide an update on progress on South End Coordinated Redevelopment MOU work
2. Highlight preliminary findings of studies from CCRPC Funded Scope of work outlined in the MOU
3. Share draft Predevelopment Agreement and respond to questions

South End Coordinated Redevelopment MOU



South End
Coordinated Redevelopment

Collaborative Work Timeline



South End Coordinated Redevelopment Current MOU Goals

The current MOU study includes three phases.

The **first phase** included three distinct study areas:

- An examination of existing conditions, including property data and encumbrances, planning regulations, and infrastructural conditions and constraints.
- The iterative and collaborative design of multiple alternative development framework scenarios
- An evaluation of each development framework scenario for performance related to affordable housing, streets, open space and parking

The **second phase** includes three separate analyses:

- Transportation and Parking
- Wastewater
- Stormwater

The **third and final phase** is the Predevelopment Agreement, which includes four foundational elements and future study topics.

MOU Outcomes Informing Predevelopment Agreement

Four foundations:

1. Mobility Framework that foregrounds active mobility and accessibility
2. Conceptual Development Program for Analyses including ~1,100 units of housing and ~230k sf of non-residential space
3. Wastewater Budget and Infrastructure Capacity Expansion Needs
4. Car Trip Budget and promotion of City's standard level of service

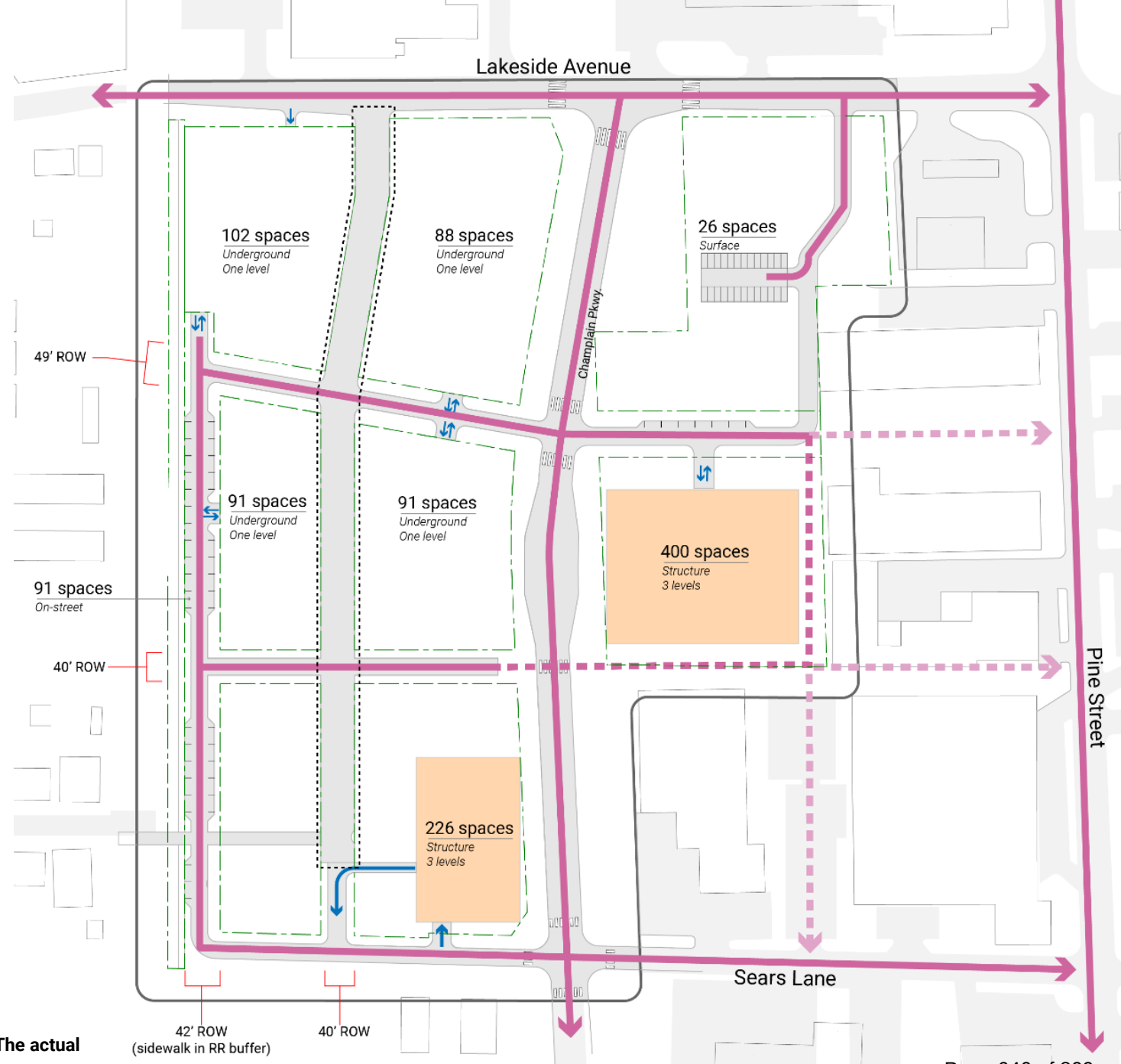
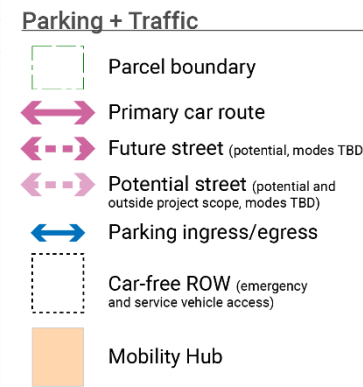
Future Study Topics:

- Continued wastewater analysis to right-size infrastructure and identify funding sources
- Housing & Affordability Program
- Development financial performance and feasibility
- Public Realm Design
- Sustainability Audit + Exploration
- Land Swaps + Collaborative Permitting

South End Coordinated Redevelopment Mobility Framework

Guiding Principles:

- Majority of street space is dedicated to accessible and active transportation = **more people, fewer cars**
- A network of shared parking facilities should serve the development and greater South End

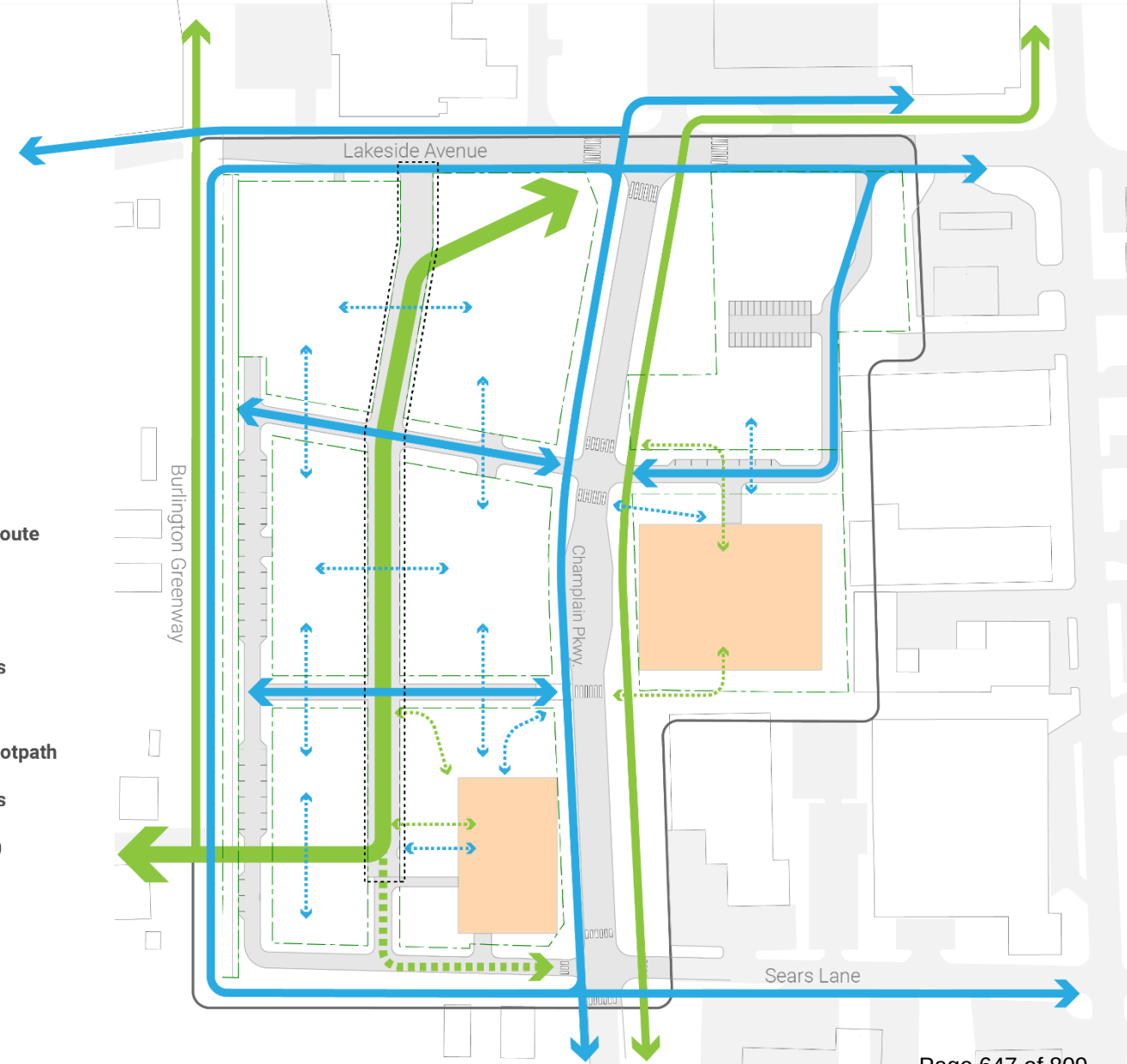
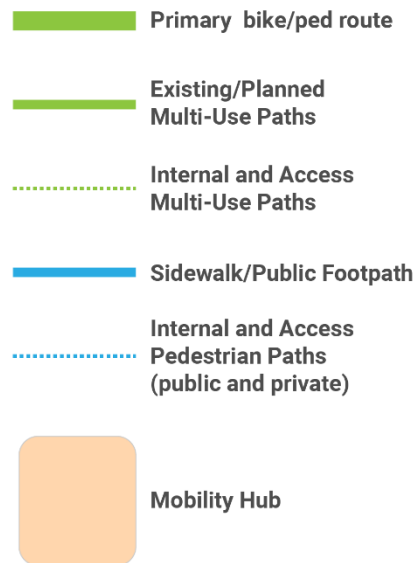


NOTE: The location and number of parking spaces is conceptual and for analysis purposes only. The actual location and number of parking spaces has not yet been determined.

South End Coordinated Redevelopment Mobility Framework

Guiding Principles:

- Majority of street space is dedicated to accessible and active transportation = **more people, fewer cars**
- A network of shared parking facilities should serve the development and greater South End



Conceptual Program for Analyses

Parties have agreed to a working conceptual program that consists of a wide range of uses, including ~1,100 homes and ~230K sf of non-residential space.

These uses, and their corresponding conceptual space needs, are critical to understanding the development's impact on local infrastructure and what improvements are needed.

Conceptual Program:

- Homes
- Childcare
- Art Studios/Makerspaces
- Office
- Medical/Dental Office
- Indoor recreation
- Restaurants
- Convenience Commercial (e.g. retail, hair salon, etc.)
- Champlain College classrooms & Student Housing

South End Coordinated Redevelopment Wastewater

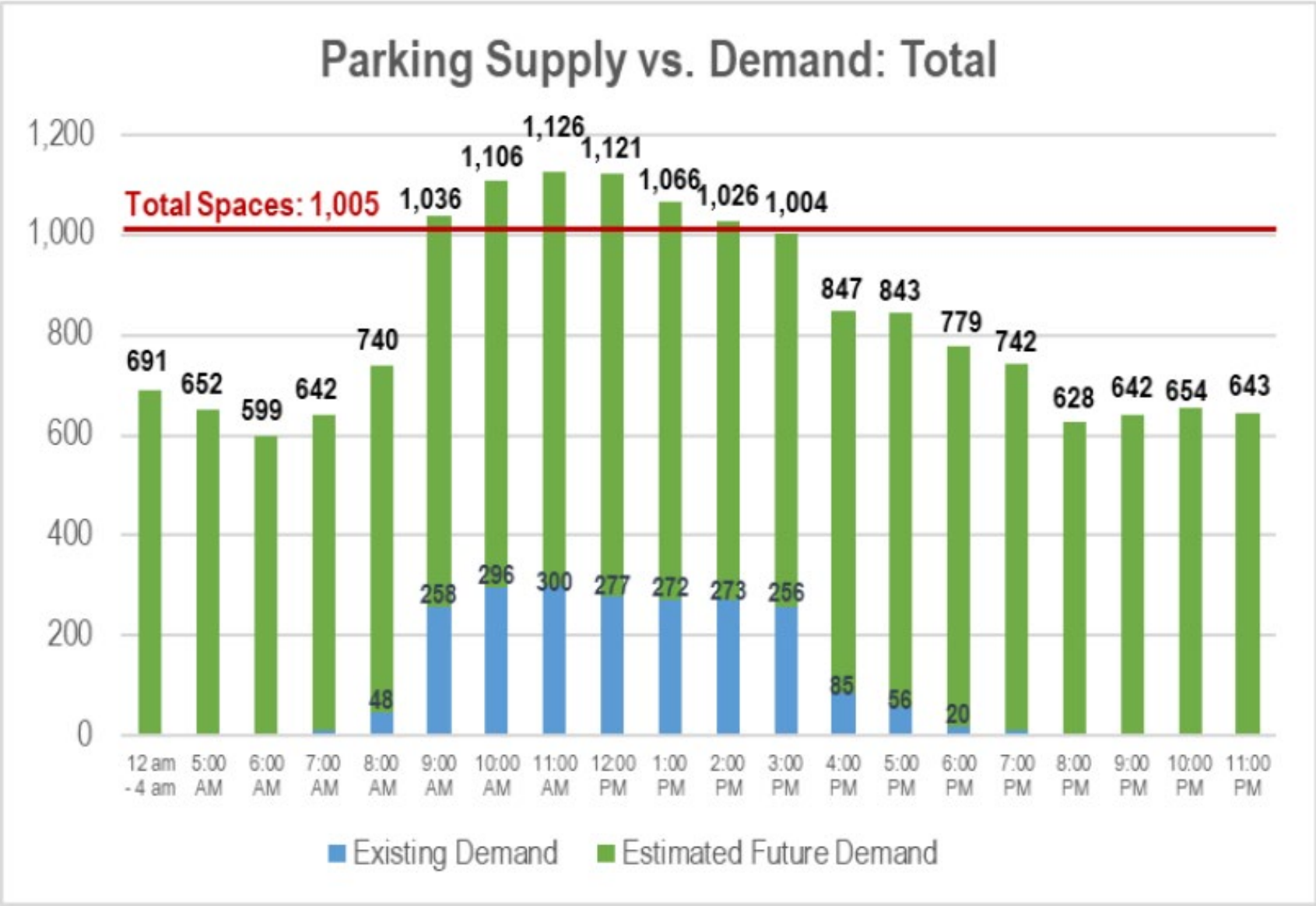
- Limited pipe capacity in the Pine Street Combined Collection System.
- Additional study required to inform needed capacity expansions and other mitigations necessary to ensure success.



South End
Coordinated Redevelopment
Parking

Conceptual Parking Supply & Demand

Vision:
Shared parking district
and parking structures
functioning as mobility
hubs with long term goal
of 1,100-1,200 parking
spaces to serve the new
neighborhood and
surrounding area (not a
regional commuter
facility).



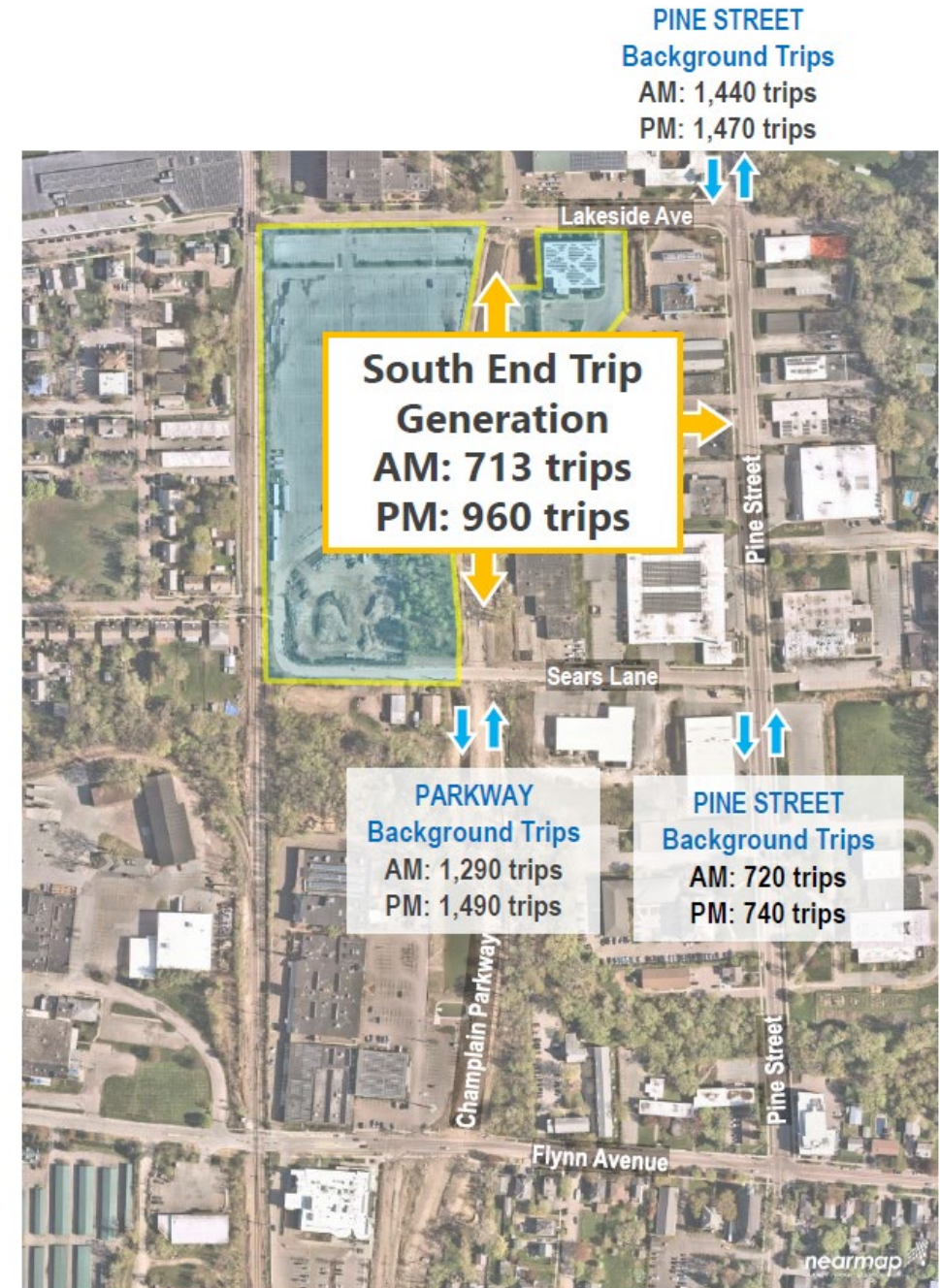
South End Coordinated Redevelopment Trip Budget

Conceptual Generation & Distribution

Vision:

Car-light neighborhood developed in phases with interventions to mitigate impact on the immediate transportation network. DPW is pursuing CCRPC funding support for an update to the traffic network performance for the larger South End.

NOTE: The trip generation data is conceptual for analysis purposes only; the actual trip generation and distribution for the development on these parcels has not yet determined.



South End Coordinated Redevelopment MOU Public Engagement

- SEID zoning amendment process included multiple in-person, virtual and continuous online engagement opportunities
- April 20, 2023: Public Open House @ 645 Pine Street (co-scheduled with Ward 5 NPA)
- December 7, 2023: Public Open House @ 645 Pine Street
- Ongoing online survey open through Pre-Development Phase
- South End Coordinated Redevelopment Website & Email List
- **Continued public engagement as part of anticipated Pre-Development Agreement study, funded by CPND grant.**

Why we're here

Our goal tonight is to share a few concepts, talk with you, and collect your feedback, all on the following:

Development Scenarios for the City's property

These boards include four potential, unique development scenarios for the city's property.

Pay attention to things like the type of buildings that each includes, how many homes might be built and the look and feel of the streets and open spaces.

The Housing Typologies board shares more detailed information about different types of housing. Which are your favorites?

Streets, Paths and Open Spaces (the public realm)

This board includes a concept for the layout of streets and paths, as well as images from Burlington and elsewhere that we think make great inspiration for ongoing design thinking.

This layout will evolve as we continue coordinated design work. Do you have a different layout to propose? What do you think about the images and the character of streets and paths that they invoke?

Mobility Hubs What are they and how are they a model for the future?

Mobility hub is one name for a new type of shared mobility infrastructure that can include a range of amenities that make moving around a city more sustainable, equitable, safe, and fun!

These hubs are central to the most sustainable districts being designed around the world. Learn more on the Mobility Hub board and tell us what you think!



Conceptual Framework Vision C

VISION C



In general how supportive are you of the conceptual framework for Vision C? Please make your selection below.

Not Supportive Neutral Very Supportive

Please share your thoughts and other comments on Vision C below:

1000

What is in the Predevelopment Agreement?

Foundational Elements & Objectives

- **Unique Opportunity to develop new, sustainable, walkable, mixed-income neighborhood encompassing 68 Sears Lane, 125 and 175 Lakeside Avenue**
- Mobility Framework
- Maximize new homes & incorporate compatible non-residential uses
- Project phasing & design informed by infrastructure constraints, strategies and financial feasibility

Agreed Upon Design Goals

Visionary urban design

Housing forward with a diversity of residents and housing types

Prioritize non-residential space to expand South End's arts and innovation economy

Walkable, bikeable, and active-mobility-focused urban design district

Sustainable building and site design practices

What is in the Predevelopment Agreement?

Commitments for Ongoing Collaboration

- Development of Housing Plan that achieves a minimum of 20% affordable housing
- Public Realm Conceptual Design (ACCD Grant)
- Intent to pursue a Joint Planned Unit Development (PUD) Application & Phasing of Development
- Exploration of future interventions to the Champlain Parkway
- Use of 68 Sears Lane (address deed restrictions)

Commitments for Ongoing Study

- Wastewater Infrastructure Analysis & Options
- Funding sources and uses (Including public and private financing options)
- Traffic Analyses & TDM
- Potential land swaps / parcel modifications

Anticipated Next Steps & Schedule

March 11, 2024 – City Council Action on Predevelopment Agreement

Spring/Summer 2024

- Convene Housing Stakeholders & Develop Housing Plan
- Public Realm Design
- Development & Infrastructure Phasing
- Ongoing Wastewater Analysis
- Identify Funding Opportunities

Fall/Winter 2024-2025

- PUD Application
- Development Agreement
- Funding Applications

Questions?



To: City Council

From: Samantha Dunn, Asst. Director of Community Works, CEDO
Meagan Tuttle, Director, Office of City Planning
Charles Dillard, Principal Planner, Office of City Planning

Cc: Brian Pine, Director, Community & Economic Development Office
Chapin Spencer, Director, Department of Public Works

Date: March 11, 2024

Subject: South End Coordinated Redevelopment Pre-Development Agreement

Request

This memorandum requests that the Burlington City Council adopt the attached resolution which authorizes the Mayor to execute the South End Coordinated Redevelopment Pre-Development Agreement. This agreement continues the collaborative work of the City, Ride Your Bike, LLC and Champlain College for the redevelopment of an approximately 13-acre area within the newly-designated South End Innovation District.

Background

In December 2021, the Administration put forth an Action Plan to fulfill the promise of Housing as a Human Right in Burlington which included a commitment to open new housing opportunities in the South End. In July 24 2023, City Council unanimously approved the South End Innovation District (SEID) zoning amendment, which was developed with the intent to promote a vibrant urban district with a mix of uses, including hundreds of new homes and neighbors coexisting with new spaces for arts, light manufacturing and other commercial uses. The SEID covers 14 vacant or underutilized parcels on the west side of Pine Street between Howard Street and Sears Lane, including the City-owned 68 Sears Lane parcel.

In anticipation of this Zoning Amendment, on January 31, 2023 the Administration entered into a Memorandum of Understanding (MOU) with the owners of land parcels neighboring City-owned property in the South End: Champlain College, owners of 175 Lakeside Avenue, and Ride Your Bike, LLC, owners of 125 Lakeside Avenue – which is being developed by the same developers as the nearby Hula Lakeside. The purpose of the MOU was to facilitate a conceptual design and framework for the coordinated redevelopment of the parcels resulting in a vibrant, sustainable, and accessible mixed-use neighborhood and the three parties have been working together over the past year with funding from the Chittenden County Regional Planning Commission.

During that time the newly formed South End Innovation District Zoning Amendment was designated a *Neighborhood Development Area* and the City was successful in securing a grant from the Agency of Commerce and Community Development for public realm design for this site. The City has held two public engagement events to share progress and gather feedback from the community and currently has an on-line survey available to continue

gathering input. The MOU, survey and more background about this work can be found at <https://www.burlingtonvt.gov/CEDO/Capital-Projects-Financing/SouthEnd>.

At the February 26 Council Meeting, staff provided an update on coordinated planning studies that have advanced under the January 2023 (MOU) within the newly-designated South End Innovation District, and answered questions about the draft pre-Development Agreement to further this work.

Pre-Development Agreement

The Pre-Development Agreement will further the collaborative planning work that began under the MOU. It identifies an agreed upon set of foundational objectives and design goals to which we are making commitments for ongoing study and potential future collaboration. The agreement assumes we will work together over the next nine months to develop a site-wide housing plan (with a minimum of 20% affordable housing); a public realm conceptual design; and a joint PUD application. During this time, we will also continue to study the infrastructure challenges and opportunities on the site and immediate vicinity, as well as potential funding mechanisms. Based on the outcome of this work we anticipate being prepared to enter into a Development Agreement by the end of 2024.

Conclusion

This collaborative work provides a unique opportunity to develop a new sustainable, walkable, mixed-income neighborhood with the potential for more than 1,000 new homes as well as significant new non-residential space.

Attachments

South End Coordinated Redevelopment City Council Work Session Slides (2024_02_26)
South End Coordinated Redevelopment Pre-Development Agreement
South End Coordinated Redevelopment Pre-Development Agreement Resolution

Pre-Development Agreement

This Pre-Development Agreement (“Agreement”) is entered into as of March ____, 2024 by and between the **City of Burlington**, a Vermont municipal corporation (the “City”) **Ride Your Bike LLC**, a Vermont limited liability company (“RYB”) and **Champlain College Incorporated**, a Vermont nonprofit corporation (the “College”). Each is referred to individually as a “Party” and collectively as the “Parties.”

Background

A. The Parties own contiguous parcels of real property (each, a “Parcel”) in the City of Burlington which collectively measure ±13.28 acres (collectively, the “Site”, as depicted on the plan attached hereto as **Exhibit A** and made a part hereof) identified as follows:

- The College owns the ±3.65-acre parcel numbered 175 Lakeside Avenue, Burlington, Vermont, Parcel No. 053-2-007-000.
- RYB owns the ±6.32-acre parcel numbered 125 Lakeside Avenue, Burlington, Vermont, Parcel No. 053-2-009-000.
- Through its affiliate Burlington Community Development Corporation, a Vermont nonprofit corporation (“BCDC”) the City owns the ±3.33-acre parcel numbered 68 Sears Lane, Burlington, Vermont, Parcel No. 057-1-050-000.

B. The Parties desire to redevelop the Site in a coordinated fashion with a mixed-use development project (the “South End Coordinated Redevelopment Project” or “Project”), as contemplated by a Memorandum of Understanding made among the Parties effective as of January 21, 2023 (the “MOU”, a copy of which is attached hereto as **Exhibit B** and made a part hereof) in which the Parties agreed to create a conceptual design and development framework for the coordinated, phased redevelopment of their respective Parcels within the Site, and agreed to a process for iterative design and analysis in the creation of a selected development framework, the primary components of which will include: a transportation network, including streets, paths and integration with existing infrastructure; and identification of water and wastewater infrastructure requirements for the development; an affordable housing allocation program; and identification of funding strategies. Within the MOU, the parties further agreed to undertake and perform certain investigations and analyses more particularly described therein and to enter into a development agreement upon the conclusion of their initial investigations and analyses.

C. The Parties desire to enter into and memorialize certain agreements and commitments to reasonably facilitate the South End Coordinated Redevelopment Project substantially in accordance with the terms, conditions, design framework, principles and schedule referenced below.

Now therefore, in consideration of the covenants, considerations and mutual benefits set forth herein,

and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Foundational Elements and Objectives. As the result of the investigations conducted pursuant to the MOU, the Parties agree that the Project will include the following foundational elements and objectives:

- (a) The Project represents a unique opportunity and corresponding challenge to develop an entire district as a sustainable, walkable and mixed-income neighborhood, and as such, may require additional process collaboration between the Parties, the Burlington City Council, the Burlington Development Review Board (DRB) and the Burlington Planning Commission in order to achieve these shared goals and aspirations.
- (b) The Project will include a mobility framework of streets, paths, parking and other mobility infrastructure and services that support the shared and respective goals of the Parties in the manner encompassed by the Mobility Framework Diagrams attached hereto as **Exhibit C** and made a part hereof (the “Mobility Framework”). Although the Parties intend for the Mobility Framework to form the network of streets and paths within the Site, because the Project will be constructed in phases it may be necessary for the Parties to modify the Mobility Framework by future mutual agreement to accommodate the construction schedule.
- (c) The Project goal is to maximize the number of new residents who can be accommodated in a variety of housing types, including, but not limited to, rental housing, home-ownership, and “beds” associated with any student housing component on the Site, incorporating a program of compatible, non-residential uses in order to establish a mixed-use active neighborhood, including but not limited to: daycare, educational and training spaces; retail, restaurants and services; maker, collaborative suites, healthcare, general business and start-up spaces; civic, artistic and cultural venues; and other activities that enhance a low impact, walkable district.
- (d) In addition to basing the Project’s conceptual design on future market and affordable housing demand and financing, development phasing and design analyses, the Project’s ongoing conceptual design will be informed by the overall water, wastewater, stormwater, traffic and parking projections – which in turn will enable the Parties to better understand the magnitude of infrastructure constraints and develop strategies to address such constraints on the Site. Initial traffic analyses and trip-ends and wastewater projections have been developed and will continue to be adjusted as additional analyses, reports, review procedures, monitoring programs and/or proposed tenant mix and technical solutions demonstrate a per unit reduction in trip-ends or wastewater flows. Until updated modeling of the Pine Street wastewater collection system provides new capacity information, any initial phases of development within the Site may need to be designed with 24 hours of on-site retention of Site wastewater flows for that initial development. The Parties will continue to work together to develop phased development

proposals that work within existing infrastructure capacities or include investments that will expand capacity in particular assets where needed.

- (e) The Parties intend for the Project to be developed as a planned unit development (a “PUD”) under the City’s Comprehensive Development Ordinance (“CDO”) and they intend to become (and, in the case of the City, to cause BCDC to become) joint co-applicants for a zoning permit for a Master PUD Framework. Subsequent modifications or site plans may be proposed jointly by the Parties or by individual owners, subject to the Master PUD Framework conditions and procedures. It is understood by the Parties that any permit application before the City’s regulatory staff and/or boards are independent reviews. The Parties recognize that City staff will be representing its interests as the owner of 68 Sears Lane to review proposed building and landscape plans, infrastructure and mobility improvements within the SEID overlay area. Notwithstanding any preliminary discussions or staff reviews for proposed solutions, future permit applications will be evaluated on their merits and conformance with City ordinances and policies as shall be applied by the appropriate approval authority.

2. Project Design Goals. The Parties share the vision of coordinating the development of a vibrant, sustainable and accessible mixed-use district, as expressed in the planning context described in the MOU. This vision includes the following components:

- (a) As one of the largest single development sites remaining in Burlington, the Site is of critical importance in the achievement of the community’s goal of expanding the housing supply.
- (b) The Site should include a range of housing tenure types (i.e., rental properties, owned properties, student housing, senior, workforce, etc.), including but not limited to affordable ownership and rental opportunities.
- (c) The Parties acknowledge that a diversity of residents is integral to the community’s vision of inclusive growth. Therefore, the Parties are committed to delivering a Project with a minimum of 20% of housing units meeting the State’s definition of “affordable housing” codified in 10 V.S.A. § 6001(29).
- (d) As the core development site within the South End Innovation District, the Parties will pursue a development program for the Project that is housing forward, and also integrates into the current fabric of the existing district by prioritizing non- residential space to expand the South End’s arts and innovation economy.
- (e) The Site’s development as a walkable, bikeable and active-mobility-focused urban district is a generational opportunity to support the Burlington community’s vision of a car-light future. The majority of street space will be allocated to pedestrians and cyclists and the site will strive to incorporate one or more structured parking “mobility hubs” and implement the model of shared parking established in *planBTV: South End*.
- (f) Sustainable building and site design practices are to be explored in good faith, with a

particular focus on supporting the City's Net Zero Energy Roadmap, reducing embodied carbon and employing ecological design practices that support clean water and healthy local ecosystems.

- (g) The Site will not place an undue burden on water resources infrastructure. The Parties will work with the City's Water Resources team to develop necessary infrastructure improvements to accommodate the Project. The Parties acknowledge that the water, wastewater and stormwater infrastructure intended to be adopted as part of the public right of way acceptance must be built in accordance with the City's Engineering Standards.

3. Continuation of MOU Planning Study Work. The Parties desire to build on the investigations and analyses conducted pursuant to the MOU and they agree to ongoing Planning Study work under the MOU, subject to funding and joint agreement, while making progress on the formal Development Agreement and preliminary project review of a Master PUD Framework "Sketch Plan". Accordingly, the Parties desire to accomplish the following additional work by September 30, 2024 in order to advance a Development Agreement and prepare a Master PUD Framework application:

- (a) Identify preliminary estimates for residential and non-residential program, including a range for the residential unit counts and non-residential gross floor area that will be refined for the final Development Agreement, based on the economic feasibility of paying for the cost of constructing necessary infrastructure and the desired infrastructure, housing affordability, sustainability and urban design goals.
- (b) Work collaboratively to identify planning and construction funding sources in addition to the State of Vermont Community Partnership for Neighborhood Development in the amount of \$133,000 that the City has been awarded to advance the conceptual design of 68 Sears Lane, and in cooperation with all Parties, evaluate the shared public realm elements across the Site, pedestrian/bike connections within and adjacent to the District, and pedestrian/bike/auto access options to potential mobility hub locations.
- (c) Continue to evaluate the wastewater infrastructure analysis and develop design, engineering, and funding options for addressing challenges identified in the Pine Street Collection System.
- (d) Identify a preliminary master budget within the overall trip-end and wastewater projections that have been developed for the Project based on the development program describe in Section 3(a), as also described in Section 1(d) of this Agreement. Investigate the feasibility of, and an allocation of responsibilities related to the construction of, an incremental mitigation program, including temporary systems for the initial development phase of the Project to provide onsite wastewater retention for wet weather conditions. The Parties commit to refine the wastewater and trip-end projections (Section 4(c)) and to develop an allocation protocol throughout the Project phases as more current and relevant data becomes available.

- (e) Continue to explore Net Zero Energy Roadmap requirements and to work in good faith to develop the Project as a Net Zero development across the Site, in furtherance of the Parties' mutually agreed-upon development framework that incorporates approximately 1,000-1,100 homes (in accordance with the 2021 Action Plan to Fulfill the Promise of Housing as a Human Right in Burlington) in addition to the Parties' additional respective development goals for their Parcels.
- (f) Evaluate the financial feasibility, infrastructural adequacy and urban design character of the working preliminary development framework, as well as the framework's contribution to a high quality, accessible and livable urban district.
- (g) Demonstrate the ecological sustainability of potential development concepts, including an analysis of embodied carbon within all framework and parking scenarios.
- (h) Continue to work with the Vermont Agency of Transportation to explore the cost to extinguish the deed restrictions applicable to the use of 68 Sears Lane, which state that such property is "to be used for highway purposes only" and which state that "the City of Burlington shall not permit any alterations of access control, any encroachments on, or disposal of [such property] ... without written permission of the State of Vermont" and/or whether monies used to extinguish the deed restrictions can be used to design and construct Project transportation infrastructure.
- (i) Identify alternative design, location, phasing and funding strategies for satisfying applicable Inclusionary Zoning (i.e., affordable housing) requirements in a manner that will enable individual Parcels to be developed on a phased basis while balancing the costs of constructing road, wastewater, open space, pedestrian/bike connections and other infrastructure improvements.
- (j) Identify and agree upon individual and shared roles and responsibilities to undertake the analyses in order to accomplish the foregoing and to accomplish any other objectives established in this Agreement, including by agreeing to an estimated budget, a development schedule, and a process for selecting, engaging and paying Project consultants.

4. Mobility Framework. The Parties agree to further refine the Mobility Framework by June 1, 2024 in advance of preparing a PUD application and entering into a Development Agreement as follows:

- (a) The Parties acknowledge that the vision of a shared parking district as established in *planBTV: South End* and the South End Innovation District zoning standards is a universal best practice. As such, the Parties shall agree upon the location, identified in the Mobility Framework, of up to two shared mobility hubs, which shall include services and amenities that encourage sustainable, non-car modes of transportation along with structured parking. The Parties agree that the need for and capacity within the mobility hubs for car parking should be continuously monitored based on development phasing, evolving market demand and the Parties' shared goals, along with the availability of

local, regional, state and/or federal grants.

- (b) The Parties acknowledge that the adopted design of the Champlain Parkway as a limited-access road is not conducive to their vision of the Project as a highly integrated, walkable and sustainable coordinated development. Therefore, the Parties agree to engage with State and Federal agencies to seek permission for desired interventions to the Champlain Parkway to ensure safe, accessible and inviting access across this roadway in lieu of bridges and enclosed paths. City staff will take the lead in this effort, with support from the other Parties.
- (c) The Parties acknowledge that the Mobility Framework and initial traffic modeling were developed using anticipated Champlain Parkway traffic data, and they agree to update the model data with actual data upon completion of the Champlain Parkway, or portions thereof. The Parties acknowledge that the initial traffic modeling does not obviate the requirement to complete a traffic impact study as part of the Master PUD Framework, which will establish the parameters for the purpose of obtaining future land use permits and other regulatory permits and approvals for the Project.
- (d) The Parties agree that the vision of a sustainable, highly accessible and actively mobile urban district will be created through a combination of infrastructure and transportation demand management (“TDM”) programs and services. Therefore, the Parties agree that future development proposals will include a TDM program that will, at minimum, comply with the CDO and conform to achieve a robust TDM plan that addresses the proposed building types/mix of residential and non-residential tenants.
- (e) The Parties acknowledge the shared goal of a visionary urban design. As such, the Parties agree to continue collaborating on the design of public rights-of-way, including regular coordination with the Department of Public Works and the City Engineer. Such design shall be funded through the Vermont ACCD Community Partnerships in Neighborhood Design grant, with support from other Parties if possible.
- (f) The Parties intend for all streets and paths in the Project to be located within public rights of way and constructed to the City’s Engineering Standards, as they may be updated to support the overall goals of the Project. The Parties acknowledge that rights-of-way are only made public through the City Engineer’s acceptance and City Council’s adoption of streets as public rights-of-way in compliance with applicable law.
- (g) The Parties agree that the Site’s fullest potential and the community’s goal of a more accessible South End can only be realized through the extension of proposed internal streets beyond the Site. The Parties acknowledge that such extensions are most appropriately made through adjacent properties, the owners of which are not parties to this Agreement. Therefore, the Parties agree to continue exploring the incorporation of such adjacent properties (east of the Champlain Parkway) in the Project. The Parties agree that collaboration is essential to this effort and that they will make good faith

efforts to communicate the status of any such discussions to one another in a timely manner.

- (h) The Parties agree that potential modifications to internal and adjacent rights-of-way which may impact the Project and the Site should be considered, including but not limited to the following:
 - (i) The Parties acknowledge a twenty-foot (20') buffer alongside the western boundary of the Site to allow for flexibility for future needs (e.g., transit access). Within this buffer the Parties agree that no major structures shall be proposed or constructed, and that only sidewalks, paths, parking and landscape elements are appropriate within such buffer.
 - (ii) The Parties acknowledge a shared goal that modifications to right-of-way (“ROW”) designs, typical street sections, and landscaping and sidewalk dimensions for Sears Lane, Pine Street, Lakeside Avenue and the Champlain Parkway should be pursued. The Parties agree to collaborate and communicate openly regarding such modifications, including on any real estate acquisitions that would facilitate such modifications. The City agrees to make a good faith effort to facilitate such modifications to the extent practicable and appropriate.
 - (iii) The Parties will collaborate to explore the identification and incorporation of one or more parking mobility hub(s), and to explore new public street ROWs over time, in order to facilitate the goals of the SEID to increase pedestrian and bike connectivity and the smooth flow of traffic in and around the SEID area, including Pine Street, Lakeside Avenue and Sears Lane. The Parties agree that a Mobility Framework shall be incorporated into the Master PUD Sketch Plan and be used as a template in subsequent PUD applications, and not be subject to material changes beyond those outlined in that PUD Sketch Plan unless new traffic projections indicate that material changes are warranted.

5. Housing. The Parties agree to further refine the agreed-upon development framework with regard to housing in advance of entering into a development agreement and preparing a PUD application, as follows:

- (a) The Parties agree that a socioeconomically diverse population is a shared and fundamental goal of the Project. In addition to meeting the Inclusionary Housing requirements applicable to the SEID zoning overlay district under the CDO, the Parties agree to pursue development of the Project as a Priority Housing Project (PHP) that as defined in 10 V.S.A. § 6001(35). The PHP shall provide a minimum of 20% affordable housing units (as defined in 10 V.S.A. § 6001(29)) inclusive of the 15% Inclusionary Units required by Article 9 of the CDO. Assuming a Project housing program of between 1,000-1100 dwelling units (as currently estimated), developing the Project as a PHP would result in the creation of approximately 200 – 220 affordable housing units across the three Parcels.

- (b) Given the Project's goals to develop a range of housing affordability, including but not limited to more deeply discounted rental units, affordable home ownership opportunities, targeted workforce housing, and market rate units, the Parties will work in consultation with internal and external stakeholders, including third-parties who are experts in the provision of affordable housing, in the process of developing and/or delivering a housing agreement applicable to the Project.
- (c) Parcel Modifications; Inclusionary Housing. The Parties will explore opportunities to exchange real property and/or engage in the collaborative distribution of the development program across the Parcels in the interest of maximizing cost-efficient housing and non-residential construction, provided such construction meets the urban design, programmatic, sustainability and equity goals of each Party as outlined in the MOU, this Agreement and any future Development Agreement. Such collaboration will consider the Parties' shared goal of developing a Priority Housing Project and will explore mutually beneficial siting and allocation of Inclusionary Housing (as defined in the CDO), permanently affordable homeownership opportunities and other purpose-built housing for traditionally underserved and/or market-burdened communities.

6. Funding Sources. The Parties agree to identify and seek funding sources to pay for the design and construction of the Project and, in some instances, to pay for the maintenance and operation of Project elements post-construction, as follows:

- (a) The Parties agree to collaborate to identify and complete State and Federal grant applications for the provision of funds to support the design and construction of the Mobility Framework.
- (b) The Parties agree to explore whether the Vermont legislature will support establishing a municipal Tax Increment Financing District to help finance the construction of the Mobility Framework and other Project infrastructure.
- (c) The Parties agree to advocate as feasible for the State's Sales Tax Reallocation benefit to be extended to Neighborhood Development Areas to be reinvested in the Site as a means of financing the construction of the Mobility Framework and other Project infrastructure.
- (d) If the Parties desire for any streetscape public infrastructure within the Project to be designed and/or constructed in a manner that is substantively and materially different from the City's Engineering Standards, as interpreted by the City Engineer, the Parties may provide a traffic and engineering report to identify additional engineering standards that might be applied to streets located within the Project, which is being designed as a walkable district containing lower traffic volumes. Obtaining the City's consent to proposed deviations from the City's Engineering Standards shall be forwarded with recommendations by the City Engineer to the City Council which, the Parties acknowledge, may condition approval on a future agreement to establish a maintenance

regime for such infrastructure, including funding sources and the establishment of maintenance responsibilities.

- (e) The Parties agree to continue collaborating to identify and obtain funding sources to support the design, construction and management of affordable housing.
- (f) The Parties agree to communicate openly, as feasible, regarding the going-forward budget, allocation of expenses and pursuit of additional third-party funding to support further study in support of this Agreement and any future Development Agreement.
- (g) Notwithstanding anything in this Agreement to the contrary, the parties agree that no party is obligated to pay any costs, make any financial commitment, or be bound by any land use restrictions or other conditions or restrictions pursuant to this Agreement unless such party enters into a separate written agreement concerning such costs, commitments, conditions or restrictions. For clarity, the parties acknowledge that this Agreement is part of a negotiation being pursued in good faith following the related MOU between the Parties, and no terms concerning the payment of costs, the making of financial commitments, or the imposition or acceptance of any land use restrictions or other conditions or restrictions should be considered binding unless or until final agreement(s) are reached with regard thereto.

7. Collaboration and Coordination; PUD Considerations.

- (a) The Parties agree to collaborate and communicate openly in any study funded by the Community Partnership for Neighborhood Development (“CPND”). The Parties will work together to identify the most efficient approach to complete the scope of work anticipated in the CPND grant application. The City will administer all component of the CPND grant and the College and RYB agree to consider how they can support this work substantively or materially as needed.
- (b) Recognizing that significant public resources have been and will be allocated to the Project’s successful implementation, the Parties agree that they will each support and participate in public engagement related to the Project. Public engagement shall consist of a minimum of one public open house, together with the provision of online engagement opportunities.
- (c) The Parties agree to cooperate and communicate with each other on a regular basis, including by arranging joint meetings with appropriate personnel present to address issues set forth in this Agreement, to discuss any proposed changes to the Project and to discuss the ongoing work described in this Agreement so as to permit the orderly and efficient development of the Project. The Parties agree to take actions as may be reasonably required from time to time to carry out the intents and purposes of this Agreement. Without limiting the foregoing, (i) the City agrees to share, as appropriate, any information regarding State, Federal, and/or other governmental agency decisions that materially impact RYB and/or the College, (ii) RYB and the College agree to brief

the City and one another regarding the status of any negotiation to acquire or secure agreements for adjacent properties, as allowed within the limits of confidential discussions between private landowners. The terms of such communication and decision-making shall be further elaborated and codified in a future development agreement.

- (d) As stated above, the Parties agree that a Master PUD Framework identifying elements such as, but not limited to, a connected road network, the configuration of development lots and blocks, density maximums, building heights and a mix of land uses for all of the Parcels, is the preferred instrument for permitting the overall/major components of the Project's phased development. Any such PUD shall include a phasing strategy, the content of which will be defined in a future development agreement. The Parties agree to collaborate with the City of Burlington Department of Permitting and Inspections in the creation of a Master the PUD Framework in order to facilitate an efficient regulatory review process for iterative design, development phasing and permitting. The City acknowledges that current standards regarding PUD applications and modifications are sufficient and supportive of the Parties' preferred development application process. However, the Parties agree that they will continue to evaluate whether any modifications to Article 11 of the CDO, or any other Articles therein, will be necessary to effectively facilitate a multi-partner, multi-phased PUD process and subsequent permit revisions.

8. Schedule; Termination. The Parties desire to determine, by December 20, 2024, whether the Project is viable as a coordinated, mixed-use development project, developed as a multi-phase PUD. To determine viability, the Parties agree to work together in good faith to implement the terms of this Agreement and to enter into subsequent agreements as reasonably necessary to achieve mutually desired outcomes. If the Parties determine that the Project is viable as coordinated, mixed-use development project, developed as a multi-phase PUD, they anticipate completing and submitting a PUD Sketch Plan application review by June 30, 2024 and entering into a formal Development Agreement by December 16, 2024. However, if, despite the Parties' good faith efforts upon completion of the investigations, analyses and other tasks outlined in this Agreement, any Party determines that the Project is not viable to them, or it cannot provide the resources, time or continued strategic direction to undertake additional joint efforts, then it shall not be obligated to continue to pursue the Project and it may freely develop its Parcel in any manner permitted by applicable laws, ordinances and regulations.

9. Confidentiality. RYB and the College recognize that this Agreement is a public record and that communications and correspondence between the parties are subject to Vermont's public meeting laws and public records laws. The City agrees, however, that to the extent the City requires RYB or the College to disclose to or provide the City with material nonpublic, confidential information or material in connection with the Project, the City will work in good faith with RYB and/or the College to maintain the confidentiality of such information or material in a manner that complies with applicable law.

10. No Assignment. This Agreement shall not be assigned by RYB or by the College without the prior written consent of the City.

11. Governing Law; Venue. This Agreement shall be governed and construed in accordance with

the laws of the State of Vermont, without regard to its conflicts of law rules. The Parties consent to and submit to in personam jurisdiction and venue in the State of Vermont, County of Chittenden, and in the federal district courts which are located in the City of Burlington. The Parties assert that they have purposefully availed themselves of the benefits of the laws of the State of Vermont and waive any objection to in personam jurisdiction on the grounds of minimum contacts, waive any objection to venue, and waive any plea of forum non conveniens. This consent to and submission to jurisdiction is with regard to any action related to this Agreement, regardless of whether the Parties' actions took place in the State or elsewhere in the United States.

12. Severability. If any term, covenant or condition contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice any Party in their respective rights and obligations contained in the valid terms, covenants or conditions hereof, and the Parties shall cooperate to modify the Agreement to cause it to conform to the original language of the Agreement to the extent consistent with the finding of the court.

13. Construction; Headings. The Parties waive the benefit of any rule that this Agreement is to be construed against one Party or the other. The headings in this Agreement are for the purposes of reference only and shall not limit or otherwise affect the meaning hereof.

14. Integration; Modification. This Agreement, together with the exhibits referenced herein and/or attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreements or representations, oral or written, on the same subject. The Agreement can be modified only by written agreement executed by authorized representatives of each Party.

15. No Partnership. The Parties do not intend by this Agreement to create, nor shall this Agreement be deemed to create, a partnership or a joint venture among the Parties; each Party is an independent actor and entity, and nothing in this Agreement shall be deemed to make either Party an agent or partner of the other, or to give either Party the right to bind the other in any way, notwithstanding any reference to the Project as a "public-private partnership."

16. Waiver. The failure of either Party to insist on strict performance of any of the provisions of this Agreement or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the Party granting the waiver.

17. Incorporation by Reference. The content of the Background section to this Agreement, including without limitation the definitions set forth therein, and all exhibits hereto and the terms contained therein and the contents thereof, are incorporated into this Agreement by reference.

18. Authority. Each of the Parties warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and to thereby bind the Party on whose behalf such person, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of

this Agreement.

19. Notices. Any notices to be given pursuant to this Agreement shall be sufficient if given by a writing: deposited in the United States mails, certified mail or registered mail, return receipt requested, postage prepaid; by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender; or by email (provided that the electronic process used is reasonably secure and not easily susceptible to manipulation) addressed as follows:

If to the City: City of Burlington
 149 Church St.
 Burlington, VT 05401
 Attention: Mayor
 Attention: CEDO Director

If to RYB: Ride Your Bike LLC
 Attention: Todd Sarandos
 50 Lakeside Avenue
 Burlington, VT, 05401

If to the College: Champlain College Incorporated
 Attention: April O'Dell
 163 South Willard St.
 Burlington, VT 05401

or to such other person, address or number as the Party entitled to such notice or communication shall have specified by notice to the other Party given in accordance with the provisions of this Section. Any such notice or other communication shall be deemed given: (i) if mailed, three days after being deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by courier, the next day after being deposited with the courier, properly addressed and with prepaid; (iii) if sent by email, when transmitted as long as the sender does not receive a delivery failure notification or "out of office" notification.

Signature Page to Follow

In Witness Whereof, this Agreement is executed by the duly authorized officers or representatives of the Parties as of the date first set forth above.

City of Burlington

Ride Your Bike LLC

By: _____
Name: Miro Weinberger
Title: Mayor

By: _____
Name: Todd Sarandos
Title: Manager

Champlain College Incorporated

By: _____
Name: April O'Dell
Title: Vice President of Finance & Treasurer

Exhibit A
Orthophoto of Site, Outlining Parcels

Exhibit B
Memorandum of Understanding effective as of January 21, 2023

Exhibit C
Preliminary Mobility Framework Diagrams

DRAFT

Board of Finance and City Council Submission ChecklistDepartment: City Planning Submitter: Charles DillardTitle/Subject: Resolution – South End Coordinated Redevelopment

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	3/11/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/29/2024	Meagan Tuttle
Department Head	Yes	2/29/2024	Brian Pine
Mayor's Office informed and approved memo	Yes	2/29/2024	Jordan Redell
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/4/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/28/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/4/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Predevelopment Agreement
Additional Materials, if necessary	Yes	2/26 CC Slides
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	Click or tap here to enter text.

Board of Finance and City Council Submission Checklist

Resolution Relating to

**SUPPORT FOR THE PREDEVELOPMENT AGREEMENT
FOR SOUTH END COORDINATED REDEVELOPMENT**

RESOLUTION 8.3. —

Sponsor(s): Councilors Shannon,
Traverse

Introduced: 03/11/24

Referred to: _____

Action: adopted

Date: 03/11/24

Signed by Mayor: 03/13/24

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, in July 2023, the City Council unanimously approved the South End Innovation District
2 (SEID) Zoning Amendment, which was developed with the intent to promote a vibrant urban district with a
3 mix of uses, including hundreds of new homes and neighbors coexisting with new spaces for the arts, light
4 manufacturing, higher education and other commercial uses; and

5 WHEREAS, Burlington Community Development Corporation, an affiliate of the City, owns 68 Sears
6 Lane; Ride Your Bike, LLC owns 125 Lakeside Avenue; and Champlain College owns 125 Lakeside Avenue,
7 and collectively these parties (the “Parties”) own contiguous parcels totaling 13.3 acres in the core of the new
8 SEID; and

9 WHEREAS, on January 31, 2023, the Parties entered into a Memorandum of Understanding to
10 facilitate a conceptual design framework and infrastructure assessments for the coordinated redevelopment of
11 these parcels resulting in a vibrant sustainable and accessible mixed-use neighborhood; and

12 WHEREAS, the Parties agree this is a unique opportunity to develop a new sustainable, walkable,
13 bike-friendly, mixed-income neighborhood with public open spaces and resilient green infrastructure, and that
14 coordinated redevelopment will result in a sum that is greater than its parts; and

15 WHEREAS, the Parties acknowledge the ongoing conceptual design must be informed by the overall
16 water, wastewater, stormwater, traffic and parking projections – which in turn will enable the Parties to better
17 understand the magnitude of infrastructure constraints and develop strategies to address such constraints; and

18 WHEREAS, the Parties have been working together over the past year to develop a shared
19 understanding of the infrastructure opportunities and constraints for a transit-oriented-development with
20 funding from the Chittenden County Regional Planning Commission; and

21 WHEREAS, the Parties desire to redevelop these parcels in a coordinated fashion with a mixed-used
22 development project and, in order to do so, desire to continue collaborating and to enter into and memorialize
23 certain agreements for commitments to facilitate project development, as set forth in the draft Pre-
24 Development Agreement accompanying the staff memo;

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20
..... Clerk

Approved....., 20

Attest:

..... Mayor

Vol. Page

* * * * *

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the Mayor to execute the
Pre-Development Agreement in substantial conformance with the documents attached hereto, subject to final
review and approval of the Office of the City Attorney.

SD/KP/JP/Resolutions 2024/Support for the Predevelopment Agreement for South End Coordinated Redevelopment
March 11, 2024

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

Planning Director Tuttle

ORIGINAL

RESOLUTION RELATING TO

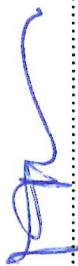
Support For The Predevelopment Agreement For South End Coordinated Redevelopment

.....

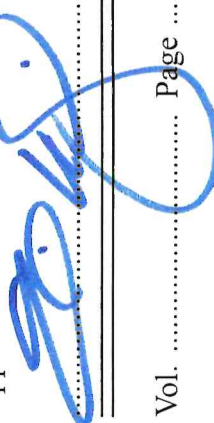
.....

Adopted by the City Council

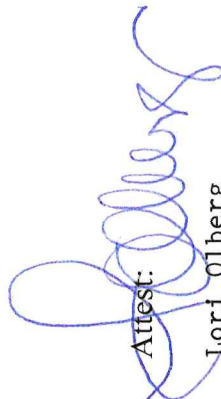
March 11....., 20 24.....

 Clerk

Approved..... March 13....., 20 24.....

 Mayor

Vol. Page



Lori Olberg
Licensing and Records Coordinator

* * * * *

Resolution Relating to

UPDATING INCLUSIONARY ZONING PAYMENT IN LIEU

RESOLUTION _____

Sponsors: Councilors Hightower,
Bergman, Magee, Dieng

Introduced: _____

Referred to: _____

Action: _____

Date: _____

Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, Burlington adopted Inclusionary Zoning (IZ) in 1990 to support the growth of not just
2 housing, but specifically affordable housing, in the face of rising housing costs; and

3 WHEREAS, in January 2017, the City published an “Evaluation of the City’s Inclusionary Zoning
4 Ordinance” that found that the City overall had “fallen short of producing its regional share of housing;” and

5 WHEREAS, the 2017 report found that the payment in lieu option existing at that time had not been
6 exercised in ten years;

7 WHEREAS, amendments were made by the City Council in 2019, ~~at the Administration’s~~
8 ~~recommendation consistent with the report and with the support of both the Inclusionary Zoning Working~~
9 ~~Group and the Administration,~~ to allow an offsite option as well as a new payment in lieu system for
10 inclusionary units in some parts of the City; and

11 WHEREAS, where applicable, the payment-in-lieu fee is currently \$35,000 per dwelling unit for
12 projects containing 5-16 dwelling units, \$70,000 per dwelling unit for projects containing 17 – 49 dwelling
13 units, and \$85,000 per dwelling unit for projects containing 50 or more dwelling units; and

14 WHEREAS, a marginal fee approach is used in payment of the in-lieu fees such that a 17-unit project
15 would pay a total of \$140,000, \$35,000 for each of the first two inclusionary units and \$70,000 for the third
16 inclusionary unit; and

17 WHEREAS, these payments to the ~~payment-in-lieu options at this time~~ Housing Trust Fund are
18 insufficient for the City or its partners to subsidize construction of ~~current units to make those a comparable~~
19 number of permanently affordable units to the number of units being released from IZ rent regulation by these
20 payments, as: demonstrated here:

- 21 • In 11 units recently for sale under Champlain Housing Trust’s (CHT) Shared-Equity Program,
22 CHT ~~Invested~~ invested a minimum of \$113,000 and an average of \$154,000 to lower the buyer’s
23 price and make the homes affordable. These units were not just in Burlington where there may be
24 higher costs. None of the current in-lieu payments meet even the minimum CHT shared-equity
25 investment of this sample of recent homes sold, much less the average.

- Vermont Housing Finance Agency (VHFA), CHT's, and Cathedral Square's median costs for new units is over \$500,000, \$500,000 and \$467,000 respectively, and for VHFA and Cathedral Square this includes units outside of Chittenden County.
- However, according to the Vermont Housing Finance Agency, households at 85% of Median Income cannot afford homes that are over \$199,000 for a 1 BR; \$239,000 for a 2 BR; and \$276,500 for a 3 BR. Similarly, even households at median income can only afford a maximum sales price of \$234,000 for a 1 BR; \$281,000 for a 2 BR; and \$325,000 for a 3 BR. This leaves an implied gap of AT LEAST \$142,000 to \$220,000 between the target IZ families and the construction costs;¹ and

WHEREAS, the City of Burlington is making several changes to zoning that will have the potential to increase housing stock; and

~~WHEREAS, in 2023, the City Council put in a last-minute ad-hoc work-around for the South-End Rezoning~~ WHEREAS, since the amendments to the payment-in-lieu system were made in 2019, two projects have elected to make these payments, with one project paying \$70,000 and a second paying \$490,000 to the City's Housing Trust Fund; and

WHEREAS, prior to enacting a zoning amendment that created the South End Innovation District (SEID) in 2023, the City acted to preclude the use of the payment-in-lieu system in the SEID as, with no real residential current uses, it would have allowed substantial payment in lieu in what is projected and zoned to become a ~~middle/upper-middle-class~~ mixed-use neighborhood without contributing sufficiently to subsidize the ~~same~~ IZ ordinance's target number of affordable units; and

WHEREAS, other cities, including Portland, OR, are currently experimenting with new strategies for achieving the goals of inclusionary zoning in ways that share the costs of new affordable units more broadly and support new, much-needed housing projects; and

WHEREAS, the City has ambitious housing production goals in a period of high interest rates and high construction costs; and

WHEREAS, the City's Planning Department is currently reviewing numerous requested amendments to the current Inclusionary Zoning ordinance; and

WHEREAS, multiple peer-reviewed academic studies have stressed the importance of accurately understanding the impact IZ ordinances may have on the creation of affordable units, housing supply and the overall housing market; and

¹ VHFA Maximum Rent and Purchase Price Affordability Thresholds by Income and Households Size, November 2023
<https://www.housingdata.org/documents/Purchase-price-and-rent-affordability-expanded.pdf>

NOW, THEREFORE, BE IT RESOLVED that the City Council recognizes ~~and~~both the insufficiency of our current payment-in-lieu system and the need to accurately understand how the current IZ ordinance is impacting the creation of affordable units, housing supply, and the overall housing market, and the City Council seeks to address the significant gap between ~~our current payment-in-lieu system~~market conditions for constructing new homes and what it takes to make a market unit affordable to a family that qualifies for our Inclusionary Zoning housing while also supporting the City's goal of increasing housing supply; and

BE IT FURTHER RESOLVED, to refer to the Planning Commission the attached memorandum and suggested language for amending Ordinance Section 9: Inclusionary and Replacement Housing generally and specifically Sec. 9.1.13 Off-Site and Payment in Lieu Options, Subsection (b); and

BE IT FURTHER RESOLVED, that the City Council requests that the Planning Commission, with support of the Planning & Community and Economic Development departments, review the proposed amendment under its normal process, that is, as if it had been an amendment prepared by the Planning Commission pursuant to 24 V.S.A. §4441(b)), within this calendar year; and

BE IT FURTHER RESOLVED, that the City Council requests the Administration to also prepare and submit to the Planning Commission any other recommended amendments to address the current insufficiency of the payment-in-lieu system and the existing gap between the cost of housing construction and maintaining affordability, as well as any other recommendations to improve IZ more generally, including, but not limited to, any initiatives that would result in the City of Burlington better funding new IZ units and initiatives that would give builders more flexibility in meeting the "comparability" test.

Resolution Relating to

UPDATING INCLUSIONARY ZONING PAYMENT IN LIEU

RESOLUTION_____

Sponsors: Councilors Hightower,
Bergman, Magee, Dieng
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four
Resolved by the City Council of the City of Burlington, as follows:

- 1 That WHEREAS, Burlington adopted Inclusionary Zoning in 1990 to support the growth of not just
2 housing, but specifically affordable housing, in the face of rising housing costs; and
3 WHEREAS, amendments were made by the City Council in 2019, at the Administration’s
4 recommendation, to allow an offsite option as well as payment in lieu for inclusionary units; and
5 WHEREAS, where applicable, the payment-in-lieu fee is currently \$35,000 per dwelling unit for
6 projects containing 5-16 dwelling units, \$70,000 per dwelling unit for projects containing 17 – 49 dwelling
7 units, and \$85,000 per dwelling unit for projects containing 50 or more dwelling units; and
8 WHEREAS, a marginal fee approach is used in payment of the in-lieu fees such that a 17-unit project
9 would pay a total of \$140,000, \$35,000 for each of the first two inclusionary units and \$70,000 for the third
10 inclusionary unit; and
11 WHEREAS, the payment-in-lieu options at this time are insufficient for the City or its partners to
12 subsidize construction of current units to make those affordable as:
13 • In 11 units recently for sale under Champlain Housing Trust’s (CHT) Shared-Equity Program,
14 CHT Invested a minimum of \$113,000 and an average of \$154,000 to lower the buyer’s price and
15 make the homes affordable. These units were not just in Burlington where there may be higher
16 costs. None of the current in-lieu payments meet even the minimum CHT shared-equity investment
17 of this sample of recent homes sold, much less the average.
18 • Vermont Housing Finance Agency (VHFA), CHT’s, and Cathedral Square’s median costs for new
19 units is over \$500,000, \$500,000 and \$467,000 respectively, and for VHFA and Cathedral Square
20 this includes units outside of Chittenden County.
21 • However, according to the Vermont Housing Finance Agency, households at 85% of Median
22 Income cannot afford homes that are over \$199,000 for a 1 BR; \$239,000 for a 2 BR; and \$276,500
23 for a 3 BR. Similarly, even households at median income can only afford a maximum sales price of

24 \$234,000 for a 1 BR; \$281,000 for a 2 BR; and \$325,000 for a 3 BR. This leaves an implied gap of

25 AT LEAST \$142,000 to \$220,000 between the target IZ families and the construction costs;¹ and

26 WHEREAS, the City of Burlington is making several changes to zoning that will increase housing

27 stock; and

28 WHEREAS, in 2023, the City Council put in a last-minute ad-hoc work-around for the South-End

29 Rezoning as, with no real residential current uses, it would have allowed substantial payment in lieu in what is

30 projected and zoned to become a middle/upper-middle class neighborhood without contributing sufficiently to

31 subsidize the same number of affordable units;

32 NOW, THEREFORE, BE IT RESOLVED that the City Council recognizes and seeks to address the

33 significant gap between our current payment-in-lieu system and what it takes to make a market unit affordable

34 to a family that qualifies for our Inclusionary Zoning housing; and

35 BE IT FURTHER RESOLVED to refer to the Planning Commission the attached memorandum and

36 suggested language for amending Ordinance Section 9: Inclusionary and Replacement Housing generally and

37 specifically Sec. 9.1.13 Off-Site and Payment in Lieu Options, Subsection (b); and

38 BE IT FURTHER RESOLVED that the Planning Commission review the proposed amendment under

39 its normal process, that is, as if it had been an amendment prepared by the Planning Commission pursuant to

40 24 V.S.A. §4441(b) within this calendar year.

41

42

43

44 ZH/Resolutions 2024/*Updating Inclusionary Zoning Payment in Lieu*

45 2/20/24

¹ VHFA Maximum Rent and Purchase Price Affordability Thresholds by Income and Households Size, November 2023
<https://www.housingdata.org/documents/Purchase-price-and-rent-affordability-expanded.pdf>

Article 9: Inclusionary and Replacement Housing

Sec. 9.1.5 Applicability

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

Sec. 9.1.13 Off-Site and Payment in Lieu Options

(b) Payment In-Lieu Option

The developer of a covered project may provide a payment in lieu to the Housing Trust Fund rather than construct inclusionary units on or offsite contingent on AMI as determined by HUD's Low- and Moderate-Income Summary Data. The payment in lieu option may be utilized by right under the two following scenarios:

- 1) Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) AMI as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option subject to the following standards:

i. ~~The payment in lieu fee shall be \$75,000 per dwelling unit for projects containing 5 dwelling units.~~

~~ii.~~ The payment in lieu fee shall be ~~\$11535~~,000 per dwelling unit for projects containing ~~65~~-16 dwelling units.

iii. The payment in lieu fee shall be ~~\$15070~~,000 per dwelling unit for projects containing 17-49 dwelling units.

iv. ~~iii.~~ The payment in lieu fee shall be ~~\$85175~~,000 per dwelling unit for projects containing 50 or more dwelling units.

A marginal fee approach shall be used in payment of the in lieu fees. (Example: A 17-unit project would pay a total of ~~\$140,000~~~~425,000~~ {~~\$12535~~,000 for each of the first two inclusionary units and ~~\$1750~~,000 for the third inclusionary unit}.

- 2) Covered projects located in a census block where less than fifty-one percent (51%) of the residents are below eighty percent (80%) AMI as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option per the following standards:

i. ~~The payment in lieu fee shall be \$100,000 for units for projects containing 5 dwelling units~~

ii. The payment in lieu fee shall be ~~\$15035~~,000 per dwelling unit for projects containing ~~65~~-16 dwelling units. ~~ii.~~

iii. The payment in lieu fee shall ~~not be allowed~~ ~~\$200,000~~ for projects containing 17 or more dwelling units.

Commented [Zs1]: Would also be interested in / consider removing this section and having the above apply to all development.



Office of Mayor Miro Weinberger

To: City Council and Planning Commission
From: Mayor Miro Weinberger
Date: March 26, 2024
Re: Signing Statement Regarding Resolution Relating To Updating Inclusionary Zoning

Since Inclusionary Zoning is such an important issue and I will not be here when the work this resolution request is complete, I am issuing a signing statement for the first time in my time as Mayor.

I write to make clear that resolution only earned my support when the first and fourth resolved clauses were amended to include a focus on “accurately understand(ing) how the current IZ ordinance is impacting the creation of affordable units, housing supply, and the overall housing market” and to make clear that Planning Commission is charged with considering any changes to the IZ Ordinance that will improve the rate of new construction of permanently affordable units including changes beyond what is contemplated in the draft language attached to the resolution.

From my perspective, adopting the draft language attached to the resolution as is will simply undo one of the main reforms implemented after the last multi-year City Council study and effort to update the IZ Ordinance.

From my perspective, it is quite clear that despite the important and worthy goals of the IZ ordinance, in its current form it frequently undermines housing supply and affordability goals by making many projects, especially projects under 100 homes, financially infeasible.

I am encouraged that around the country other cities -- including notably Portland, OR, a city that has long been a leading city for land use policy -- are grappling with this challenge and moving towards socializing the very real costs of building IZ homes across the community, rather than imposing those costs on new and badly needed housing projects. This is a promising new policy direction that, if explored, could allow Burlington to achieve the equity goals of the IZ ordinance while also supporting housing supply creation – I hope it gets due consideration by the Planning Commission and the City Council.

Resolution Relating to

UPDATING INCLUSIONARY ZONING PAYMENT IN LIEU

RESOLUTION 8.4.

Sponsors: Councilors Hightower,
Bergman, Magee, Dieng
Introduced: 03/11/24
Referred to: _____

Action: amended; adopted
Date: 03/11/24
Signed by Mayor: 04/01/24

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, Burlington adopted Inclusionary Zoning (IZ) in 1990 to support the growth of not just
2 housing, but specifically affordable housing, in the face of rising housing costs; and

3 WHEREAS, in January 2017, the City published an “Evaluation of the City’s Inclusionary Zoning
4 Ordinance” that found that the City overall had “fallen short of producing its regional share of housing;” and

5 WHEREAS, the 2017 report found that the payment in lieu option existing at that time had not been
6 exercised in ten years;

7 WHEREAS, amendments were made by the City Council in 2019, consistent with the report and with
8 the support of both the Inclusionary Zoning Working Group and the Administration, to allow an offsite option
9 as well as a new payment in lieu system for inclusionary units in some parts of the City; and

10 WHEREAS, where applicable, the payment-in-lieu fee is currently \$35,000 per dwelling unit for
11 projects containing 5-16 dwelling units, \$70,000 per dwelling unit for projects containing 17 – 49 dwelling
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13 WHEREAS, a marginal fee approach is used in payment of the in-lieu fees such that a 17-unit project
14 would pay a total of \$140,000, \$35,000 for each of the first two inclusionary units and \$70,000 for the third
15 inclusionary unit; and

16 WHEREAS, these payments to the Housing Trust Fund are insufficient for the City or its partners to
17 subsidize construction of a comparable number of permanently affordable units to the number of units being
18 released from IZ rent regulation by these payments, as demonstrated here:

- 19 • In 11 units recently for sale under Champlain Housing Trust’s (CHT) Shared-Equity Program,
20 CHT invested a minimum of \$113,000 and an average of \$154,000 to lower the buyer’s price and
21 make the homes affordable. These units were not just in Burlington where there may be higher
22 costs. None of the current in-lieu payments meet even the minimum CHT shared-equity investment
23 of this sample of recent homes sold, much less the average.

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

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.....
.....

Adopted by the City Council

....., 20
..... Clerk

Approved....., 20

..... Mayor

Vol. Page

* * * * *

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WHEREAS, the City's Planning Department is currently reviewing numerous requested amendments to the current Inclusionary Zoning ordinance; and

WHEREAS, multiple peer-reviewed academic studies have stressed the importance of accurately understanding the impact IZ ordinances may have on the creation of affordable units, housing supply and the overall housing market;

¹ VHFA Maximum Rent and Purchase Price Affordability Thresholds by Income and Households Size, November 2023
<https://www.housingdata.org/documents/Purchase-price-and-rent-affordability-expanded.pdf>

* * * * *

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ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20

..... Clerk

Approved....., 20

Attest:

..... Mayor

Vol. Page

* * * * *

NOW, THEREFORE, BE IT RESOLVED that the City Council recognizes both the insufficiency of our current payment-in-lieu system and the need to accurately understand how the current IZ ordinance is impacting the creation of affordable units, housing supply, and the overall housing market, and the City Council seeks to address the significant gap between current market conditions for constructing new homes and what it takes to make a market unit affordable to a family that qualifies for our Inclusionary Zoning housing while also supporting the City's goal of increasing housing supply; and

BE IT FURTHER RESOLVED to refer to the Planning Commission the attached memorandum and suggested language for amending Ordinance Section 9: Inclusionary and Replacement Housing generally and specifically Sec. 9.1.13 Off-Site and Payment in Lieu Options, Subsection (b); and

BE IT FURTHER RESOLVED that the City Council requests that the Planning Commission, with support of the Planning & Community and Economic Development departments, review the proposed amendment under its normal process, that is as if it had been an amendment prepared by the Planning Commission pursuant to 24 V.S.A. §4441(b), within this calendar year; and

BE IT FURTHER RESOLVED that the City Council requests the Administration to also prepare and submit to the Planning Commission any other recommended amendments to address the current insufficiency of the payment-in-lieu system and the existing gap between the cost of housing construction and maintaining affordability, as well as any other recommendations to improve IZ more generally, including, but not limited to, any initiatives that would result in the City of Burlington better funding new IZ units and initiatives that would give builders more flexibility in meeting the "comparability" test.

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

Planning Director Tuttle

ORIGINAL

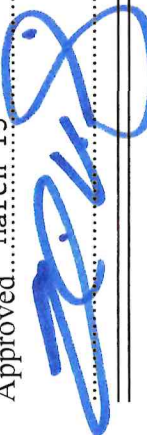
RESOLUTION RELATING TO

Updating Inclusionary Zoning Payment In Lieu

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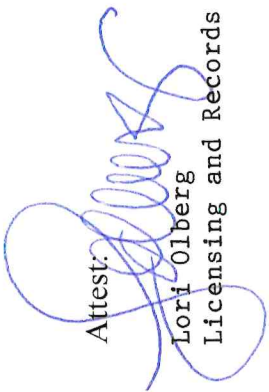
Adopted by the City Council

March 11, 20 24
 Clerk

Approved March 13, 20 24
 Mayor

Vol. Page

Attest:


Lori Olberg
Licensing and Records Coordinator

* * * * *



Memorandum

Date: March 11, 2024

To: Burlington Board of Finance / City Council

From: Corey Mims, P.E., Senior Public Works Engineer
Phillip Peterson, P.E., Public Works Engineer

CC: Norman Baldwin, P.E., Assistant Director/City Engineer
Laura Wheelock, P.E., Senior Public Works Engineer
Chapin Spencer, Director Department of Public Works
Ashley Parker, Capital Program Director

Subject: Champlain Parkway – FY24 Project Budget Amendment & Consultant Contract Amendments

REQUESTS

Department of Public Works (DPW) Staff respectfully presents four motions for your consideration regarding the Champlain Parkway Project. These motions include a Budget Amendment (BA) and Contract Amendments with three consulting firms: Clough Harbour & Associates (CHA), DuBois & King, Inc. (DK), and WSP USA Inc. (WSP). The details of each motion are outlined below.

1. Budget Amendment (BA):

DPW Staff requests approval from the Board of Finance and City Council for an increase to the Champlain Parkway authorized project budget from \$52,469,159 to \$53,204,967 to continue approved project activities in FY24. Additionally, DPW staff seek authorization to utilize an additional \$900,000 in Capital Bond Proceeds (with an allotment of \$863,725 in FY24, and \$36,275 to be budgeted in FY25) for Non-Participating expenses as approved by the City's Capital Committee on February 22, 2024, in addition to \$80,000.00 of additional Street Capital in FY24 for local match in furtherance of the Expense Authorization increase to continue the Champlain Parkway Project and complete the Parkway's Initial Construction Contract, as detailed in Attachment A.

2. Contract Amendment with Clough Harbour & Associates (CHA):

DPW Staff requests approval from the Board of Finance and City Council to authorize Contract Amendment No. 19 with CHA, the Champlain Parkway project design engineers for continued services. This amendment increases the contract amount by \$890,450.00 to \$14,883,379.18.

3. Contract Amendment with DuBois & King, Inc. (DK):

DPW Staff requests approval from the Board of Finance and City Council to authorize Contract Amendment No. 6 with DuBois & King, Inc., increasing their contract Maximum Limiting Amount (MLA) by \$315,000.00

to \$740,485.00 for municipal project managing services through the completion of the Champlain Parkway Project.

4. Contract Amendment with WSP USA Inc. (WSP):

DPW Staff requests approval from the Board of Finance and City Council to authorize Contract Amendment No. 2 with WSP USA Inc. This amendment increases their contract Maximum Limiting Amount (MLA) by \$4,108,984 to \$7,943,260 for continued resident engineering services through the completion of the Champlain Parkway Project.

EXECUTIVE SUMMARY

The proposed project budget amendment is necessitated by several factors:

1. **Fast-Paced Construction:** The project is progressing rapidly, with anticipated substantial completion in FY24 of the Initial Construction Contract with SD Ireland Kubricky JV LLC.
2. **Construction Change Orders:** Pending and current construction change orders necessitate adjustments to both Participating and Non-Participating project costs.
3. **New Revenue Sources:** Utility relocation agreements with various communications companies necessitate the creation and acceptance of new project expense and offsetting revenue sources (with the exception of BED relocation which has a cost sharing agreement with the Department of Public Works).
4. **Project Reimbursements:** Project reimbursements are being sought for both new and previously unaccounted costs that contribute to the increased project expenses. These costs are associated with the removal and disposal of windrowed VTrans soils from previous Contract 1 work by the State, petroleum-contaminated soil disposal through the State's Petroleum Cleanup Funds (PCF) and Utility relocation costs to be reimbursed by the various Utility Company Relocation Agreements.
5. **Expense Reconciliation:** There is a need to reconcile project expenses to the correct Participating/Non-Participating revenue and expense line items. The adjustments have increased the non-participating project expenses for the project and contribute to the Budget Amendment Request amount that requires BOF/CC approval. The reconciliation also transferred expenses to be offset by new reimbursable revenue sources also to be approved as part of the request.

Additionally, three (3) consultant contract amendments propose to extend and expand consultant services for the completion of the Initial Construction Contract and consultant services for the Final Construction Contract, with additional local match for these continued services coming from FY25 and FY26 Street Capital funds:

1. **Design Contract Amendment No. 19 with Clough, Harbour & Associates**

The amendment focuses on expanded and new required tasks to revise, package, and assist through the bidding of the final construction contract for the Champlain Parkway and extends services to include administrative support during the final construction phase.

2. Construction Inspection Contract Amendment No. 2 with WSP USA Inc.

The objective of Amendment No. 2 is to address the additional need of \$383,411 to finish the resident engineering services for the Initial Construction Contract and allocate an additional \$3,725,573 for resident engineering services for the Final Phase of the Champlain Parkway construction project. In total, the amendment adds \$4,108,984 to the existing WSP contract.

The scope of this construction inspection contract amendment encompasses resident engineering and inspection services throughout both the Initial and Final phases of the Champlain Parkway project construction. The goal is to ensure the effective oversight and quality assurance of the construction activities during these critical project phases. This amendment is important for addressing the evolving needs of the Champlain Parkway project, ensuring the successful completion of the Initial and Final Phases of the project. The additional funding of \$4,108,984 reflects the commitment to quality construction and adherence to project timelines.

3. Municipal Project Manager Contract Amendment No. 6 with DuBois & King, Inc.

The purpose of the amendment is to ensure ongoing MPM support throughout the final phase of the Champlain Parkway project construction. This support is essential for maintaining effective project management, planning, and monitoring activities as the project progresses towards completion. Due to the project's complexity and pace, as well as the many other large capital projects underway or in development, City Staff will require MPM support from Dubois and King. This includes promptly reviewing contractor submissions, aiding in pay requisition reviews, helping to draft project updates, and preparing initial responses to public queries. The additional funding of \$315,000 reinforces the commitment to upholding construction quality and adhering to project timelines within the specified scope.

Approval and execution of the Budget Amendment is crucial for the authorization of these three contract amendments. DPW staff have reviewed the additional project budget expenses and deemed them reasonable and appropriate. Certain expenses, such as additional quantities of contaminated soils, were necessary to adhere to the project's design. Moreover, the proposed investments seek to capitalize on the active project by making efficient and related infrastructure upgrades, including upsizing the water main on Lakeside Avenue and incorporating traffic upgrades for enhanced public safety.

BACKGROUND

Project Budget Amendment:

On September 13, 2021 DPW staff presented to the Board of Finance and City Council the South End Construction Coordination Plan which introduced the idea of a two-phase construction of the Champlain Parkway Project – as part of an overall sequencing plan for South End capital projects, to minimize community impacts. With Council support, the Champlain Parkway Project team split the project's construction into two separate construction phases, the "Initial" and "Final" phases.

On April 25, 2022 the City of Burlington approved the authorization to execute the Champlain Parkway Initial Construction Contract with SD Ireland Kubricky JV LLC in an amount of \$40,980,143.40 with an additional \$4,098,014 (10%) in contingency funds, totaling up to \$45,078,157.40.

On March 27, 2023 the City Council approved an increase to the project's FY23 expense authorization as a

result of contractor schedule surpassing engineering estimates for work to be completed in FY23. This request did not increase the project MLA but only allowed access to funds to continue the council authorized work.

DPW Staff and our resident engineer on the project have reviewed the additional project budget expenses and found them to be reasonable and appropriate. Some of the additional expenses, such as the additional quantities of contaminated soils, were above previous projections and are required to build the project as designed. A number of the City-requested investments seek to take advantage of this active project to make efficient and related infrastructure upgrades including:

- Upsizing the water main on Lakeside Avenue to accommodate continued South End development
- Add Traffic request consisting of upgrades to intersection detection equipment and additional service disconnects for better public safety

CHA Contract Background:

Since in the execution of the original contract 1999, CHA has been retained as DPW's design consultant for the Champlain Parkway Project, with the original contract valued at \$1,421,581.01. Over the years, eighteen (18) contract amendments have been issued with the latest being Amendment No. 18 dated August 14, 2023, bringing the total contract amount to \$13,992,929.18. The City's contribution stands at 2% under the local match obligation, while the remaining 98% is reimbursed through Federal (95%) and State (3%) funds.

DuBois and King Contract Background:

The Champlain Parkway project MPM contract has undergone several amendments, each addressing important aspects necessitated by the evolving circumstances of the project. The initial four amendments primarily focused on extending the contract termination date; and the second and fourth adjusted labor hour rates in response to delays encountered during the project's onset. Amendment #5 adjusted the maximum limiting amount of the contract to \$425,485 for continued municipal project managing services through the completion of the Initial Construction Contract.

WSP Contract Background:

WSP has been serving as the construction inspector and public engagement lead for the Champlain Parkway Project under the direction of DPW Staff since 2019. Originally engaged through the bidding process in 2019, the initial expectation was that WSP's role would span the entirety of the Champlain Parkway Project construction. Since that time, the decision was made to separate the construction into two distinct construction contracts. The contract termination date was amended to extend services through the completion of the initial construction contract under the existing maximum limiting amount.

Project Funding

Overview of the Funding Sources for this Budget Amendment Request:

- Cooperative Agreement with VTrans. The funding breakdown for this grant is 95% Federal, 3% State, and 2% Local Match.
- Street Capital: 2% Local Match comes from Street Capital funds currently assigned to the project and \$80,000 additional Street Capital funds reassigned from contingency for the CY23 Paving Contract. Additional Local Match is budgeted in the FY25 and FY26 Street Capital Budget to fund the remaining anticipated local match obligations.

- General Fund Bond: Used to pay for non-participating costs to the City for the Initial Construction Contract (with an allotment of \$863,725 in FY24; and \$36,275 to be budgeted in FY25). This additional funding contributes to the increase request to the project budget and includes an approximate 8% contingency. The non-participating costs consist of contaminated soils management, City cost sharing of BED relocation expenses and landscaping improvements.
- Petroleum Cleanup Funds: Project incurred costs for the petroleum cleanup upfront and submits for reimbursement from the State (~\$277,603)
- DPW Water Resources: Project will seek reimbursement for Non-participating costs associated with additional scope requests made by Water Resources.
- DPW Traffic: Project will pay upfront and seek reimbursement for Non-participating costs associated with additional scope requests made by the Parking & Traffic Division
- Utility Relocation Agreements: Project will seek reimbursement from the following companies based on individual infrastructure costs. In total an estimated \$840,000 will be reimbursed between BED, Burlington Telecom, Century Link/Lumen, Comcast, Consolidated, First Light and Vermont Telephone.

Work performed under the contract amendments will be eligible for reimbursement at the project's funding split of 95% Federal, 3% State and 2% Local Match as outlined in the Cooperative Agreement, and its current/future Amendments, between the State of Vermont Agency of Transportation and the City of Burlington. Cooperative Agreement CA0035 Amendment No. 8 with the Vermont Agency of Transportation, authorized by City Council on October 10, 2023, secured additional funding for the construction of this project by increasing the grant amount to \$65,000,000 – which accommodates the additional expenses identified in this memorandum.

	Estimated Expenses*		
	FY23	FY24	FY25
Reimbursable Costs	\$487,925	\$780,395	\$-
2% Local Match (Street Capital)	\$456,766	\$430,675	\$492,200
Non-participating (Bond)	\$886,661	\$2,972,459	\$1,170,000

*Expenses for Final Construction Contract anticipated to start in FY25

Funding for the Final Construction Contract has not been finalized at the time of this memo. The 2% local match will come from FY25 and FY26 Street Capital funds while the non-participating construction expense funding has not been secured.

CHA Amendment #19

The proposed CHA contract amendment will increase the current contract amount by \$890,450, from \$13,992,929.18 to \$14,883,379.18. *The local match obligation of 2%, for Amendment 19 will be \$17,809.00*, which will come from street capital funds from the current budget, this budget amendment request and additionally from FY25 and FY26 Street Capital.

DK Amendment #6

The proposed DK contract amendment will increase the current contract amount by \$315,000, from \$425,485 to \$740,485. *The local match obligation of 2% for Amendment 6 will be \$6,300* which will come from street capital funds from the current budget, this budget amendment request and additionally from FY25 and FY26 Street Capital.

WSP Amendment #2

The proposed WSP contract amendment will increase the current contract amount with WSP by \$4,108,984, from \$3,834,276 to \$7,943,260. *The local match obligation of 2%, for Amendment 2 will be \$82,179.68*, which will come from street capital funds from the current budget, this budget amendment request and additionally from FY25 and FY26 Street Capital.

On February 22, 2024, the City's inter-departmental Capital Committee reviewed and approved the request for \$900,000 of additional General Fund capital for Non-Participating project expenses for the initial construction contract, to be allocated out over FY24 and FY25. DPW will be working on an additional request for the City's Capital Committee to consider that would cover ~\$1,650,000 of additional Non-Participating project expenses for the Final Construction Contract in the coming months. The Committee has made it clear that securing this funding will be challenging this budget cycle as there are many other General Fund capital needs throughout the City. To review the coming request, the Committee has requested that DPW provide accurate cost projections, including what Non-Participatory expenses we will expect. In addition, the Committee has asked DPW consider all alternative sources of funding, including additional Street Capital, Highway revenues, or incorporation into the DPW overall Operating Budget.

The total construction budget for this project, including the Initial and Final Construction Contracts, is projected to be approximately \$86 million dollars. The local contribution, including the 2% local match and the non-participating expenses, is projected to total \$5.5 million – or 6.5%. This is a lower-than-usual local match for such a significant capital upgrade for our community – due to an antiquated funding formula that the Federal Highway Agency no longer uses. Nonetheless, this local match and additional non-participating expenses are significant for our small City so we have employed multiple strategies to contain the City's overall contribution as we work to finish this project:

- **Value engineering the project** – Phase II or Final Construction Contract is being revised for a reduction to the subbase work along Pine Street to minimize upfront non-participating soil management expenses. This value engineering is estimated to avoid an additional ~\$800,000 in additional soil management costs though this may result in a reduced lifespan of the reconstructed pavement in this section.
- **Advocated for project elements to be participating costs** – The City has worked hard to shift this project from the original four-lane highway to a two-lane 25mph multi-modal city street – and as such we have successfully argued that a number of the elements (bus shelters, raised intersections, new crosswalks) are essential to meeting the purpose and need of the project and therefore should be participating expenses that our partners can help fund.
- **Secured other funding** – The project is recouping costs from various utilities and the State's petroleum clean-up fund.

For up to date information on the Champlain Parkway project, please visit the project website: www.champlainparkway.com. Please don't hesitate to reach out with any questions.

ATTACHMENT

- A. FY24 Champlain Parkway Project Budget Amendment Request 2.20.2024.
- B. Capital Committee Request Approval
- C. Champlain Parkway Project Budget
- D. Design Contract Amendment No. 19 request with Clough, Harbour & Associates.
- E. Municipal Project Management Contract Amendment No. 6 request with DuBois & King, Inc.
- F. Inspection Contract Amendment No. 2 request with WSP

MOTIONS

Action for Board of Finance:

1. To approve and recommend that the City Council authorize an increase to the Champlain Parkway FY24 project budget from \$52,469,159 to \$53,204,967 to continue approved project activities and for completion of the initial construction contract in FY24, and further approve and authorize the Chief Administrative Officer or designee to effectuate all necessary budget amendments and transfers of funds including an additional \$80,000 of Street Capital for local match and \$900,000 (with an allotment of \$863,725 in FY24; and \$36,275 to be budgeted in FY25) of Capital Bond proceeds for non-participating costs; and approve the acceptance of additional reimbursable revenue sources in furtherance of the project budget increase, in substantial conformance with Attachment A.
2. To approve and recommend that the City Council authorize the Director of Public Works to execute Contract Amendment Number 19 to the contract with Clough Harbour & Associates for continued engineering design services for the Champlain Parkway project, increasing the total contract amount by \$890,450.00 and the local match obligation by \$17,809.00, for a total authorized contract amount not to exceed \$14,883,379.18 and a local match obligation in the amount of \$297,667.58, , as further detailed in Attachment D, subject to review and approval by the City Attorney's Office.
3. To approve and recommend that the City Council authorize the Director of Public Works to execute Contract Amendment Number 6 to the contract with DuBois & King, Inc. for continued Municipal Project Management services for the Champlain Parkway project, increasing the total contract amount by \$315,000 and the local match obligation by \$6,300, for a total authorized contract amount not to exceed \$740,485 and a local match obligation in the amount of \$14,809.70, as further detailed in Attachment E, subject to review and approval by the City Attorney's Office.
4. To approve and recommend that the City Council authorize the Director of Public Works to execute Contract Amendment Number 2 to the contract with WSP USA Inc. for continued construction inspection and public engagement services for the Champlain Parkway project, increasing the total contract amount by \$4,108,984 and the local match obligation by \$82,179.68, for a total authorized contract amount not to exceed \$7,943,260 and a total local match obligation in the amount of \$158,865.20, as further detailed in Attachment F, subject to review and approval by the City Attorney's Office.

Action for City Council:

1. To authorize an increase to the Champlain Parkway FY24 project budget from \$52,469,159 to \$53,204,967 to continue approved project activities and for completion of the initial construction contract in FY24, and further approve and authorize the Chief Administrative Officer or designee to effectuate all necessary budget amendments and transfers of funds including an additional \$80,000 of Street Capital for local match and \$900,000 (with an allotment of \$863,725 in FY24; and \$36,275 to be budgeted in FY25) of Capital Bond proceeds for non-participating costs; and approve the acceptance of additional reimbursable revenue sources in furtherance of the project budget increase, in substantial conformance with Attachment A.

2. To authorize the Director of Public Works to execute Contract Amendment Number 19 to the contract with Clough Harbour & Associates for engineering design services for the Champlain Parkway project, increasing the total contract amount by \$890,450.00 and the local match obligation by \$17,809.00, for a total authorized contract amount not to exceed \$14,883,379.18 and a local match obligation in the amount of \$297,667.58, as further detailed in Attachment D, subject to review and approval by the City Attorney's Office.
3. To authorize the Director of Public Works to execute Contract Amendment Number 6 to the contract with DuBois & King, Inc. for Municipal Project Management services for the Champlain Parkway project, increasing the total contract amount by \$315,000 and the local match obligation by \$6,300, for a total authorized contract amount not to exceed \$740,485 and a local match obligation in the amount of \$14,809.70, as further detailed in Attachment E, subject to review and approval by the City Attorney's Office.
4. To authorize the Director of Public Works to execute Contract Amendment Number 2 to the contract with WSP USA Inc. for construction inspection and public engagement services for the Champlain Parkway project, increasing the total contract amount by \$4,108,984 and the local match obligation by \$82,179.68, for a total authorized contract amount not to exceed \$7,943,260 and a total local match obligation in the amount of \$158,865.20, as further detailed in Attachment F, subject to review and approval by the City Attorney's Office.

ATTACHMENT A:
FY24 CHAMPLAIN PARKWAY
DRAFT BUDGET AMENDMENT

Attachment A:

CITY OF BURLINGTON, VT PROJECT BUDGET AMENDMENT REQUEST

Department: DPW Requested by: Corey Mims Date: 2/9/2024

Briefly explain the reason for the amendment:

To increase project budget for completion of the Initial Construction Contract for the Champlain Parkway Project. Increasing both the Bond for Non-participating project costs and the Street Capital funds for needed 2% local match obligation.

Dept. Head Approval (under 10k)

Chief Administrative Officer Date (10k to 24,999)

Mayor Date (25K - 50K)

BUDGET AMENDMENT DETAILS

Org Set	GL Account	Account Name	Project/Sub/Detail Name	Increase / (Decrease)	
850-19-700	9500_100	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Construction	850 Champlain PW- Construct Contra-	(743,739)	Jedated 12/31/2023 For Expense Transfers
850-19-700	9500_165	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Non Grant Eligible Construction	850 Champlain PW- Construct Contra-	689,778	
850-19-700	9500_800	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Bond Tsf Expenditures	850 Champlain PW- Construct Contra-	69,139	
850-19-700	9500_840	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Street Capital	850 Champlain PW- Construct Contra-	(15,178)	
					Additional Pay Req Adjustment
850-19-700	9500_800	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Bond Tsf Expenditures	850 Champlain PW- Construct Contra-	(170,124)	
850-19-700	9500_840	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Street Capital	850 Champlain PW- Construct Contra-	170,124	
850-19-700	4885_100	Champlain Parkway, Public Works, Capital Projects.Local Share - Outside Agencies	850 Champlain PW- Construct Contra-	689,778	REV For JE
				(863,725)	
850-19-700	4990_800	Champlain Parkway, Public Works, Capital Projects.Interfund Transfer Proceeds - Bond Proceeds Tsf	850 Champlain PW- Construct Contra-	863,725	Bond Increase
850-19-700	9500_800	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Bond Tsf Expenditures	850 Champlain PW- Construct Contra-	863,725	
842-19-700	4990_840	Streets & Sidewalks, Public Works, Capital Projects.Interfund Transfer Proceeds - Street Capital	842 Street Recon - Annual Paving - CY23	(80,000)	Street Capital Increase for Local Match
842-19-700	9500_840	Streets & Sidewalks, Public Works, Capital Projects.Capital Outlay - Street Capital	842 Street Recon - Annual Paving - CY23	(80,000)	
842-19-700	7900_840	Streets & Sidewalks, Public Works, Capital Projects.Interfund Transfer - Street Capital	842 Street Recon - Annual Paving - CY23	80,000	
850-19-700	4990_840	Champlain Parkway, Public Works, Capital Projects.Interfund Transfer Proceeds - Street Capital	850 Champlain PW- Construct Contra-	80,000	New Rev Sources
850-19-700	9500_840	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Street Capital	850 Champlain PW- Construct Contra-	80,000	
850-19-700	4885_100	Champlain Parkway, Public Works, Capital Projects.Local Share - Outside Agencies	850 Champlain PW- Construct Contra-	895,000	
850-19-700	9500_165	Champlain Parkway, Public Works, Capital Projects.Capital Outlay - Non Grant Eligible Construction	850 Champlain PW- Construct Contra-	895,000	

ATTACHMENT B:
APPROVED CHAMPLAIN PARKWAY
CAPITAL COMMITTEE REQUEST

Capital Project Request Form

(For New Projects & Existing Projects Requiring Budget Adjustments)

Form Completed By:	Corey Mims		
Today's Date:	2/5/2024		
Funds Requested	\$900,000 (See proposed breakdown below)		
Date Funds Needed:	April 1, 2024		
Project Title:	Champlain Parkway Project Initial Construction Contract		
Department/ Staff Involved:	DPW: Mims, Baldwin		
Total Project Cost:	\$44,000,000	Level of Urgency:	High

Brief Project Description.

In response to community concerns in 2021 the Parkway project was separated into two construction contracts. The initial construction contract started construction in June 2022 and is scheduled to be completed summer 2024. The Final construction contract design plans and bid documents are being finalized and bidding is anticipated to occur late spring 2024. Current request could be funded by using remaining FY23 Bond Premiums (\$863,725), with \$36,275 being budgeted in FY25 using QCP Bridge match

500 characters max

Is there a requirement to complete this project (i.e.: legal mandate or local, state, or federal agreement)? (Provide a reference (link, etc.) and explain how the project meets the requirement.)

Yes, The City has signed a Cooperative Agreement with the State that has a potential for payback if the project is not completed. The Cooperative Agreement with the State for the Champlain Parkway Project is that participating project costs are split 95% Federal, 3% State and 2% Local Match.
A letter from the State indicating the potential for repayment was received by the City in May 2020 and has been included for reference.

1000 characters max

Does the project address a gap in outcomes/services based on race, religion, gender, sexual orientation, accessibility, age, or income? (Consider how well the project closes gaps in outcomes, and how residents affected were engaged.)

The project addresses a decades-long purpose and need of the Champlain Parkway project to enhance transportation infrastructure in the South End - connecting I-189 to downtown Burlington. Over the past two decades, City staff has worked hard to improve the project into a multi-modal project that will benefit all residents regardless of transportation mode and improve life in the King/Maple neighborhood with narrowed crosswalks, buried utilities, exclusive pedestrian signal phases and additional bike/pedestrian infrastructure. These improvements address a current gap in the transportation infrastructure.

2000 characters max

Does the project create an immediate or long-term health or safety benefit?

- A new 25-mph grid street between Home Avenue and Lakeside Avenue that will enhance connectivity and resiliency of the South End street network
- A new stormwater pond and new sand filter that will take 11.5 acres off the combined sewer system and reduce 6,344 pounds (over 3 tons) of sediment from being discharged into the Lake annually
- New shared use paths providing roughly 2-miles of continuous off-road bike/pedestrian path from the Pine Street and Locust Street intersection to Queen City Park Road in South Burlington
- Improved raised intersections at Pine Street and Kilburn Street, Pine Street and Marble Avenue, and Pine Street and Howard Street
- A new midblock crosswalk at Pine Street and Arts Riot
- An enhanced Pine Street with new granite curbs, reconstructed sidewalk with ADA-compliant access ramps on the eastern side, and new top pavement layer with improved surface drainage
- Undergrounded utilities on Lakeside Avenue between Pine Street and the new Parkway intersection

1000 characters max

What is the condition of the asset? (Consider where it is at in its lifespan, and determine if funding this now minimizes long-term costs.)

The project includes new assets consisting of a new shared use path and roadway alignment between Lakeside and Home Ave as well as extending the life of the Pine Street roadway with reestablishing the roadway asphalt and curb line. The existing Pine St has been in need of resurfacing as well as sidewalk facility upgrades that are being addressed by this project.

1000 characters max

Will investment in the project increase tax revenue, reduce costs to the City, or leverage other funds? (Provide dollar amounts.)

Yes, the cooperative agreement is very favorable to the City at 2% local match and allows for many upgrades and new infrastructure to be constructed that the City would otherwise not be able to afford without the financial support. The initial construction contract is approximately \$50M (including soft costs) and the total City contribution is approximately \$1M from Street Capital and \$3M from General Fund Capital.

1000 characters max

Will the project improve air or water quality, or reduce greenhouse gas emissions?

Yes, a new stormwater pond and new stormwater sand filter that will take 11.5 acres off the combined sewer system and reduce 6,344 pounds (over 3 tons) of sediment from being discharged into Lake Champlain annually. New shared use paths providing roughly 2-miles of continuous off-road bike/pedestrian path from the Pine Street and Locust Street intersection to Queen City Park Road in South Burlington. The project is also projected to reduce queuing and idling for vehicles at the Maple and Pine Street intersection.

1000 characters max

Is this project the most cost-effective solution? Is it coordinated with other projects to increase impact? Is the problem clearly defined and does the project successfully solve it? Are there other solutions that might solve the problem in a more creative/cost-effective way?

Previous delaying of the project has only seen the project costs increase and further delays could risk delays in reimbursement as Federal and State funds are not secured past FY25. Other projects have been coordinated both financially and politically with the Champlain Parkway Project and the result has been the generation of the South End Construction Coordination Schedule.

2000 characters max

Reviews & Recommendations/Approvals

	Review Date:	Recommendation/Approval:
Capital Committee:	2/22/2024	Cindi Wight moves to approve the request as written. Samantha Dunn seconds. Request is approved by a vote of 8-1-1.
Mayor's Office:		

	FY23 (July 1, 2022 - June 30, 2023)							FY24 (July 1, 2023 - June 30, 2024)							FY25 (July 1, 2024 - June 30, 2025)				
	FY23 Construction	FY23 Total	GF Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	FY24 Construction To Date 12/22/23	Anticipated Construction	GF Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	Construction	Construction Engineering	Total	GF Non_Part	2% Local Match
Deloitte	\$ 208,335.08	\$ 208,335.08					\$ 4,166.70	\$ 13,365.64	\$ 13,365.64					\$ 267.31					
Dunkiel Saunders/Saunders Hand	\$ 185,599.59	\$ 185,599.59					\$ 3,711.99	\$ 18,863.22	\$ 30,863.22					\$ 617.26					
CHA-Contract Admin	\$ 408,121.79	\$ 408,121.79					\$ 8,162.44	\$ 214,679.83	\$ 448,762.35					\$ 8,975.25					
Resident Engineering & QEP (WSP)	\$ 1,777,814.89	\$ 1,777,814.89					\$ 35,556.30	\$ 820,915.95	\$ 1,565,148.00					\$ 31,302.96					
MPM (D&C)	\$ 110,205.00	\$ 110,205.00					\$ 2,204.10	\$ 64,395.00	\$ 135,360.00					\$ 2,707.20					
City Personnel	\$ 154,517.82	\$ 154,517.82					\$ 3,090.36	\$ 120,000.00	\$ 50,000.00					\$ 1,000.00					
State of Vermont (Local Share Only)	\$ -	\$ -					\$ -	\$ -	\$ -					\$ -					
Construction Permits	\$ -	\$ -					\$ -	\$ -	\$ -					\$ -					
Construction Contractor (Participating)	\$ 19,993,716.32	\$ 19,993,716.32					\$ 399,874.33	\$ 9,571,640.86	\$ 17,500,000.00					\$ 350,000.00					
Construction Contractor (Non-Part. Soils, Landscaping)	\$ 788,873.70	\$ 788,873.70	\$ 788,873.70					\$ 1,718,860.28	\$ 2,739,992.30	\$ 2,739,992.30	\$ 2,739,992.30								
BED Lighting (Participating)	\$ -	\$ -							\$ 31,823.00					\$ 636.46					
DPW Share of Utility Relocation BED (Non-Participating)	\$ 97,788.75	\$ 97,788.75	\$ 97,788.75						\$ 232,467.65	\$ 232,467.65									
Utility Relocation BED (Non-Part.)	\$ 97,788.75	\$ 97,788.75				\$ 97,788.75			\$ 232,467.65					\$ 121,433.40	\$ 111,034.25				
Utility Relocation BTEL (Non-Part.)	\$ 62,002.79	\$ 62,002.79			\$ 62,002.79				\$ 118,687.11					\$ 118,687.11					
Utility Relocation Century Link/Lumen (Non-Part.)	\$ 5,929.71	\$ 5,929.71			\$ 5,929.71				\$ 36,206.65					\$ 36,206.65					
Utility Relocation Comcast (Non-Part.)	\$ 59,364.18	\$ 59,364.18			\$ 59,364.18				\$ 37,281.88					\$ 37,281.88					
Utility Relocation Consolidated (Non-Part.)	\$ 64,646.75	\$ 64,646.75			\$ 64,646.75				\$ 128,377.26					\$ 128,377.26					
Utility Relocation First Light (Non-Part.)	\$ 40,780.20	\$ 40,780.20			\$ 40,780.20				\$ 150,409.42					\$ 150,409.42					
Utility Relocation VT Telephone (Non-Part.)	\$ -	\$ -			\$ -				\$ 12,914.26					\$ 12,914.26					
PCF Soils (Non-Part.)	\$ 229,818.09	\$ 229,818.09			\$ 229,818.09				\$ 47,784.91					\$ 47,784.91					
Traffic Upgrades (Non-Part.)	\$ -	\$ -			\$ -				\$ 47,300.00					\$ 47,300.00					
Water Resources Additional Scope (Non-Part.)	\$ 25,383.03	\$ 25,383.03			\$ 25,383.03				\$ 80,000.00					\$ 80,000.00					
	\$ 24,310,686.44	\$ 24,310,686.44	\$ 97,788.75	\$ 788,873.70	\$ 487,924.75	\$ 97,788.75	\$ 456,766.21	\$ 12,422,720.78	\$ 23,759,211.29	\$ 232,467.65	\$ 2,739,992.30	\$ 780,394.88	\$ 111,034.25	\$ 397,906.44	\$ -	\$ -	\$ -	\$ -	\$ -

	Total Estimated Final Phase Costs						FY24 (July 1, 2023 - June 30, 2024)										Final Construction Contract - "Phase II"										FY25 (July 1 2024 - June 30, 2025)					FY26 (July 1 2025 - June 30, 2026)				
	Preliminary Engineering		Construction	Total	Alternative Funding Sources	Street Capital BED Agreement	Bond Non_Part	2% Local Match	Preliminary Engineering		Construction	GF Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	Construction		Construction Engineering	Total	GF Non_Part	2% Local Match	Construction		Construction Engineering	Total	GF Non_Part	2% Local Match								
Dunkiel Saunders/Saunders Hand	\$	48,000.00	\$	72,000.00	\$	120,000.00			\$	48,000.00						\$	960.00	\$	48,000.00		\$	48,000.00		\$	960.00	\$	24,000.00		\$	480.00						
CHA-Contract Admin	\$	630,000.00	\$	270,000.00	\$	900,000.00			\$	630,000.00						\$	12,600.00	\$	180,000.00		\$	180,000.00		\$	3,600.00	\$	90,000.00		\$	1,800.00						
Resident Engineering & QEP (WSP)	\$	745,114.60	\$	2,980,458.40	\$	3,725,573.00			\$	745,114.60						\$	14,902.29	\$	1,862,786.50		\$	1,862,786.50		\$	37,255.73	\$	1,117,671.90		\$	22,353.44						
MPM (D&C)	\$	76,682.20	\$	306,728.80	\$	383,411.00			\$	76,682.20						\$	1,533.64	\$	153,364.40		\$	153,364.40		\$	3,067.29	\$	153,364.40		\$	3,067.29						
City Personnel	\$	105,336.00	\$	210,672.00	\$	316,008.00			\$	105,336.00						\$	2,106.72	\$	105,336.00		\$	105,336.00		\$	2,106.72	\$	105,336.00		\$	2,106.72						
State of Vermont (Local Share Only)	\$	33,333.33	\$	66,666.67	\$	100,000.00			\$	33,333.33						\$	666.67	\$	33,333.33		\$	33,333.33		\$	666.67	\$	33,333.33		\$	666.67						
Construction Contractor (Participating)	\$	-	\$	28,500,000.00	\$	28,500,000.00			\$	-						\$	-	\$	19,950,000.00		\$	19,950,000.00		\$	399,000.00	\$	8,550,000.00		\$	8,550,000.00						
Construction Contractor Contingency (Participating)	\$	-	\$	2,850,000.00	\$	2,850,000.00			\$	-						\$	-	\$	2,280,000.00		\$	2,280,000.00		\$	45,600.00	\$	570,000.00		\$	570,000.00						
Construction Contractor (Non-Part.)	\$	-	\$	1,500,000.00	\$	1,500,000.00			\$	-						\$	-	\$	1,050,000.00	\$	1,050,000.00	\$	1,050,000.00		\$	450,000.00	\$	450,000.00		\$	450,000.00					
Construction Non-Participating Contingency	\$	-	\$	150,000.00	\$	150,000.00			\$	-						\$	-	\$	120,000.00		\$	120,000.00		\$	30,000.00	\$	30,000.00		\$	30,000.00						
	\$	1,638,466.13	\$	36,906,525.87	\$	38,544,992.00			\$	1,638,466.13	\$	-	\$	-	\$	-	\$	32,769.32	\$	25,782,820.23	\$	-	\$	25,782,820.23	\$	1,170,000.00	\$	492,256.40	\$	11,123,705.63	\$	480,000.00				

Assumptions:
* All of the \$42,022,238.10 Construction contract will be completed before the end of FY24 (Pending Change Orders in the range of \$710,000 pending
FY24 would see the remainder of the contract (*\$44 Million - \$23+ Million = \$21 Million total)
* ~\$44 Million includes overages and change orders (Total Construction Contract cost)
* Final Contract (Phase II) would commence construction after July 1st, 2024 (so FY25)
* 2% Local Match would be paid from Street Capital

Initial Construction Contract

- The Cooperative Agreement with the State for the Champlain Parkway Project is that participating project costs are split 95% Federal, 3% State and 2% Local Match
 - The local match for the project is paid for through Street Capital
 - Non-Participating expenses
 - City Non Participating Expenses
 - Paid from Bond funds
 - Utility Relocation Expenses (Utility Relocation Agreements)
 - Paid by project upfront and reimbursement via billing
 - Water Resources additional Change Order Requests
 - Paid by project upfront and reimbursement via billing
- Non-participating costs that are being paid from Bond for the Initial Construction contract consist of:
 - Non-participating contaminated soils disposal within the public ROW
 - Landscaping (Benches, Brick Pavers, Bituminous Concrete Sidewalk, Trash Receptacles, additional tree and plant installations)
 - BED Utility Relocation Agreement - City portion (per agreement) ~\$330,000
- At the time of contract award in May 2022 there was a non-participating Bond deficit of \$196,387 between approved project budget and the awarded Bid costs.
- As the project progressed, there has been sizable increase in the quantity of contaminated soils both participating and non-participating requiring disposal. These soils have increased the non-participating project costs and are anticipated to push their costs to ~\$255,000 over the bid contract cost at the completion of the initial contract.
 - Increased depth of excavation necessary on Pine St to establish proper roadway condition has contributed some to these increased costs. The existing conditions of Pine St were not as the design had anticipated requiring additional excavation.
- Utility relocation agreements with the separate utility companies were not being tracked under the early project budget. Those agreements state that the utility companies would be responsible for a significant percentage of the relocation infrastructure costs. While the project initially carries those costs the City will bill the individual utility companies for their portion of incurred costs. (All of these expenses are reimbursable and split between FHWA/State/Utility Company).
- The utility relocation agreements were signed in 2019 and were based on previous estimates that were lower than the awarded bid prices. With the increase in project costs the amount of carried expense for this work has also increased.
- The Utility Relocation Agreement with BED is different than other utility agreements. The BED agreement splits the utility company costs 50/50% between BED and the City
- In an earlier arrangement, BED had performed ~\$208,000 worth of sidewalk work on Scarff Avenue as part of additional scope to work they were doing on the street. This additional work would have been paid for from Street Capital funds and so in exchange \$208,823 (the original estimated BED portion for Utility Relocation) was applied to the project from Street Capital funds as Credit to BED.
- It is anticipated that the project will see nearly all initial construction contract work completed in FY24 with a small amount of participating expenses in FY25.

- Petroleum cleanup (additional soil disposal) was required in the area of Briggs and Flynn. These additional soils were not a part of the project contract estimates and the expenses ~\$250,000 (while reimbursable through the Petroleum Cleanup Fund - PCF) had to be carried by the project.
- Utility Agreement costs were not properly identified during prior payments in FY23 and FY24 and so a JE was created to create the necessary G/Ls to assign the costs and credit the G/Ls improperly impacted. This G/L creation also allows for the proper billing of the separate Utility Companies.
- Resident Engineering Services were procured in 2019 when the project was anticipated to be a 2 year construction. With the delay in start and increased staffing to provide project coverage a change order is required to complete the scope of work on the Initial Construction contract as well as to continue construction inspection work on the Final Construction Contract.
- Non-participating contingency of (~7%) is being included for completion of the Initial Construction Contract.

Final Construction Contract

- Project Estimate ***Work on final scope and engineer's estimate is in progress***:
 - Project Cost ~\$38,500,000
 - Participating Cost Estimate: \$36,900,000
 - 2% Local Match from Street Capital
 - Non-Participating: \$1,650,000
 - 100% From Bond
- FY24 work consisting of finalizing the plans and bid documents, going out to bid and awarding of the contract
- FY25 would be the start of construction with a completion date of July 1, 2026



State of Vermont
Division of Policy, Planning and
Intermodal Development
One National Life Drive
Montpelier, VT 05633
vtrans.vermont.gov

Agency of Transportation

[phone] 802-505-3480
[ttd] 800-253-0191

May 4, 2020

Chapin Spencer
Director of Public Work
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

RE: Planned Advancement of the Champlain Parkway Project

Dear Chapin,

On behalf of the Agency of Transportation I am reaching out to confirm our ongoing commitment to the City of Burlington for the advancement of the Champlain Parkway project which is scheduled to start construction in March of 2021. As with all complex, long-term projects, there are consultant, staff, and leadership changes which occur over the course of the project. The Parkway project is no exception.

The Agency has been pleased to work collaboratively with the Mayor and City staff, and for the continued support of the City Council. As you brief Councilors new to this project, the Agency would be happy to provide any information necessary.

As we all appreciate, the cancellation of a project of this magnitude and duration would lead to a mandatory FHWA repayment of all federally covered costs since the time the City took over the project in 1998 as a locally managed project, an amount of nearly \$14 million. Cancellation of the project includes abandoning the project's existing Environmental Impact Statement (EIS), and the selected alternative embodied in that EIS, and restarting the EIS process with a new project Purpose and Need. It is VTrans' position that the cost of repayment of the federal funds would be borne by the City of Burlington should the project be cancelled, unless the project were cancelled at the request of the Agency. Aiding key stakeholders in understanding the breadth of the project is an important part of avoiding such a risk.

In early June, the project schedule provided by the City's consultant team will be such that public outreach will begin for the Limited Scope Draft Supplemental Environmental Impact Statement (LS DSEIS); this will be followed by a more formal hearing required under the National Environmental Policy Act (NEPA). This process will determine whether or not the Environmental Justice (EJ) community along the Pine Street Section of the project between

Maple Street and King Street will be disproportionately affected by the current project design. Mitigation and/or design changes might be required if the EJ community is found to be disproportionately affected through the LS DSEIS process.

The Agency is very pleased with the progress which has been made on the Parkway project in the past few years under your leadership with the support of your team and our project consultants. We recognize that the City is on the verge of having the key requirements in place to begin the bid advertising process this fall, a key milestone for the project.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Boomhower". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michele Boomhower
Division Director

Cc: Wayne Symonds, Highway Division Director
Sue Scribner, Municipal Assistance Bureau Director
Wayne Davis, Project Manager



U.S. Department
of Transportation
**Federal Highway
Administration**

Vermont Division

September 10, 2021

87 State Street
Montpelier, VT 05602
802 828-4423
802 828-4424 Fax
Vermont.FHWA@dot.gov

In Reply Refer To:
HDA-VT

Vermont Agency of Transportation
Joe Flynn, Secretary
219 North Main Street, Suite 101
Barre, Vermont 05641

Subject: Burlington MEGC 5000(1) – Champlain Parkway Repayment/Payback of Federal-Aid Funds

Dear Secretary Flynn:

This letter is in response to your recent request for clarification of the FHWA 20-Year Rule requirements for repayment/payback of Federal funds invested in the project to date.

The Federal Highway Administration, along with the Vermont Agency of Transportation and the City of Burlington, have been working for 50 years to advance the Champlain Parkway project also called the Southern Connector project in the past. This project was authorized under an old funding category of 95/3/2 (Federal/State/Local) match share and is one of the last projects in the country to have this level of formula based Federal funding. New projects of this type would fall under an (80/20) Federal/State or Local share.

In reviewing recent financial documents for this project, we have found that the total of Federal/State/Local taxpayer funds that has been spent on this project to date is over \$45 million dollars. These funds have been spent on consultant efforts, environmental documents, preliminary engineering, and acquisition of right-of-way for this project.

We are aware of the significant efforts of the City and State to advance this project over the past few years and have also spent considerable Federal funds and staff time advancing this project. We do look forward to this work continuing as this project moves towards construction.

You had asked if the City was unable to maintain the momentum to advance this project would this project be subject to the FHWA 20-Year Rule requirements for repayment/payback of Federal funds. The answer to this question is yes. This project would fall under the terms of the FHWA 20-Year Rule and would require repayment of Federal funds. The FHWA 20-Year Rule states that projects must advance from the acquisition of right of way to construction within 20 years or require payback of Federal funds. The FHWA 20-Year Rule is based on Federal law 23 USC, 108;

(2) Construction. - The agreement between the Secretary and the State for the reimbursement of the cost of the real property interests shall provide for the actual construction of the

transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

(7) Reimbursement. - If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

This provision is also incorporated into Federal regulations found at 23 CFR Section 630.112. The Federal law and Federal regulations do not allow for a waiver or exemption of this provision. FHWA can grant time extensions for projects that are progressing to construction on a reasonable basis. The FHWA Division Administrator may grant reasonable time extensions to a State DOT if the State DOT submits to the Division office sufficient justification. The delay must be reasonable and beyond the State DOT's control. Shifting priorities, insufficient transportation budgets, State appropriation constraints, and staffing levels are not valid justification for granting time extensions. Our office has previously sent you examples of repayment/payback of Federal funds in Vermont and other states for projects that have not advanced in a timely manner.

I hope this addresses your questions on the FHWA 20-Year Rule and repayment/payback of Federal funds on projects that do not advance in a timely manner. Please let me know if you have further questions or concerns.

Sincerely

Matthew R. Hake, P.E.
Division Administrator
FHWA

ATTACHMENT C:
CHAMPLAIN PARKWAY
EXPENSE BUDGET

ATTACHMENT: C CHAMPLAIN PARKWAY EXPENSE BUDGET

INITIAL CONSTRUCTION CONTRACT	Initial Construction Contract																		
	FY23 (July 1, 2022 - June 30, 2023)							FY24 (July 1, 2023 - June 30, 2024)							FY25 (July 1 2024 - June 30, 2025)				
	FY23 Construction	FY23 Total	GF/Bond Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	FY24 Construction Costs To Date 12/22/23	Total Anticipated Construction Expenses	GF/Bond Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	Construction	Construction Engineering	Total	GF Non_Part	2% Local Match
Deloitte	\$ 208,335.08	\$ 208,335.08					\$ 4,166.70	\$ 13,365.64	\$ 13,365.64					\$ 267.31					
Dunkiel Saunders/Saunders Hand	\$ 185,599.59	\$ 185,599.59					\$ 3,711.99	\$ 18,863.22	\$ 30,863.22					\$ 617.26					
CHA-Contract Admin	\$ 408,121.79	\$ 408,121.79					\$ 8,162.44	\$ 214,679.83	\$ 448,762.35					\$ 8,975.25					
Resident Engineering & QEP (WSP)	\$ 1,777,814.89	\$ 1,777,814.89					\$ 35,556.30	\$ 820,915.95	\$ 1,565,148.00					\$ 31,302.96					
MPM (D&K)	\$ 110,205.00	\$ 110,205.00					\$ 2,204.10	\$ 64,395.00	\$ 135,360.00					\$ 2,707.20					
City Personnel	\$ 154,517.82	\$ 154,517.82					\$ 3,090.36	\$ 60,000.00	\$ 120,000.00					\$ 2,400.00					
State of Vermont (Local Share Only)	\$ -	\$ -					\$ -	\$ -	\$ -					\$ 1,000.00					
Construction Permits	\$ -	\$ -					\$ -	\$ -	\$ -					\$ -					
Construction Contractor (Participating)	\$ 19,993,716.32	\$ 19,993,716.32					\$ 399,874.33	\$ 9,571,640.86	\$ 17,500,000.00					\$ 350,000.00					
Construction Contractor (Non-Part. Soils, Landscaping)	\$ 788,873.70	\$ 788,873.70		\$ 788,873.70				\$ 1,718,860.28	\$ 2,739,992.30		\$ 2,739,992.30								
BED Lighting (Participating)	\$ -	\$ -						\$ -	\$ -					\$ 636.46					
DPMW Share of Utility Relocation BED (Non-Participating)	\$ 97,788.75	\$ 97,788.75	\$ 97,788.75					\$ -	\$ -	\$ 232,467.65	\$ 232,467.65								
Utility Relocation BED (Non-Part.)	\$ 97,788.75	\$ 97,788.75				\$ 97,788.75		\$ -	\$ -	\$ 232,467.65		\$ 121,433.40	\$ 111,034.25						
Utility Relocation BTCL (Non-Part.)	\$ 62,002.79	\$ 62,002.79			\$ 62,002.79			\$ -	\$ -	\$ 118,667.11		\$ 118,667.11							
Utility Relocation Century Link/Lumen (Non-Part.)	\$ 5,929.71	\$ 5,929.71			\$ 5,929.71			\$ -	\$ -	\$ 36,206.65		\$ 36,206.65							
Utility Relocation Comcast (Non-Part.)	\$ 59,364.18	\$ 59,364.18			\$ 59,364.18			\$ -	\$ -	\$ 37,281.88		\$ 37,281.88							
Utility Relocation Consolidated (Non-Part.)	\$ 64,646.75	\$ 64,646.75			\$ 64,646.75			\$ -	\$ -	\$ 128,377.26		\$ 128,377.26							
Utility Relocation First Light (Non-Part.)	\$ 40,780.20	\$ 40,780.20			\$ 40,780.20			\$ -	\$ -	\$ 150,409.42		\$ 150,409.42							
Utility Relocation VT Telephone (Non-Part.)	\$ -	\$ -			\$ -			\$ -	\$ -	\$ 12,914.26		\$ 12,914.26							
PCF Soils (Non-Part.)	\$ 229,818.09	\$ 229,818.09			\$ 229,818.09			\$ -	\$ -	\$ 47,784.91		\$ 47,784.91							
Traffic Upgrades (Non-Part.)	\$ -	\$ -			\$ -			\$ -	\$ -	\$ 47,300.00		\$ 47,300.00							
Water Resources Additional Scope (Non-Part.)	\$ 25,383.03	\$ 25,383.03			\$ 25,383.03			\$ -	\$ -	\$ 80,000.00		\$ 80,000.00							
	\$ 24,310,686.44	\$ 24,310,686.44	\$ 97,788.75	\$ 788,873.70	\$ 487,924.75	\$ 97,788.75	\$ 456,766.21	\$ 12,422,720.78	\$ 23,759,211.29	\$ 232,467.65	\$ 2,739,992.30	\$ 780,394.88	\$ 111,034.25	\$ 397,906.44	\$ -	\$ -	\$ -	\$ -	\$ -

FINAL CONSTRUCTION CONTRACT	Final Construction Contract - "Phase II"																																										
	Total Estimated Final Phase Costs							FY24 (July 1, 2023 - June 30, 2024)							FY25 (July 1 2024 - June 30, 2025)						FY26 (July 1 2025 - June 30, 2026)																						
	Preliminary Engineering		Construction		Total	Alternative Funding Sources	Street Capital BED Agreement	Bond Non_Part	2% Local Match	Preliminary Engineering		Construction		GF/Bond Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	Construction		Construction Engineering		Total	GF/Bond Non_Part	2% Local Match	Construction		Construction Engineering		Total	GF/Bond Non_Part	2% Local Match											
Dunkiel Saunders/Saunders Hand	\$	48,000.00	\$	72,000.00	\$	120,000.00				\$	2,400.00	\$	48,000.00						\$	960.00	\$	48,000.00		\$	48,000.00		\$	960.00	\$	24,000.00		\$	24,000.00		\$	480.00							
CHA-Contract Admin	\$	630,000.00			\$	270,000.00	\$	900,000.00				\$	18,000.00						\$	12,600.00	\$	180,000.00		\$	180,000.00		\$	3,600.00	\$	90,000.00		\$	90,000.00		\$	1,800.00							
Resident Engineering & QEP (WSP)	\$	745,114.60			\$	2,980,458.40		\$	3,725,573.00				\$	74,511.46					\$	14,902.29	\$	1,862,786.50		\$	1,862,786.50		\$	37,255.73	\$	1,117,671.90		\$	1,117,671.90		\$	22,353.44							
MPM (D&K)	\$	76,682.20			\$	306,728.80		\$	383,411.00				\$	7,668.22					\$	1,533.64	\$	153,364.40		\$	153,364.40		\$	3,067.29	\$	153,364.40		\$	3,067.29		\$	1,533.64							
City Personnel	\$	105,336.00			\$	210,672.00		\$	316,008.00				\$	105,336.00					\$	2,106.72	\$	105,336.00		\$	105,336.00		\$	105,336.00		\$	105,336.00		\$	2,106.72		\$	1,053.36						
State of Vermont (Local Share Only)	\$	33,333.33			\$	66,666.67		\$	100,000.00				\$	33,333.33					\$	666.67	\$	33,333.33		\$	33,333.33		\$	33,333.33		\$	33,333.33		\$	33,333.33		\$	666.67						
Construction Contractor (Participating)					\$	28,500,000.00		\$	28,500,000.00				\$						\$	-	\$	19,950,000.00		\$	19,950,000.00		\$	399,000.00		\$	8,550,000.00		\$	8,550,000.00		\$	171,000.00						
Construction Contractor Contingency (Participating)					\$	2,850,000.00		\$	2,850,000.00				\$						\$		\$	2,280,000.00		\$	2,280,000.00		\$	45,600.00		\$	570,000.00		\$	570,000.00		\$	11,400.00						
Construction Contractor (Non-Part.)					\$	1,500,000.00		\$	1,500,000.00				\$						\$		\$	1,050,000.00		\$	1,050,000.00		\$	1,050,000.00		\$	450,000.00		\$	450,000.00		\$	450,000.00						
Construction Non-Participating Contingency					\$	150,000.00		\$	150,000.00				\$						\$		\$	120,000.00		\$	120,000.00		\$	120,000.00		\$	30,000.00		\$	30,000.00		\$	30,000.00						
	\$	1,638,466.13	\$	36,906,525.87	\$	38,544,992.00				\$	-	\$	1,650,000.00	\$	737,899.84	\$	1,638,466.13	\$	-	\$	-	\$	32,769.32	\$	25,782,820.23	\$	-	\$	25,782,820.23	\$	1,170,000.00	\$	492,256.40	\$	11,123,705.63	\$	-	\$	11,123,705.63	\$	480,000.00	\$	212,874.11

Total FY23 (July 1, 2022 - June 30, 2023)							Total Project Estimates FY24 (July 1, 2023 - June 30, 2024)							Total Project Estimates FY25 (July 1 2024 - June 30, 2025)					Total Project Estimates FY26 (July 1 2025 - June 30, 2026)				
FY23 Construction	FY23 Total	GF/Bond Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	Preliminary Engineering	Construction	GF/Bond Non_Part	Bond Non_Part	Alternative Funding Sources	Street Capital BED Agreement	2% Local Match	Construction	Construction Engineering	Total	GF/Bond Non_Part	2% Local Match	Construction	Construction Engineering	Total	GF/Bond Non_Part	2% Local Match
\$ 24,310,686.44	\$ 24,310,686.44	\$ 97,788.75	\$ 788,873.70	\$ 487,924.75	\$ 97,788.75	\$ 456,766.21	\$ 1,638,466.13	\$ 23,759,211.29	\$ 232,467.65	\$ 2,739,992.30	\$ 780,394.88	\$ 111,034.25	\$ 430,675.77	\$ 25,782,820.23	\$ -	\$ 25,782,820.23	\$ 1,170,000.00	\$ 492,256.40	\$ 11,123,705.63	\$ -	\$ 11,123,705.63	\$ 480,000.00	\$ 212,874.11

Assumptions:
All of the current \$42,022,238.10 Construction contract will be completed before the end of FY24 (Pending Change Orders in the range of \$710,000 pending
+ FY24 would see the remainder of the contract (~\$44 Million - \$23+ Million = \$21 Million total)
+ \$44 Million includes overages and change orders (Total Construction Contract cost)
Final Contract (Phase II) would commence construction after July 1st, 2024 (FY25)
+ Costs are estimated while plans are being finalized and quantities calculated
+ Local Match will be from FY25 Street Capital
+ Additional General Fund/Bond funds needed for Final Construction Contract Non-Participating Expenses, future request will be made to Capital Committee prior to contract award

ATTACHMENT D:
CHAMPLAIN PARKWAY
CHA AMENDMENT NO. 19



February 9, 2024

Norman Baldwin, P.E.
City Engineer and Assistant Director
City of Burlington
Department of Public Works
645 Pine Street, Suite A
Burlington, VT 05402

Re: Champlain Parkway; Southern Connector MEGC – M5000 (1); CHA File: 8659.

Dear Mr. Baldwin:

By way of this letter, we are requesting Amendment No. 19 to our agreement to continue to provide engineering services under the above-referenced project by and between the City of Burlington DPW and Clough Harbour & Associates LLP (CHA). As requested, we have prepared the scope and the contract total for this amendment request to provide continued engineering support to the City of Burlington DPW related to:

- Task 1: Final Contract/PM/Coordination (expanded or new tasks anticipated not included in the prior scope or amendment requests)
- Task 2: Final Contract Engineering Support During Construction

This Amendment No. 19 request totals additional compensation of \$890,450.00 for CHA and Stantec. This request will increase the Maximum Limiting Amount for the Agreement from \$13,992,929.18 to \$14,883,379.18.

If you have any questions or require additional information, please contact Dale Gozalkowski or me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Faulkner', with a stylized flourish at the end.

Robert Faulkner, P.E.
Partner

A handwritten signature in black ink, appearing to read 'Dale E. Gozalkowski', with a small dot at the end.

Dale E. Gozalkowski, P.E.
Project Manager

Assumptions

- The Final Construction Contract will be designed and constructed in accordance with the 2011 Standard Specifications for Construction.
- The Final Construction Contract will be based on the work shown on the Contract Plans dated August 2019. This proposed work will also be split into construction phases. The rehabilitation of Pine Street from Kilburn Street to the Main Street intersection will be one phase. This includes the installation of traffic signals at the Pine Street and Maple Street intersection, the Pine Street and King Street intersection and the Pine Street and Main Street intersection. Another phase will include portion of the Parkway from I-189 to Home Avenue. This section of the highway will be constructed but not opened to traffic until all other construction is complete.
- The Final Construction Contract will be constructed as described in the 2020 LS DSEIS and 2021 LS FSEIS.
- The bid documents will originate from the August 2019 Contract Plans submission (which is based on the 2011 Standard Specifications for Construction) and update them with the City's and VTrans' latest policies.
- The Final Construction Contract will have one bid advertisement no later than July 1, 2024. There will be no more than two bid addendums issued during the bidding process.
- One bid analysis will be performed for the Final Construction Contract which will result in a recommendation for an award and it will lead to a timely award to the lowest qualified bidder in accordance with federal, state, and city policies.
- No additional right-of-way will be required to construct the Final Construction Contract.
- No additional traffic modeling will be required prior to opening any phase of the Initial Construction Contract.
- VT DEC will accept the Notice of Termination (NOT) areas associated with Individual Discharge Permit for Stormwater Runoff From Construction Activities Permit (3368-INDC.R) permit identified in February 2024 as complete and they will be removed from consideration for future construction stormwater permits on the Parkway project.
- The construction of the Final Contract will advance as noted in the South End Construction Project dated February 2024 which included construction of this project beginning in the third quarter of 2024 and completed by July 1, 2026.
- Modifications to the Parkway's Act 250 permit for any changes to the project occurring after January 1, 2024 will be accomplished by Jurisdictional Opinion and/or Administrative Amendments.

Task 1: Final Contract/PM/Coordination (expanded or new tasks anticipated not included in the prior scope or amendment requests)

- Address unique bid conditions that have evolved since the 2019 design plans were developed
- Redesign traffic signals at Pine Street and Maple Street, Pine Street and King Street and Pine Street at Main Street to incorporate Miovision traffic detection and management instead of the emergency vehicle preemption/transit signal prioritization provisions from the Contract Plans dated August 2019.
- Redesign the traffic signals to incorporate latest Econolite controller technology and modifying the design to include a meter on a separate post near the respective controllers.
- Develop and obtain approval for PIFs associated with the traffic signal equipment.
- Creation of the Bid Documents involving iterative and regular interaction with VTrans' and the City's personnel due to the unique combination of the urban construction and the advancements in the industry since use of the 2011 Standard Specifications for Construction was commonly used statewide. This involves comparison and modification of the current notice to bidders and other special provision nuances associated with the current VTrans and municipal bidding process to the ones in place when the last bids were advanced using the 2011 Standards for Construction.
- Effort required to create unit prices since VTrans no longer supports the 2011 Standards Specifications for Construction. This involves comparing current 2018 Standard Specifications for Construction specification content (where applicable) to the 2011 Standard Specifications and the passage of time since the last 2011 Standard Specifications for construction unit prices were updated and the actual time of the bid advertisement. Regression analysis for construction items that have unit prices that vary with the quantity with using current data and industry trends
- Traffic control plan coordination and refinement based on nuances of the site combine with situations encountered during the Initial Contract.
- Perform field inspection of the current condition of the Ramp B box culvert and provide the City and VTrans a summary of its condition on January 25, 2024.
- Perform field inspection of the current condition of the Potash Brook culvert under the Parkway and Queen City Park Road and provide the City and VTrans a summary of its condition on January 25, 2024.
- Obtain and review record drawings from prior Parkway construction which are being used to assess the U.S. Route 7 bridge pier protection needs and design.
- CHA will work with the City and VHB regarding the Main Street – Great Streets coordination including efforts to blend the work limits of these two concurrent projects. This includes pavement limits, digital file work sharing, traffic signal redesign, street lighting redesign, new PIFs, technical special provisions, meetings, and coordination of the entire bidding package.
- Met with VTrans to discuss the current U.S. Route 7 bridge pier protection provisions on January 8, 2024 determined a conceptual approach and shared a construction cost estimate prior to VTrans directing CHA to design median modifications that will be included in the Final Contract
- Performed field reconnaissance to support the U.S. Route 7 bridge pier protection needs and design on January 25, 2024.
- As requested by the City, CHA revised the design of the Final Contract to remove all existing bituminous concrete pavement and perform subbase improvements within the unopened portion of the Parkway (including the ramps not currently carrying traffic) prior to providing a completely new bituminous concrete pavement section.
- Review Parkway record drawings and revise the project's digital files including base mapping, plans, and cross sections to incorporate the modifications to the existing utilities including the installation of a 6" sleeve under the Parkway roadway during the previous Parkway construction.
- Coordination with the City, VTrans, and BED involving the U.S. Route 7 interchange street lighting needs.

- Coordinating with the City, City of South Burlington, and VTrans and the Initial Contract's and Final Contract's contractors regarding the Section 1111 permit as well as maintenance and jurisdiction considerations.
- Based on the actual pavement depths encountered during the rehabilitation of Pine Street during the Initial Contract, the City directed CHA to evaluate a range of pavement rehabilitation efforts that included cold planing and paving, removing all existing pavement and repaving with 6 ½" of new bituminous concrete pavement, removing all existing pavement and repaving with 6 ½" of new bituminous concrete pavement along with one or two subbase courses. In addition to the estimation of the pavement rehabilitative efforts, this required estimation of the non-participating cost associated with handling the contaminated soils.
- As discussed with FHWA and VTrans, the City requested CHA performed additional efforts to verify the location of existing subsurface utilities. This included collaborating with the SDK team to perform potholing on Pine Street. This including creating and sharing plans and providing coordinates for the features that we anticipated as well as modifying them when the testing determined that the locations were different than the base mapping showed.
- As directed by the City and VTrans based on discussions with FHWA, CHA developed a subsurface exploration contract to perform pavement corings within the limits of the Final Contract on Pine Street. This included developing a set of bid documents with layout to solicit prospective bidders to providing drilling as well as traffic control services. CHA entered an agreement with the subcontractor to advance this work. Laboratory testing was also required for the soil samples obtained at these pavement coring locations.
- As directed by the City and VTrans based on discussions with FHWA, CHA developed a subsurface exploration contract to complete borings for overhead sign structures on U.S. Route 7 (Shelburne Road/Shelburne Street) and I-189. This included developing a set of bid documents with layout to solicit prospective bidders to providing drilling as well as traffic control services. CHA entered an agreement with the subcontractor to advance this work. Laboratory testing is also required for the soil samples obtained at these pavement coring locations.
- As discussed with the City and VTrans, CHA revised the design of the pavement rehabilitation on I-189 to incorporate fine milling and placing bonded wearing course on up to the point where the interchange pavement markings changed due to the revised interchange configuration. These changes also incorporated the changes to the Ramp C configuration recommended by Contract Plans dated August 2019.
- As requested by City personnel, CHA has revised the design of the Pine Street and Main Street intersection to match the proposed curb lines being proposed by the Main Street – Great Streets project. This also includes modifying the proposed traffic signal design to reflect the pedestal signal poles. The proposed location of the pedestrian pushbutton poles has been modified to locations which were consistent with current ADA guidelines. These locations as well as the street lighting now being designed by BED and the traffic signal poles progressed through several iterations and will now be result in combination traffic signal poles with lighting.
- CHA evaluated the intersection capacity analysis associated with the Great Streets – Main Street proposed design in order to verify that change in the proposed intersection configuration could be incorporated into the Parkway design considering the various permit conditions applicable to the Parkway. CHA will assist the City in obtaining the necessary approvals to bring key elements of the Great Streets – Main Street design into the Final Contract construction. These include proposed curb lines, the combination traffic signal/light poles, intermediate, and final bituminous pavement courses.
- Coordinated with Michael Adams from US ACOE to determine the appropriate manner in which to maintain permit coverage for the overall Parkway project. It was determined that the existing Vermont Wetland Permit could not be extended and that a new Vermont Wetland Permit was

required. CHA prepared and submitted the application and supporting information to obtain that permit coverage while maintaining continuous coverage.

- Met with VT DEC on January 29, 2024 to discuss Construction Stormwater Discharge Permit coverage for the entire Parkway project based on two construction contracts and schedules. VT DEC verified that the current INDC.R permit can't be extended and that a new application for permit coverage following current requirements needs to be prepared and submitted.
- Assisted EIV with the Notice of Termination associated with the Parkway's Individual Discharge Permit for Stormwater Runoff From Construction Activities Permit (3368-INDC.R) permit for the areas that were deemed to be complete.
- Preparing the revised erosion prevention and sediment control and construction sequencing plans associated with the unfinished portions of the Initial Contract and the Final Contract. These will be used to obtain construction stormwater discharge permit coverage for both projects.
- Obtain environmental permits coverage based on the latest anticipated construction schedule including Act 250 permit updates.

Task 2: Final Contract Engineering Support During Construction

- Construction is anticipated July 1, 2024 through July 1, 2026

Clough Harbour & Associates LLP
STAFFING ESTIMATE
Champlain Parkway MEGC-M5000(1)

TITLE	ASCE (A) or NICET (N) GRADE	Task 1: Initial Contract/PM/Coordination	Task 2: Final Contract/PM/Coordination	PROJECT TOTAL HOURS	PROJECTED HOURLY RATE	TOTAL COST
Senior Principal Engineer	VII (A)	12	0	12	\$105.00	\$1,260.00
Principal Engineer	VI (A)	540	200	740	\$90.00	\$66,600.00
Senior Engineer	V (A)	400	100	500	\$67.00	\$33,500.00
Project Engineer	IV (A)	800	200	1000	\$55.00	\$55,000.00
Asst. Project Eng.	III (A)	840	100	940	\$42.00	\$39,480.00
Principal Eng. Tech	IV (N)	40	0	40	\$57.00	\$2,280.00
Senior Eng. Tech.	III (N)	200	0	200	\$44.00	\$8,800.00
Prin. Traffic Engineer	VI(A)	20	8	28	\$85.00	\$2,380.00
Transportation Engineer	V (A)	80	40	120	\$57.00	\$6,840.00
Traffic Engineer	II (A)	40	40	80	\$40.00	\$3,200.00
		2972	688	3660		\$219,340.00

Clough Harbour & Associates LLP
Champlain Parkway MEGC-M5000(1)

Reimbursable Direct Expenses

1. Vehicle Mileage									
to Montpelier or Barre		0 trip(s)	x	360 miles / trip	x	\$ 0.655	/ mile	=	\$0.00
to Burlington		0 trip(s)	x	300 miles / trip	x	\$ 0.655	/ mile	=	\$0.00
TOTAL VEHICLE MILEAGE									= \$0.00
2. Lodging and Meals									
			1 person	x	1 night(s)	x	\$153.73	/ night	= \$153.73
			person	x	0 day(s)	x	\$69.00	/ day	= \$0.00
3. Geotechnical subcontractors for overhead sign structures and pavement corings (estimated)									= \$62,130.00
4. Laboratory testing (estimated)									= \$6,320.00
5. Expendable Supplies, Equipment and Materials (estimated)									= <u>\$0.00</u>
TOTAL DIRECT NON-SALARY COSTS									\$68,603.73

BREAKDOWN OF COSTS

CONSULTANT:	Clough Harbour & Associates LLP
PROJECT NAME:	Champlain Parkway
PROJECT NUMBER:	MEGC-M5000(1)
PHASE (if applicable):	
PAYMENT METHOD:	Actual Cost plus Fixed Fee

Total Direct Labor Cost:	\$219,340.00
Overhead Cost @ 134.00% of Direct Labor: (2022 Audited FAR - Home Office)	\$293,915.60
Fixed Fee:	\$61,590.67
Total Reimbursable Direct Expenses:	\$68,603.73
Subconsultant Costs:	
Stantec:	\$247,000.00
Saratoga Railroad Engineering:	\$0.00
VHB:	\$0.00
TOTAL COST FOR CONSULTANT:	\$890,450.00

BREAKDOWN OF
AMENDMENT NO. 19

Consultant: Clough, Harbour & Associates LLP

Contract No.: E86-218200

Project Name: Southern Connector/Champlain Parkway

Project Number: MEGC-M5000(1)

Last State Audit

Submittal Year 2022

Date 2/9/24

Work Item	Direct Labor	Overhead	Fixed Fee	Direct Costs	Subconsultants	TOTAL
Task 1 - 2	\$219,340.00	\$293,915.60	\$61,590.67	\$68,603.73	\$247,000.00	\$890,450.00
TOTAL	\$219,340.00	\$293,915.60	\$61,590.67	\$68,603.73	\$247,000.00	\$890,450.00

BREAKDOWN OF
AMENDMENT NO. 19

Consultant: Clough, Harbour & Associates LLP

Contract No.: E86-218200

Project Name: Southern Connector/Champlain Parkway

Project Number: MEGC-M5000(1)

Last State Audit

Submittal Year 2022

Date 2/9/24

Prime Consultant	Previous Contract Amount	Amendment No. 19	TOTAL NEW CONTRACT
Direct Labor	\$3,455,141.14	\$219,340.00	\$3,674,481.14
Overhead	5,074,989.44	293,915.60	5,368,905.04
Fixed Fee	912,849.75	61,590.67	974,440.42
Direct Expenses	299,109.54	68,603.73	367,713.27
SUBTOTAL	\$9,742,089.87	\$643,450.00	\$10,385,539.87
Subconsultant			
Stantec Consulting Services, Inc.	\$3,190,700.00	\$247,000.00	\$3,437,700.00
Vermont Survey and Engineering, Inc.	336,256.81	0.00	336,256.81
Werner Archaeological Consulting	78,468.00	0.00	78,468.00
Richard A. Watts, Inc.	16,881.41	0.00	16,881.41
Resource Systems Group	88,927.72	0.00	88,927.72
University of Maine at Farmington	38,142.61	0.00	38,142.61
Saratoga Railroad Engineering, PC	86,320.00	0.00	86,320.00
PR Subconsultant	1,032.82	0.00	1,032.82
The Johnson Company	140,594.00	0.00	140,594.00
VHB	129,140.94	0.00	129,140.94
Hartigan Wastewater Services	114,000.00	0.00	114,000.00
Aquifer Drilling & Testing, Inc.	30,375.00	0.00	30,375.00
SUBTOTAL	\$4,250,839.31	\$247,000.00	\$4,497,839.31
TOTAL	\$13,992,929.18	\$890,450.00	\$14,883,379.18

Amendment 19 Breakdown



CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE CITY ENGINEER
645 PINE STREET, SUITE A
BURLINGTON, VT 05402
802.863.9094 P
802.863.0466 F
802.863.0450 TTY
WWW.BURLINGTONVT.GOV

February 26, 2024

Dale E. Gozalkowski, P.E.
Clough Harbour and Associates, LLP
111 Winners Circle
P.O. Box 5269
Albany, NY 12205-0269

Re: Amendment #19 to Contract #E86-218200

Dear Mr. Gozalkowski:

In accordance with Page 11 of the Agreement for Consultant Engineering Services dated October 14, 1999, the City of Burlington hereby authorizes Clough Harbour and Associates, LLP to proceed with the work detailed in the amendment dated February 9, 2024. This amendment makes the new contract amount \$14,883,379.18.

Please sign below as required and return the original to our office at the above address.

CLOUGH HARBOUR & ASSOCIATES, LLP

BY: _____

PRINTED: _____

TITLE: _____

CITY OF BURLINGTON, VERMONT

BY: _____

PRINTED: _____

TITLE: _____

ATTACHMENT E:
CHAMPLAIN PARKWAY
D&K AMENDMENT NO. 6



January 19, 2024

Norm Baldwin, P.E.
City Engineer
City of Burlington DPW
645 Pine Street, Suite A
Burlington, VT 05402

Re: Champlain Parkway, Burlington MEGC M5000(1)
D&K Contract Amendment #6

Dear Norm,

By way of this letter, we are requesting an amendment to our contract agreement for Municipal Project Management Services for the Champlain Parkway Project. This amendment request involves an extension to the expiration date, an increase in the contract value (MLA), and a new billable rate (for 2024-2025).

Our original contract agreement was executed on July 19th, 2018 with a one-year contract term and a maximum limiting amount of \$197,485.00. Since that time, the contract has been amended five times, four to just extend the contract duration and the fifth to both extend the duration and increase the MLA.

The purpose of this amendment is to facilitate the continuation of our MPM services through the life of the final Champlain Parkway construction contract (Final Contract). Work on this Final Contract began in the Fall of 2023 and it is anticipated to go out to bid in March 2024. Assuming all goes as planned, construction would likely begin in July 2024 and be substantially complete by the end of the 2025 construction season. Final acceptance of the project and the project closeout actions would likely continue to the end of 2026. Therefore, we request that the contract expiration date be extended to December 31, 2026.

D&K's Scope of Work for this project remains the same, following the basic general tasks and duties for VTrans Municipal Assistance Municipal Project Management, assisting the City with the management and administration of the Champlain Parkway Project. D&K will continue to assist the City through the completion of the Initial Contract construction and closeout of that project, which will overlap with the development of the Final Contract bid documents and project construction.

As experienced to date on the project, the specifics of D&K's services vary from task to task, as does the effort involved, dependent on the project's and the City's needs at the time. This arrangement is flexible, which is beneficial, as the project's needs are rarely predictable. However, this makes it difficult to develop a task-based fee estimate. So, rather than trying to do so, we will approach this as we did for Amendment #5, and assume a weekly level of effort for the duration of the Final Contract. Based on D&K's efforts during the Initial Contract to

date, 10 hours per week, on average, is a reasonable estimate, so that is what I have used to determine the MLA adjustment value. I have also used an average labor rate for the duration, using D&K's current loaded rate as the base and increasing approximately 5% annually. Lastly, I assumed that our current MLA will be expended by the time this amendment is executed.

Fee Estimate:

Labor Hours: 150 weeks x 10 hours = 1,500 hours;

Average Loaded Labor Rate (2024-2026): \$210 per hour;

Amendment #6 additional MLA request = \$315,000.00

Original Contract Value:	\$197,485.00
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Current Amended Contract Value:	\$425,485.00
---------------------------------	--------------

Requested (Amendment #6) Contract Value:	\$740,485.00
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It is understood that this is the not-to-exceed value for the contract, not a guaranteed fee, and that the actual value will be based on hours worked.

Amendment #4 added the ability to renegotiate the actual billable rate(s), to be done each year prior to July 1. That amendment set the 2022-2023 billable rate at \$180/hr. We did not adjust that rate for 2023-2024. For the 2024-2025 billing year, we request the rate be increased to \$197/hr. This adjustment accounts for the actual direct pay increase in 2023 and the anticipated direct pay increase coming in early 2024. It also reflects our current audited overhead rate.

Please contact me if you have any questions or wish to adjust the requested value by modifying any of the assumptions.

Sincerely,



Kenneth A. Robie, P.E.
Senior Project Manager
DuBois & King, Inc.

**SIXTH AMENDMENT TO THE AGREEMENT BETWEEN DUBOIS & KING, INC
AND THE CITY OF BURLINGTON REGARDING CHAMPLAIN PARKWAY
MUNICIPAL PROJECT MANAGEMENT SERVICES**

Sixth Amendment to the Agreement Between DuBois & King, Inc. and The City of Burlington regarding Champlain Parkway Municipal Project Management Services (the “Sixth Amendment”) is made and entered into as of the _____ day of February, 2024, by and between the City of Burlington, a Vermont municipal corporation (“City”), and the DuBois & King, Inc. (“Consultant”) (collectively, “the parties”).

Background

A. The parties entered into that certain agreement, dated as of July 19, 2018 (the “Agreement”) in order to assist the City with municipal project management of the Champlain Parkway Project.

B. The parties agreed the Consultant will assist the City with our municipal responsibilities with the project assisting with meetings, submittals, coordination with other stake holders, and generally acting on the City’s behalf when directed.

C. The parties entered into the following previous Amendments:

- 1) First Amendment dated August 29, 2019 for the purposes of extending the expiration date of the original agreement from July 19, 2019 to June 30, 2020.
- 2) Second Amendment dated June 25, 2020 for the purposes of:
 - a) Updating the labor hour table and Consultant staff assignments; and
 - b) Extend the expiration date of the Agreement from June 30, 2020 to June 30, 2021.
- 3) Third Amendment dated June 16, 2021 for the purposes of extending the expiration date from June 30, 2021 to June 30, 2022.
- 4) Fourth Amendment dated July 26, 2022 for the purposes of:
 - a. Updating the Labor Hour Rate for the MPM;
 - b. Extend the expiration date of the Agreement from June 30, 2022 to June 30, 2025; and
 - c. Agree to an annual renegotiation of rates each year of the contract prior to July 1 of that year.

5) Fifth Amendment dated July 26, 2022 for the purposes of:

- a. Increase the MLA by \$228,000.00 from \$197,485.00 to \$425,485.00 to continue the scope of services through the completion of the Initial Construction contract.

D. The parties desire to enter into this Sixth Amendment in order to:

- 1) Updating the Labor Hour Rate for the MPM;
- 2) Extend the expiration date of the Agreement from June 30, 2025 to December 31, 2026; and
- 3) Increase the MLA by \$315,000.00 from \$425,485.00 to \$740,485.00 to continue the scope of services through the completion of the Initial Construction contract, and the Final Construction contract.

NOW THEREFORE, in consideration of the Background described above and other good and valuable consideration, IT IS AGREED by and between the City and Dubois & King, Inc. as follows:

1. Extend the expiration date of the Agreement from June 30, 2025 to December 31, 2026; and
2. Increase MLA by \$315,000.00 from \$425,485.00 to \$740,485.00
3. Except as specifically amended by the terms of this Sixth Amendment, the Agreement remains in full force and effect. Unless specifically defined in this Sixth Amendment, all terms shall have the meanings contained in the Agreement.

IN WITNESS WHEREOF, this Sixth Amendment is executed as of the day and date first above written.

**CITY OF BURLINGTON, VERMONT
DEPARTMENT OF PUBLIC WORKS**

**DUBOIS & KING, INC
PO BOX 339, RANDOLPH, VT 05060**

By: _____
Chapin Spencer
Director of Public Works
Duly Authorized Agent

By: _____

Duly Authorized Agent

Date: _____

Date: _____

ATTACHMENT F:
CHAMPLAIN PARKWAY
WSP AMENDMENT NO. 2



January 14, 2024

Mr. Corey Mims, P.E.
Senior Public Works Engineer
Department of Public Works
645 Pine Street
Burlington, VT 05401

Re: Champlain Parkway MEGC 5000(1) Construction Inspection Services (CIS) – Amendment #2
Ref: City of Burlington, VT - CIS Contract Agreement for Champlain Parkway – Amendment #1, Initial Contract
City of Burlington, VT - CIS Contract Agreement for Champlain Parkway – November 2019

Dear Mr. Mims,

As requested, please find enclosed the following documents:

- Initial Contract (IC) – Cost to Complete Budget Estimate, dated October 31, 2023
- Final Contract (FC) – Full Term Budget Estimate, dated January 10, 2024

The IC removed most of the original construction work, south of Home Avenue and north of Kilburn, along Pine Street. While the construction work limits were reduced, the IC calendar stayed the same as the original one anticipated by the City, in 2019. Likewise, the CIS scope as enumerated in the referenced Agreement remained the same, but added additional scope for website branding, coding and design, integration, and maintenance. There were multiple circumstances during the last 18-months that led to significantly higher staff utilization namely SDK's aggressive schedule and resequencing, the extended seasonal calendar, and stretched work hours, differing site/changing conditions, and the substantial, increased public information efforts, along the entire corridor.

The IC cost-to-complete and the FC full term budget estimates include allocated staff and associated direct expenses, supporting ongoing services through December 2026, which include; resident engineering, construction inspection and overall administration, public information and outreach, stormwater environmental monitoring and reporting, Corrective Action Plan oversight and compliance, materials sampling and testing, and on-call technical resources such as schedule analysis and railroad signal equipment start-up, and commissioning review.

There are some assumptions, exclusions, or conditions, worth noting, but which may change, between now and 2025:

- 1) The IC construction is expected to finish in June 2024, with closeout and final acceptance by December 2024, based on SDK's latest construction schedule.
- 2) The FC construction period is assumed to be:
 - a. Advertise in March 2024

WSP USA Inc.
10 Al Paul Lane, Suite 103
Merrimack, NH 03054

wsp.com



- b. Notice-to-Proceed in July 2024
 - c. Substantial completion in December 2025
 - d. Finish work and final acceptance by July 2026
 - e. Closeout and finals by end of 2026
- 3) We have assumed the IC closeout (FINALs) period to start at construction completion in July 2024 and extend until the end of 2024. It may be more or less, depending on SDK's actual completion date, and their responsiveness to provide the required documentation in a timely manner. Of course if the FC calendar holds true, there could be IC staff overlap, with potential task savings, but it depends on the actual bid schedule, and the contractor's start-up intentions, all unknown now.
- 4) For the purposes of the Amendment #2, it's understood that the City wishes to identify a new end date for the contract. We recommend December 31, 2026, which should allow sufficient time for closeout, and for any lagging warranty issues, or for late growing season needs that the contractor may have for landscaping items.
- 5) For the purposes of Amendment #2, it's understood that the City wishes to increase the contract fee. Shown below is the fee history, including the necessary increase within Amendment # 2.

Contract Fee Summary	
Original Contract	\$3,834,276
Amendment 1	\$0
Amendment 2	\$4,108,984
New Contract Fee Summary	\$7,943,260

The attached IC and FC budget estimates were developed using direct labor rates and the appropriate audited overhead multipliers, which comply with the Federal Acquisition Regulation policy. The rates and audited overhead multipliers will be adjusted annually.

Thank you for continuing to have trust and confidence in WSP's performance. We look forward to working you and the city's team to finish this significant project. If there are any questions, or clarifications, please do not hesitate to contact me either by E-Mail jim.anderson@wsp.com or by mobile phone 617-501-7066.

Very Truly Yours,
WSP USA Inc.

James D. Anderson
Senior Vice President
New England District Manager
PM/CM Services

Cc: Norm Baldwin
Ken Robie

**SECOND AMENDMENT TO THE AGREEMENT BETWEEN
WSP USA INC. AND
THE CITY OF BURLINGTON
REGARDING CHAMPLAIN PARKWAY CONSTRUCTION INSPECTION SERVICES**

A second amendment to the Agreement between WSP USA Inc. and The City of Burlington regarding Champlain Parkway Construction Inspection Services (the “Second Amendment”) is made and entered into as of the February _____, 2024, by and between the City of Burlington, a Vermont municipal corporation (“City”), and WSP USA Inc. (“Consultant”) (collectively, “the parties”).

Background

A. The parties entered into that certain agreement, dated as of November 7, 2019 (the “Agreement”) in order to provide construction inspection services for the Champlain Parkway Project.

B. The parties agreed the Consultant shall provide services necessary to facilitate the successful completion of the project under consideration as set forth in the Request for Qualifications from the Department of Public Works dated June 6, 2019 and Consultant’s proposal dated August 16, 2019.

C. The parties desire to enter into this Second Amendment in order to:

- 1) Update construction services budget estimate to align with finalizing work for the “Initial Contract” (IC);
- 2) Entering into an agreement to provide construction inspection services for the Final Contract (FC);
- 3) Update construction budget estimate to align with work for the FC;
- 4) Update project team; and
- 5) Extend the contract termination date to June 30, 2026.

NOW THEREFORE, in consideration of the Background described above and other good and valuable consideration, IT IS AGREED by and between the City and WSP USA Inc. as follows:

1. In Section 1. (Scope of Work), paragraph 1, the original text shall be revised as followed, with deletions struckthrough and additions underlined:

The CONSULTANT shall provide services necessary to facilitate the successful completion of the project under consideration as set forth in Request for Qualification from the Department of Public Works dated June 6, 2019 and CONSULTANT'S Proposal dated August 16, 2019 and CONSULTANT'S Revised Construction Inspection Services (CIS) Budget Estimate dated April 2022 January 2024 and associated letter dated April 26, 2022 January 14, 2024, which are incorporated herein and made a part of this Agreement. The outcome of this work is the completion of construction inspection services for the Champlain Parkway project.

2. In Section 3 (The Agreement Fee), Subsection A (General), the original text shall be revised as followed, with deletions struckthrough and additions underlined:

A. General. The CITY agrees to pay the CONSULTANT and the CONSULTANT agrees to accept as full compensation for performance of all services and expenses (including those of sub-consultants) encompassed under this Agreement, payment at the rates specified under the CONSULTATN'S scope of services and submitted to the CITY in CONSULTANTS Proposal dated August 16, 2019 and CONSULTANT'S Revised Construction Inspection Services (CIS) Budget Estimate dated April 2022 January 2024 and associated letter dated April 26, 2022 January 14, 2024.

3. In Section 2 (Beginning of Work and Termination), the original text shall be revised as followed, with deletions struckthrough and additions underlined:

This Agreement shall be effective upon execution and shall be completed on or before June 30, 2022 2026.

4. A new Attachment G named "CONSULTANT'S Revised Construction Inspection Services (CIS) Budget Estimate dated April 2022 and associated letter dated April 26, 2022" be added after Attachment F and will be adopted by reference and made part of this Agreement.

5. In Section 5 (Attachments), the original text shall be revised as followed, with deletions struckthrough and additions underlined:

The following attachments are adopted by reference and made part of this Agreement (Agreement Documents):

ATTACHMENT A - Construction Inspection Services proposal with itemized expenses, dated August 16, 2019

ATTACHMENT B - Burlington Standard Conditions for Consultant Services

ATTACHMENT C - Insurance Certificate(s) from CONSULTANT with the City of Burlington as an additional insured

ATTACHMENT D - Livable Wage Ordinance Form

ATTACHMENT E - Union Deterrence Form

ATTACHMENT F - Department of Public Works, Request for Qualifications, Construction Inspection Services, dated June 6, 2019

ATTACHMENT G - CONSULTANT'S Revised Construction Inspection Services (CIS) Budget Estimate dated ~~April 2022~~ January 2024 and associated letter dated ~~April 26, 2022~~ January 14, 2024

Order of Precedent. To the extent a conflict or inconsistency exists between the Agreement Documents, or provisions therein, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

1.ATTACHMENT D - Livable Wage Ordinance Form

2.ATTACHMENT E - Union Deterrence Form

3.ATTACHMENT B - Burlington Standard Conditions for Consultant Services

4.ATTACHMENT C - Insurance Certificate(s) from CONSULTANT with the City of Burlington as an additional insured

5.ATTACHMENT G - CONSULTANT'S Revised Construction Inspection Services (CIS) Budget Estimate dated ~~April 2022~~ January 2024 and associated letter dated ~~April 26, 2022~~ January 14, 2024

6.ATTACHMENT F - Department of Public Works, Request for Qualifications, Construction Inspection Services, dated June 6, 2019

7.ATTACHMENT A - Construction Inspection Services proposal with itemized expenses, dated August 16, 2019

6. Except as specifically amended by the terms of this Second Amendment, the Agreement remains in full force and effect. Unless specifically defined in this Second Amendment, all terms shall have the meanings contained in the Agreement.

— Signatures follow on the next page —

IN WITNESS WHEREOF, this Second Amendment is executed as of the day and date first above written.

CITY OF BURLINGTON, VERMONT

By: _____
Chapin Spencer
Director of the Department of Public Works
Duly Authorized Agent

WSP USA INC.

By: _____
Duly Authorized Agent

(Print Name and Position)



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine St. Suite A
Burlington, VT 05401
802.865.7200 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

TO: Burlington City Council

FROM: Chapin Spencer, DPW Director

CC: Norm Baldwin, Division Director – Technical Services
Corey Mims, Senior Public Works Engineer
Katherine Schad, CAO
Ashley Parker, Capital Program Director
Michele Boomhower, VTrans Director of Policy, Planning & Intermodal Development
Ande Deforge, VTrans Project Manager
Patrick Kirby, FHWA, Deputy Division Administrator

RE: **Supplemental Champlain Parkway Context**

Date: March 11, 2024

In conversations late last week, a couple City Councilors expressed an interest in having a supplemental memo that provides additional context on the Champlain Parkway project. This memo seeks to provide the additional context.

Design Context:

- Through decades of successful effort across multiple Administrations, the City has been able to right-size the Champlain Parkway project – from a four-lane divided highway to a two-lane 25mph city street that improves lake water quality
- Better environmental stewardship
 - Project removes nearly 12 acres from the combined sewer system
 - Project reduces sediment discharged to Lake Champlain by 6,344 pounds / year
 - Renews municipal utilities (water, wastewater, stormwater, electric) in key areas
- Better multi-modal transportation
 - Adds 2 miles of shared use paths and bike lanes
 - Adds crosswalks, raised intersections, transit shelters
 - Truck traffic in South End will have better interstate access that avoids residential streets
- Future flexibility
 - VTrans has provided written commitment to allow for future modifications along the corridor as the needs in Burlington's dynamic South End evolve

Upcoming Project Timeline

- March 11, 2024 – Requested Council action on budget and contract amendments
- April/May 2024 – Proposed Council work session on final construction contract

- May/June 2024 – Expected Council vote to execute final construction contract
- June 2024 – Home Ave. to Lakeside Ave. section of the Parkway opened to traffic
- July 2024 – Initial construction contract expected to be fully completed
- August 2024 – Final construction contract expected to get underway
- July 2026 – Final construction contract expected to be completed

Response to King-Maple Neighborhood Concerns

- Yes, traffic modeling for the Champlain Parkway alone projects an overall 9% increase in traffic in the southern end of downtown – but with the Railyard Enterprise Project and other South End projects, traffic in the southern end of downtown is projected to decrease below today’s traffic levels.
- The Champlain Parkway brings a greatly enhanced design to the Maple-King neighborhood to improve safety for all modes. The project features will include narrowed intersections, new signals with exclusive walk signals, removing truck traffic from lower Maple Street, and raised intersections, new crosswalks and new bike facilities along Pine Street.
- DPW Staff have met with representatives from the King Street Center and understand their interest in additional traffic calming features. Curb extensions at the Pine St & King St intersection are included as part of the Champlain Parkway project – and we will explore whether additional calming features are warranted on the King Street block between Pine St and St Paul St.
- The King-Maple neighborhood has benefitted from over \$5M of capital improvements (separate from the Parkway) over the last 5-7 years – one of the areas of greatest capital reinvestment across the City.

Requested 3-11-24 Council Actions:

Councilor Bergman requested a breakdown that shows the portion of each requested action that would go to the initial or final construction contracts. DPW staff has made our best efforts to estimate the amount of work each consultant contract would go to the initial construction contract (underway) and the final construction contract (upcoming).

REQUESTED CITY COUNCIL ACTION	Initial Contract	Final Contract
Utilize \$900K of capital bond proceeds	\$900,000	
Utilize additional \$80K of Street Capital funding*	\$80,000	
Increase design contract (CHA) by \$890,450	\$620,450 (est.)	\$270,000 (est.)
Increase project mgmt. contract (D&K) by \$315,000	\$0 (est.)	\$315,000 (est.)
Increase resident engineer contract (WSP) by \$4,108,984	\$383,411 (est.)	\$3,725,573 (est.)

*The additional Street Capital funds are coming from unexpended contingency funding from 2023’s paving budget and will not be deducted from the 2024 paving scope of work.

Overall Funding Context:

- Total projected Champlain Parkway construction phase cost: \$86M
- City’s two major financial commitments from 1998 agreement with the State of Vermont:
 - 2% of “participating costs” (~\$1.6M, 1.9% of total cost) – the City has agreed to pay 2% of costs that our Federal and State partners deem eligible expenses. These costs are being covered by the City’s street capital funding. It is important to note that this project is delivering far more paving and sidewalk work than the \$1.6M street capital contribution would be able to cover on its own.
 - 100% of “non-participating costs” (~\$5.5M, 6.4% of total cost) – the City has agreed to pay all of the costs for items that our Federal and State partners see as ineligible

(contaminated soils, additional utility upgrades, special elements/finishes). These costs are predominately being covered by the City's capital bonding.

- Total projected City match among all General Fund sources: ~\$7.1M or 8.3% of total cost. This is a very favorable arrangement for the City. Most Federal and State-funded projects require a 10-20% local match plus 100% of non-participating costs.
- Of the projected \$7.1M overall General Fund contribution, the City will need to budget approximately \$2.4M in FY'25 and FY'26 for the final construction contract (~\$738,000 from street capital and ~\$1.65M from General Fund capital). These funds will need to be allocated prior to authorizing the final construction contract.
- Our Federal and State partners have reserved tens of millions of dollars for this coming fiscal year to enable the City to get underway with the Parkway's final construction contract. They have let us know that if the City does not have the final construction contract awarded by sometime in June 2024, the funding may be reallocated for other pressing needs in the State.
- Additionally, the relationship with our Federal and State partners is especially important these days as their financial participation will be critical to funding large upcoming projects including the Burlington-Winooski Bridge (~\$60-80M), Great Streets Bank and Cherry Streets (~\$55M) and the Railyard Enterprise Project (~\$37M).

I hope this supplemental communication is helpful. Reach out with any questions (cspencer@burlingtonvt.gov).

Board of Finance and City Council Submission ChecklistDepartment: Public Works Department Submitter: Corey MimsTitle/Subject: Champlain Parkway Project FY24 Budget Amendment & Consultant Contract Amendments

	Approval:	Meeting Date:
☐	Board of Finance	3/11/2024
☐	City Council	3/11/2024
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	3/6/2024	Chapin Spencer
Mayor's Office informed and approved memo	Yes	3/5/2024	Jordan Redell
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Choose an item.		Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/6/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	9/6/2023	Kathrine Schad
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Choose an item.	
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



To: Board of Finance
City Council

From: Megan Moir, Division Director Water Resources
James Sherrard, Stormwater Program Manager

Date: March 11, 2024

Cc: Chapin Spencer, DPW Director

RE: Authorization to Accept MS4 Community Formula ARPA Grant Funds

REQUEST

The Department of Public Works, Water Resources Division seeks Board of Finance and City Council authorization for the acceptance of \$762,678 of American Rescue Plan Act (ARPA) funds through the execution of a MS4 Community Formula Grant agreement with the Vermont Department of Environmental Conservation (VTDEC). These funds will be dedicated to the design and/or implementation of stormwater management practices that help Burlington make progress towards meeting the goals of its Integrated Water Quality Plan (IP).

EXECUTIVE SUMMARY

Background

The purpose of the Municipal Separate Storm Sewer Systems (MS4) Community Formula Grant is to assist MS4 communities such as Burlington with permit compliance and to reduce the adverse impacts to water quality from urban stormwater runoff. Grant recipients must use the grant to design and/or implement eligible stormwater management practices that help the MS4 community make progress towards phosphorus reduction targets assigned within their Phosphorus Control Plan or IP. Burlington, as a community that has developed and integrated plan, may additionally assign these funds to other eligible stormwater management practices such as those addressing combined sewer overflow (CSO) discharges, projects reducing the phosphorus load to Lake Champlain, and projects identified in a Flow Restoration Plan (FRP). The Grant also allows applicants to accept funds without committing to a specific project if the City asserts that the chosen project/s will meet standard performance measures as outlined by the State. Knowing this, the City has chosen two separate projects for consideration, each of which has been deemed eligible under this grant by the State. These include a gravel wetland and CSO reduction projects which are discussed in more detail in the Project Funding section.

Match Requirements for the Grant

There is a 20% local match requirement (\$190,669.50) for this grant to result in a total water quality improvement expenditure of \$853,347.50. Fortunately, this local match can be met through “leveraging” in the form of demonstrated non-ARPA dollars spent on implementation of other eligible projects in the community that meet water quality goals laid out in a State approved clean water plan. Eligible projects include those taking place through a public private partnerships (P3) where the private

dollars that are spent in the community can be counted as this leverage. It is the intent of the Stormwater Program to leverage dollars expended on recently approved P3 project to meet this grant requirement.

Match Project: P3 Project with Pomerleau/CHT/Burlington¹

- DEC Grant # 06140-2022-ARPA-CWB-03 providing ARPA funding of \$705,000.
- Estimated construction cost totaling \$2.6 million.
- Private dollars covering the remaining costs total \$1.9 million.
- The entirety of the private dollars spent are eligible as leverage for the MS4 Community Formula Grant, thus meeting the 20% match/leveraging requirement.

Project(s) anticipated to be funded with the grant

The MS4 Community Grant Funds are anticipated to be used for the construction of a gravel wetland and at least one, if not two CSO reduction projects. The gravel wetland would be a design build project, while the CSO reduction projects would be solely a construction effort as the Stormwater Program already has 100% designs in place. This grant is flexible so long as project funds are spent on water quality improvements, so the final projects selected for funding can change as necessary.

Proposed Gravel Wetland

- Gravel wetlands are shown to have the best performance for phosphorus reduction; the proposed gravel wetland would improve the water quality for runoff coming from a residential area and City roadways which currently drains to Blanchard/Oakledge Beach, a public beach.
- *Estimated costs*
 - Design estimate has been obtained totaling \$55,000.
 - Gravel wetland would be approximately 12,000 ft² in size
 - A range of estimates for gravel wetland installations in S. Burlington from 2022 are summarized in the following table.

sf	Low	High	Low \$/sf	High \$/sf
31,000	\$ 265,000	\$ 540,000	\$ 8.55	\$ 17.42
13,300	\$ 136,500	\$ 207,000	\$ 10.26	\$ 15.56
22,700	\$ 150,000	\$ 305,000	\$ 6.61	\$ 13.44

- In 2022 dollars, the higher end estimate for a 12,000 ft² gravel wetland could approach \$210,000, if not more.
- Including design, capital costs, and 35% for contingency and RE services this project is currently estimated to cost \$360,000.

CSO Reduction Projects

- Two proposed locations for implementation are shown highlighted in green in the below table.

¹ Grant acceptance for this P3 Project was approved by City Council on June 5, 2023.

System #	Location	CSO	Cost	2022 Cost Estimate	Imp Managed (ac)	Infiltrated Volume (af)	P Reduction kg/yr	Est. \$/Imp. (ac)	Est. \$/Vol (af)
9	North Champlain	Above	\$327,079.80	\$542,952.47	1.918	0.326	3.26	\$283,082.62	\$1,665,498.37
10	Cedar	Below	\$237,042.89	\$393,491.20	2.584	0.324	4.33	\$152,279.88	\$1,214,479.00
13	Intervale	Below	\$297,304.56	\$493,525.57	2.748	0.418	4.69	\$179,594.46	\$1,180,683.18
12P1	Summer and Park	Below	\$171,392.24	\$284,511.12	2.649	0.344	4.52	\$107,403.22	\$827,067.21
12P2	Park	Below	\$73,111.83	\$121,365.63	1.13	0.155	1.94	\$107,403.22	\$783,004.10

- N. Champlain (System #9) is the highest priority system as it is located above an active combined sewer overflow outfall. Depending on the success and cost of implementing the gravel wetland, we may have additional funds remaining to contribute towards implementation of a second location (System #12P2) if we are able to contribute additional capital funds.

As the Grant allows project selection to be flexible, it is possible the Stormwater Program may select alternate phosphorus or CSO reduction projects for implementation.

ARPA funds must be expended by December 2026.

ATTACHMENTS

- FFA Standard Grant Agreement (ARPA Funding): FINAL_Burlington_06140-ARPA-CWF-MS4-02

MOTIONS

The Water Resources Division of the Department of Public Works respectfully requests the Board of Finance and City Council approve the following motions:

Board of Finance:

- To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute an MS4 Community Formula Grant Agreement with Vermont DEC for up to \$762,678 of ARPA funds for the design and implementation of stormwater management practices, subject to final review and approval by the City Attorney's Office.

City Council:

- To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute an MS4 Community Formula Grant Agreement with Vermont DEC for up to \$762,678 of ARPA funds for the design and implementation of stormwater management practices, subject to final review and approval by the City Attorney's Office.

STATE OF VERMONT GRANT AGREEMENT				Part 1-Grant Award Detail			
SECTION I - GENERAL GRANT INFORMATION							
1 Grant #: 06140-ARPA-CWF-MS4-02				2 Original ☒		Amendment # _____	
3 Grant Title: ARPA CWF-MS4							
4 Amount Previously Awarded:		5 Amount Awarded This Action:		6 Total Award Amount:			
\$0.00		\$762,678.00		\$762,678.00			
7 Award Start Date: Upon Signature		8 Award End Date: 09/30/2026		9 Subrecipient Award: YES ☒ NO ☐			
10 Supplier #: 0000040096		11 Grantee Name: Burlington City Treasurer					
12 Grantee Address: 149 Church Street, City Hall Room 22							
13 City: Burlington				14 State: VT		15 Zip Code: 05401	
16 State Granting Agency: Department of Environmental Conservation						17 Business Unit: 06140	
18 Performance Measures:		19 Match/In-Kind: \$190,669.50		Description: Programmatic Match			
YES ☒ NO ☐							
20 If this action is an amendment, the following is amended:							
Amount: ☐		Funding Allocation: ☐		Performance Period: ☐		Scope of Work: ☐ Other: ☐	
SECTION II - SUBRECIPIENT AWARD INFORMATION							
21 Grantee Identifier [UEI] #:		EN7YVLHMT773		22 Indirect Rate:		23 FFATA: YES ☒ NO ☐	
24 Grantee Fiscal Year End Month (MM format): 6				10.00 % (Approved rate or de minimis 10%)		25 R&D: ☐	
26 Entity Identifier [UEI] Name (if different than VISION Vendor Name in Box 11): City of Burlington							
SECTION III - FUNDING ALLOCATION							
STATE FUNDS							
Fund Type		27 Awarded Previously	28 Award This Action	29 Cumulative Award	30 Special & Other Fund Descriptions		
General Fund				\$0.00			
Special Fund			\$290,054.00	\$290,054.00	Clean Water Fund		
Global Commitment (non-subrecipient funds)				\$0.00			
Other State Funds				\$0.00			
FEDERAL FUNDS (includes subrecipient Global Commitment funds)					Required Federal Award Information		
31 CFDA#	32 Program Title	33 Awarded Previously	34 Award This Action	35 Cumulative Award	36 FAIN	37 Federal Award Date	38 Total Federal Award
21.027	Coronavirus State and Local Fiscal Recovery Fund		\$472,624.00	\$472,624.00	SLFRP4407	03/03/2021	\$1,049,287,303.00
39 Federal Awarding Agency: U.S. Department of the Treasury		40 Federal Award Project Descr: American Rescue Plan Act					
				\$0.00			
Federal Awarding Agency:		Federal Award Project Descr:					
				\$0.00			
Federal Awarding Agency:		Federal Award Project Descr:					
				\$0.00			
Federal Awarding Agency:		Federal Award Project Descr:					
				\$0.00			
Federal Awarding Agency:		Federal Award Project Descr:					
Total Awarded - All Funds		\$0.00	\$762,678.00	\$762,678.00			
SECTION IV - CONTACT INFORMATION							
STATE GRANTING AGENCY				GRANTEE			
NAME: Nicole Streeter				NAME: Chapin Spencer			
TITLE: Grants Specialist				TITLE: Director of Public Works			
PHONE: (802) 461-6668				PHONE: (802) 865-7000			
EMAIL: nicole.streeter@vermont.gov				EMAIL: cspencer@burlingtonvt.gov			



FFA - STANDARD ARPA GRANT AGREEMENT

1. **Parties:** This is a Grant Agreement between the State of Vermont, Department of Environmental Conservation (hereinafter called "State"), and Burlington City Treasurer with principal place of business at 149 Church St, City Hall Room 22, Burlington, VT 05401, (hereinafter called "Subrecipient"). It is the Subrecipient's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Subrecipient is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter:** The subject matter of this Grant Agreement is to assist Municipal Separate Storm Sewer Systems (MS4) Communities with MS4 permit compliance to reduce the adverse impacts to water quality of a discharge or stormwater runoff, pursuant to the federal American Rescue Plan Act of 2021 and the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions, attached hereto. Detailed scope to be provided by the Subrecipient are described in Attachment A.
3. **Maximum Amount:** In consideration of the scope of work to be performed, the State agrees to pay Subrecipient, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$762,678. Attachment B, Payment Provision provides details on how the grantee will be reimbursed. Up to \$290,054 in State Clean Water Fund (CWF) dollars can be used as match for the purpose of obtaining additional federal funds by the subrecipient without written approval from the State. The remaining federal American Rescue Plan Act dollars cannot be used as match for the purpose of obtaining additional federal funds by the subrecipient without written approval from the State.
4. **Procurement:** The Subrecipient certifies that for any equipment, supplies, and/or services outside of their organization, that they have and will follow their procurement policy.
5. **Ownership and Disposition Assets:** At the end of the grant term, Sub-awardee will retain any pipes, valves, pumps, tanks, or other equipment installed under the grant agreement and described in the scope of work for the same use and intended purpose as outlined in this agreement.
6. **Source of Funds:**

___ General	__X__ Federal	__X__ Other – State Clean Water Fund
\$	\$472,624	\$290,054

 - a. For grants funded with federal dollars only.

CFDA Title	Coronavirus State and Local Fiscal Recovery Fund
CFDA Number	21.027
Award Name	American Rescue Plan Act (ARPA) Vermont State Recovery Fund
Award Number	SLFRP4407
Award Year	2021
Federal Granting Agency	US Department of the Treasury
Research and Development Grant?	☐ Yes ☒ No
7. **Grant Term:** The period of Subrecipient's performance shall begin upon date of execution, signified by the date of signature by the State and end on September 30, 2026.
8. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Grant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Subrecipient. No amendment will be considered without a detailed justification to support the amendment request. Failure to provide an adequate justification may result in

the denial of the request. Any request for an amendment to this agreement must be made in writing at least 30 days prior to the end date of this agreement or the request may be denied.

9. Cancellation: This Grant Agreement may be cancelled by either party by giving written notice at least 30 days in advance.
10. Fiscal Year: The Subrecipient's fiscal year starts 7/1 and ends 6/30.
11. Work product ownership: Upon full payment by the State, all products of the Subrecipient's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, become the sole property of the State of Vermont and may not be copyrighted or resold by Subrecipient.
12. Attachments: This Grant consists of the following attachments that are incorporated herein:
 - Attachment A - Scope of Work to be Performed
 - Attachment B – Budget and Payment Provisions
 - Attachment C - Customary State Grant Provisions
 - Attachment D – Other Grant and Contract Provisions
 - Attachment F – State Fiscal Recovery Fund (SFR) Program Assurances
 - Attachment G- Terms and Conditions for Federal Subrecipients

Legal Name and Unique Entity Identifier (UEI) on File with the www.sam.gov (1):

City of Burlington
Print Legal Name

EN7YVLHMT773
UEI (2)

Did this business or organization (the legal entity to which the UEI provided belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?*

☐ Yes ☒ No

If yes, please list the top five highest paid senior executive salaries that are not available to the public:

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS GRANT.

STATE OF VERMONT

SUBRECIPIENT

By:

By:

Commissioner

Name: (Print) _____

Dept of Environmental Conservation

Title: _____

Attachment A

Scope of Work to be Performed

Part or All of the Scope May be Sub-Awarded

I. **Project Overview:** The purpose of the Municipal Separate Storm Sewer Systems (MS4) Community Formula Grant is to assist MS4 communities with MS4 permit compliance to reduce the adverse impacts to water quality of a discharge or stormwater runoff. Grant recipients must use the grant primarily to design and/or implement eligible stormwater management practices that help the MS4 community make progress towards phosphorus reduction targets assigned within their Phosphorus Control Plan (or Integrated Water Quality Plan). If a participating MS4 community has already achieved and reported to the State the phosphorus reduction targets assigned within their Phosphorus Control Plan (PCP), they may use these funds to design and/or implement other eligible stormwater management practices the MS4 community has identified as necessary to achieve the pollution reductions identified in any associated Flow Restoration Plans or other eligible MS4 Community Formula Grant projects that provide a phosphorus reduction benefit and will be reported to the State Stormwater Program.

Eligible MS4 Community Formula Grant projects are clean water projects that:

- A. Are preliminary (30%) design, final (100%) design, implementation stormwater or road projects as described in the Clean Water Infrastructure Program (CWIP) Project Types Table (available here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>),
- B. Meet all the applicable eligibility criteria in the most current CWIP Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>), and
- C. Are currently or plan to be listed in either the MS4 Community's Phosphorus Control Plan, Flow Restoration Plan, or Integrated Water Quality Plan or otherwise reported as a regulatory project to the State Stormwater Program.

Table 1: SFR Program Information

SFR Program	Infrastructure
SFR Expenditure Category	EC 5.6 Clean Water: Stormwater
SFR Project Name	MS4 Formula Award – City of Burlington
SFR Project ID No.	ANR-6140892207-011
Primary Place of Performance	149 Church St, Burlington, VT 05401
National Pollutant Discharge Elimination System (NPDES) Permit # (if applicable)	N/A
Public Water System ID # (if applicable)	N/A
Median Household Income for Service Area	\$50,089
Lowest Quintile Income for Service Area	\$9,344

II. **Statement of Need:** The Clean Water Service Delivery Act ([Act 76 of 2019: https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT076/ACT076%20As%20Enacted.pdf](https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT076/ACT076%20As%20Enacted.pdf)) established the Municipal Stormwater Implementation Grant Program to provide grants to municipalities to assist with their compliance efforts under regulatory stormwater permits. Per 10 V.S.A § 928 , “The Secretary shall administer a Municipal Stormwater Implementation Grant Program to provide grants to any municipality required under section 1264 of this title to obtain or seek coverage under the municipal roads general permit, the municipal

separate storm sewer systems permit, a permit for impervious surface of three acres or more, or a permit required by the Secretary to reduce the adverse impacts to water quality of a discharge or stormwater runoff.” The statutory intent of 10 V.S.A § 928 is met through four different funding initiatives. Since agencies and programs within the State of Vermont already provide grants to municipalities to attain permit compliance under the municipal roads general permit and the Stormwater General Permit 3-9050 (which includes stormwater management requirements for properties with three or more acres of impervious surface), this grant program is directed to Municipal Separate Storm Sewer System (MS4) communities to meet the final statutory intent of 10 V.S.A § 928.

III. Population Served: This will serve all the community residents of the City of Burlington. As of the 2020 Census the population of the City of Burlington is 44,595.

IV. Scope of Work: The subrecipient shall ensure the following are completed related to the MS4 agreement:

- A. Project eligibility screening and selection (with DEC Technical Project Manager (TPM) support as needed):
 1. Submit to TPM completed Project Eligibility Screening form for each proposed project, with identified list of permits needed (if applicable). Eligibility Screening Form is available here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>
 2. Submit proposed project information into ANR Online Clean Water Project – New Project Form (a step required in Project Eligibility Screening as well) (if applicable)
 3. Work with TPM to finalize and document initial portfolio of projects that will be pursued and supported with this award. TPM will provide MS4 Project Tracking and Reporting form for this.**
- B. Launch projects
 1. Update Project Status in Watershed Projects Database (WPD): Submit project funding information through ANR Online Clean Water Project – Update Form (if available). Otherwise, submit to TPM project funding information in format requested by TPM who will then update WPD with funding status and amount.
 2. Complete standard milestones and deliverables per project type as outlined in CWIP Funding Policy Appendix B: CWIP Project Types Table
- C. Quarterly check-ins with the State Technical Project Manager in format requested by TPM and quarterly progress reports on template to be provided by TPM (MS4 Project Tracking and Reporting form). Submit any other data as requested by the State.
- D. Final reporting and deliverables submission:
 1. Close out project in WPD: Submit ANR Online Clean Water Project – Project Closeout Form for each completed project (if available). Otherwise submit Final Performance Report Spreadsheet following standard required CWIP performance measures and BMP data.
 2. Submit final deliverables per project type as outlined in CWIP Funding Policy Appendix B: CWIP Project Types Table
 3. Submit final invoice
 4. Submit any other data as requested by the State

**TPM will review grantees’ proposed portfolio of projects to confirm eligibility, cost reasonability, and mutual understanding of leverage strategy and expected milestones and deliverables. Grantee may change which projects they are pursuing with the award dollars after consultation with and approval from the TPM following the same evaluation as applied to the initial portfolio of projects. Initial portfolio of projects should have a cumulative cost estimate at or above the award value. If portfolio of projects changes over time and cumulative estimated costs fall below the award value, grantee will only be eligible to invoice for total actual costs (not to exceed award value). A minimum of one project must be completed by the end of the grant agreement period. “Completed” is defined as achievement of all standard milestones, and submission, review and approval of all standard

deliverables for the project based on its Project Type, as outlined in the CWIP Project Types Table (available here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>)

V. Expected Responsibilities: The Subrecipient shall ensure the following responsibilities are met related to the MS4 agreement:

- A. Read the Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>), subsequent updates, and review or attend associated trainings. Contact CWIP staff with any questions, points of clarification, or needs for policy interpretation.
- B. Adhere to the CWIP Funding Policy and the State agreement terms and conditions. This includes but is not limited to:
 1. Ensuring proposed projects meet eligibility criteria,
 2. Performing due diligence to avoid or minimize natural and cultural resource impacts,
 3. Completing projects in alignment with standardized milestones and deliverables as listed in the CWIP Funding Policy Appendix B: Project Types Table and further described in the CWIP Funding Policy Appendix C: Project Types Table Explanation of Items, and
 4. Ensuring spent funds directly support the project's clean water purpose.
- C. Ensure projects do not run over budget. See CWIP Funding Policy Managing Project Spending section for more details (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>).
- D. Secure all local, state, and federal permits at the end of final design or at the start of the implementation phase and prior to any construction begins.
- E. Oversee subcontractor work, if applicable. This includes ensuring all subcontractor work proceeds in alignment with any guidance or direction provided by State staff, regulatory programs, and the CWIP Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>).
- F. Pause implementation/construction and contact the Vermont Division of Historic Preservation in the event that identifiable artifacts are discovered at a project site.
- G. Maintain timely reporting, invoicing, and proactive communication with the State Technical Project Manager.
- H. Maintain and comply with an up-to-date procurement policy.
- I. Meet and document leverage requirements. Grantee is responsible for at least 20% of the total "Project" cost and the state is responsible for up to 80% of the total cost. Attainment of phosphorus control plan goals can be considered a single "project" such that individual stormwater best management practices funded by the grantee can be used as in-kind leverage against a best management practice installed with award funds. More information on leverage requirements for this award including eligible sources of leverage and timing of leverage can be found in the CWIP Funding Policy (available here: <https://dec.vermont.gov/water-investment/cwi/grants#policy>).

Table 2. Milestone and Deliverables schedule:

Project Implementation	#	Milestone	Deliverable	Due Date
	1	Project eligibility screening and selection (with	a. Submit to TPM completed Project Eligibility	

		TPM support if necessary)	Screening form with identified list of permits needed (if applicable) b. Submit proposed project information into ANR Online Clean Water Project – New Project Form c. Initial portfolio of projects under pursuit documented in format requested by TPM.	
2	Launch Project		a. Update Project Status in WPD: Submit project funding information through ANR Online Clean Water Project – Update Form (if available). Otherwise, submit to TPM project funding information who will then update WPD with funding status and dollar amount. b. Complete standard milestones and deliverables per project type as outlined in Appendix B: CWIP Project Types Table	3 months from grant execution
3	Quarterly check-ins with and reporting to the State Technical Project Manager (TPM)		a. Engage in Progress Meeting with TPM quarterly. b. Submit Quarterly Progress Reports on MS4 Project Tracking and Reporting form	Due 3 days after the close of each quarter (December 29 th , March 29 th , June 28 th , September 28 th) for the life of the agreement.

			c. Submit any other data as requested by DEC	
Project Close-out	4	Deliverable Submission and Project Close-out	a. Close out project in WPD: submit ANR Online Clean Water Project – Project Closeout Form (if available). Otherwise submit Final Performance Report Spreadsheet following standard required CWIP performance measures and BMP data. b. Submit final deliverables per project type as outlined in Appendix B: CWIP Project Types Table c. Submit final invoice d. Submit any other data as requested by DEC	September 30, 2026
TOTAL BUDGET AVAILABLE (with a minimum of 10% held for final deliverables)				\$ 762,678

* Due dates for interim deliverables can be extended upon written approval by the State

VI. Results:

Grantees must provide reporting for both American Rescue Plan Act (ARPA) progress tracking as well as for Clean Water Fund results. The State will provide the MS4 Project Tracking and Reporting form to support these data requirements. Performance measures for both are listed below.

A. ARPA Performance Measures:

1. Percent of award dollars spent
2. Number of communities served
3. Number of clean water projects completed (this must be at least one by the end of the agreement period)

B. Clean Water Performance Measures:

Grantees are responsible for ensuring that selected projects meet all eligibility requirements enumerated in the most recent Clean Water Initiative Funding Policy. This includes selecting projects that meet the project type

definitions and will result in the standard performance measures outlined in the CWIP Project Types Table. For this grant program, the applicable standard clean water performance measures are listed below.

Table 3: Clean Water Performance Measures

Performance Measure	Project Type
a. Number of preliminary (30%) designs completed	Road Project – Preliminary Engineering Design Stormwater – Preliminary Engineering Design
b. Number of final (100%) designs completed	Road Project – Final Engineering Design Stormwater – Final Engineering Design
c. Number of drainage structures installed/repaired d. Linear feet of road drainage improved	Road Project – Implementation
e. Acres of impervious surface treated f. Acres of impervious surface removed (if applicable)	Stormwater – Implementation

VII. Evaluation: The Grantee shall comply with all milestones and deliverables outlined in the agreement and associated MS4 Project Tracking and Reporting form. Performance will be discussed and assessed during quarterly check-ins with the Technical Project Manager, with a focus on addressing challenges. Payment provisions will be cost-reimbursable contingent on satisfactory continued performance as evaluated at regular TPM check-ins.

VIII. Equity Impact: This is one of 15 agreements to provide funding to MS4 communities. The Total Program Budget is split across all agreements following a specific Formula. Guidance from Agency of Administration in its Bulletin 3.5 and Bulletin 5.0 requirements for programs supported by American Rescue Plan Act (ARPA) funds requires that equity considerations be applied when assigning funds or evaluating applications. Because this is a Formula Award with ARPA support, CWIP is complying with this directive by incorporating two equity factors in the calculation of the awards.

IX. Reporting:

A. Quarterly Reporting: Grantees are required to submit quarterly progress reports for the quarters ending December 29, March 29, June 28, and September 28 on the MS4 Project Tracking and Reporting form by the 3rd day after the end of each quarter. Grantee shall also meet with the TPM on or shortly before the end of each quarter to discuss progress and review the MS4 Project Tracking and Reporting form content. Frequency of meetings may be adjusted at TPM discretion.

B. The State will submit required ARPA reporting on behalf of the Subrecipient.

C. Final Reporting: Grantees are required to follow project close out procedures by submitting the ANR Online Clean Water Project – Project Closeout Form (if available) otherwise are required to submit

a Final Performance Report Spreadsheet to the TPM, and any other data as requested by the State.

X. Other Requirements:

- A. Subrecipient will own and operate and maintain (in good condition) the Project for its useful life (or cause it to be so operated and maintained).
- B. Subrecipient shall follow prevailing Vermont Wage Rate.
- C. When bidding contracts using Federal funds, the Subrecipient must consider applicable Federal procedures for solicitation and award and required contract clauses. The basic authority for the Federal requirements, the Federal Office of Management and Budget's "Uniform Guidance", is 2 CFR Part 200. <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1> .
- D. The Grantee is responsible for ensuring that all standard milestones and deliverables as listed by project type in the most current CWIP Project Types Table are complete and submitted, and that they report on all standard performance measures for the funded project type. The current CWIP Project Types Table can be found as a stand-alone excel spreadsheet here: <https://dec.vermont.gov/water-investment/cwi/grants/resources#ProjectTypes>.
- E. Submitted deliverables may be made publicly available on the Watershed Projects Database.

Attachment B

Payment Provisions

1. This is a performance-based grant with cost-reimbursable terms. Grant recipients may submit invoices (as opposed to proof of payment) to demonstrate incurred costs. Grant recipients should follow payment provision guidelines enumerated in the grant agreements. 10% of the full award amount will be held until all deliverables have been received and approved by the TPM. Grant recipients may invoice no more frequently than monthly. Payment is contingent on continued satisfactory performance.
2. The "Budget Categories" in the Form 430, attached, are eligible for payment associated with deliverables outlined in Table 2.
3. The State will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. The State may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

4. Risk-Based Assessment:

Risk Level: Moderate

Risk Level	Monitoring Requirements
Moderate	- Grantee is required to submit biannual progress report. Progress report must include: summary of progress made on deliverables within reporting timeframe, milestone status updates, technical/cost/schedule issues encountered, and work planned for next period.

- a. These monitoring requirements are required deliverables even when not listed explicitly in the deliverables table in Attachment A.
 - b. If you are required to have a Single Audit, you are to report to Vermont DEC the audit, findings, Management Response Letter including corrective actions within 9 months after the end of your fiscal year.
5. Final Payment: Final payment will be paid upon receipt and satisfactory review of all deliverables, as described in the scope of work, a final financial report documenting expenditure of 100% of grant funds, and where appropriate, documentation of required match.
6. The Subrecipient shall:
- ☒ Maintain a copy of all receipts on file for review upon request by the State,
- ☐ Include a copy of all receipts for costs requested for reimbursement.
- ☐ Other:

7. Other Provisions

- a. All invoices must be received within 90 days after the end date of this agreement. Any invoices received after 90 days may not be honored.
- b. Subrecipient is conferred blanket approval from the State to execute any subgrant or subcontracts associated with this Agreement and related amendments according to Attachment C, #19. As part of the procurement process, the Subrecipient must verify and document that none of its subcontractors/subgrantees are listed on the federal debarment list located at <https://sam.gov/content/home> or the State debarment list maintained by the Vermont Buildings and General Services (BGS) and located at: <https://bgs.vermont.gov/purchasing-contracting/debarment>. Both the name of the entity and name of the primary point of contact must be checked.

Upload all completed forms to: <https://anronline.vermont.gov/home>



Vermont Department of Environmental Conservation

Agency of Natural Resources

Form 430 Request for Funds

Form must be filled out entirely before payment is released

Subrecipient Name: **Burlington City Treasurer** Grant #: **06140-ARPA-CWF-MS4-02**

Date Range: Payment#: Amount Requested:

<u>Invoice Table: Budget Categories</u>	Budget Amount	Amount Requested	Amount Previously Requested	Remaining Amount
1 – (Match eligible) - Project Implementation	\$ 472,624.00			
2 - (non-match eligible) - Project Implementation	\$ 213,786.20			
3 - (non-match eligible) Project Closeout (A minimum of 10% of total award held until final deliverables received)	\$ 76,267.80			
Total	\$ 762,678			

Approvals for Payment

Signed by:

Subrecipient: _____ Date: _____

Title: _____

The Subrecipient certifies that deliverables being billed on this invoice have been completed as outlined in the grant agreement.

Please upload this form to: <https://anronline.vermont.gov/home>

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED DECEMBER 4, 2023

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee, or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. 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 regarding 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:

- A. 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.

- B. 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.
- C. 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.
- D. 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 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: During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: [https://aoa.vermont.gov/Risk- Claims-COI](https://aoa.vermont.gov/Risk-Claims-COI).

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: Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) 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. Use and Protection of State Information:

A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").

B. With respect to State Data, Party shall:

- i. take reasonable precautions for its protection;
- ii. not rent, sell, publish, share, or otherwise appropriate it; and
- iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.

- C. With respect to Confidential State Data, Party shall:
- i. strictly maintain its confidentiality;
 - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
 - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
 - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
 - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
 - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.3 above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
- i. industry-standard firewall protection;
 - ii. multi-factor authentication controls;
 - iii. encryption of electronic Confidential State Data while in transit and at rest;
 - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
 - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;
 - vi. training to implement the information security measures; and
 - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential 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 United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
- H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.
- 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 this 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, and shall include this provision in all subcontracts for work performed in Vermont. 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. Offset: The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

16. Taxes Due to the State: 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.

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, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. 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), as amended by Section 17 of Act No. 142 (2010) and by Section 6 of Act No. 50 (2011).

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 ("Confidentiality and Protection of State Information"); 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. Regulation of Hydrofluorocarbons:** Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.
- 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:
<https://bgs.vermont.gov/purchasing-contracting/debarment>.
- 23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.
- 24. Vermont Public Records Act:** Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information 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 lockouts) ("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 use the State's logo or otherwise 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 this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement 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 Agreement immediately, and the State shall have no obligation to pay Party from State revenues.
 - B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power, or remedy under this Agreement shall not impair any such right, power, or remedy, or be construed as a waiver of any such right, power, or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to, and use of, State facilities, which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. A Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission.

C. Mandatory Disclosures: In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

A. Certification Regarding Use of State Funds: If Party is an employer and this Agreement is a State-funded grant in excess of \$1,000, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

B. Good Standing Certification (Act 154 of 2016): If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify; and (ii) that it will comply with the requirements stated therein.

(End of Standard
Provisions)

ATTACHMENT D – OTHER GRANT AND CONTRACT PROVISIONS

Risk Management approval required for modification of Attachment C.8 insurance clause.

☐ YES ☒ NO

RISK Approved: __N/A__

VERMONT STATE INSURANCE SPECIFICATION- REVISED NOVEMBER 1, 2023

1. Applicability and Definitions.

- a. This Specification applies to providers of goods or services under a contract or grant (either is “the Agreement”) for the State of Vermont and is incorporated, whether directly or by reference, into the Agreement.
- b. “Party” shall mean the Contractor or Grantee as stated in the Agreement.

2. Operation of this Specification.

- a. Before commencing work under the Agreement, the Party must provide certificates of insurance to show that each and all of the minimum insurance coverages listed below, which are or may be applicable, are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State throughout the term of this Agreement.
- b. The State does not warrant that the coverages and limits listed in this document or otherwise required for the Agreement 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.
- c. It is the Party’s responsibility to timely ask the State and seek clarification if Party is uncertain of any particular application of any provision.

3. Additional coverages or amounts required although not stated in this Specification.

In many circumstances, the Party is required by the State to have insurance coverages in addition to those stated in this Specification, or to have higher limits or terms for listed coverages beyond what is required in this Specification. Those additional requirements may be stated in the Agreement or in other attachments or exhibits to the Agreement. It is the Party’s responsibility to meet such additional requirements in the manner and according to the terms stated for coverages listed in this Specification.

4. General Liability and Property Damage: With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- a. Premises - Operations
- b. Products and Completed Operations
- c. Personal Injury Liability
- d. Contractual Liability
- e. The policy shall be on an occurrence form and limits shall not be less than:
 - i. \$1,000,000 Each Occurrence
 - ii. \$2,000,000 General Aggregate
 - iii. \$1,000,000 Products/Completed Operations Aggregate
 - iv. \$1,000,000 Personal & Advertising Injury
- f. If the performance of the Agreement involves construction, then:
 - i. a “per project” aggregate endorsement is required; and
 - ii. completed operations coverage must be carried for three years post project completion.

5. Automotive Liability: If motor vehicles will be or are used in connection with the Agreement, the Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection

with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. For Contracts involving construction or when performance under the Contract would require a commercial or other specialized driver's license, limits shall not be less than \$1,000,000. When performance includes interstate commerce or transport of hazardous products or materials regulated by the Federal Motor Carrier Administration and set forth in 49 C.F.R. § 387.9, the coverage shall include the MCS-90 endorsement.

6. ***Umbrella or Excess Liability:*** For Contracts involving construction, or when performance under the Contract would require a commercial or other specialized driver's license, the Party shall carry umbrella or excess liability insurance covering over the underlying general and automotive liability policies. Coverage shall be on an occurrence form and limits shall not be less than \$1,000,000 per occurrence, \$1,000,000 general aggregate, unless higher limits are required by the State of Vermont. This requirement need not be met if the Party's applicable underlying coverages meet or exceed \$2,000,000.
7. ***Additional Insured:***
 - a. The General Liability, Property Damage, and Umbrella/Excess coverages required for performance of the Agreement shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds using ISO forms CG2010 and CG2037 or their equivalents.
 - b. If performance of the 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.
 - c. If third-party cyber liability coverage is required, such coverage shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds.
 - d. Additional Insured coverage shall be primary and non-contributory with any other insurance and self-insurance and shall include a waiver of subrogation in favor of the State of Vermont.

8. ***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. The State 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.

For work involving construction, workers compensation coverage shall include a waiver of subrogation in favor of the State of Vermont.

9. ***Professional Liability Insurance:***

Whenever the performance of the Agreement is to involve any of: (a) licensed professional services, such as, but not limited to, attorneys, medical providers, financial professionals like accountants or actuaries, architects, engineers, management consultants, and providers of services requiring occupational licenses; (b) technology professional services; or (c) when otherwise required by the Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under the Agreement, with minimum coverage of \$1,000,000 per claim, or such higher minimum so provided.

Party shall maintain such professional liability insurance for a period of two years following completion of services under the Agreement.

10. ***Cyber Liability and Breach Response Insurance Coverage:***

When the Party's performance involves hosting confidential State data, or services in or on State information technology systems where confidential State data may reside, the Party shall have and maintain cyber liability and breach response insurance coverage at no less than \$1,000,000 per claim, \$2,000,000 aggregate. Such policy shall expressly provide, but not be limited to, coverage for losses arising from the following:

- a. unauthorized use of or access to: computer systems (including mobile devices), servers, client's data, or software;

- b. defense of any regulatory action involving a breach of privacy;
 - c. failure to protect the confidential or proprietary information (personal and commercial information) and intellectual property from unauthorized disclosure or unauthorized access;
 - d. failure to adequately protect physical security of servers and systems including from cyber terrorism;
 - e. the costs for: notification (whether or not required by statute), credit file or identity monitoring, identity restoration, public relations, or legal experts;
 - f. third-party liability;
 - g. cyber extortion and cyber terrorism; and
 - h. no exclusion for actual or alleged breaches of professional services agreements associated with the above.
11. Notice of Cancellation or Change: With respect to all required coverage, there shall be no cancellation, change, potential exhaustion of aggregate limits, or non-renewal of insurance coverage(s) without thirty (30) days prior written notice to the State.

OTHER GRANT AND CONTRACT PROVISIONS

12. For contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.
13. For projects over \$10 million, the following is required to be reported to the State with Quarterly Project Reports, as applicable:
1. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as “baby Davis Bacon Acts”). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - a. The number of employees of contractors and sub-contractors working on the project;
 - b. The number of employees on the project hired directly and hired through a third party;
 - c. The wages and benefits of workers on the project by classification; and
 - d. Whether those wages are at rates less than those prevailing.¹ Recipients must maintain sufficient records to substantiate this information upon request.
 2. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

¹ As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

- a. How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - b. How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
 - c. How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - d. Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
 - e. Whether the project has completed a project labor agreement. c
3. Whether the project prioritizes local hires.
4. Whether the project has a Community Benefit Agreement, with a description of any such agreement

ATTACHMENT F – STATE FISCAL RECOVERY FUND PROGRAM ASSURANCES

An authorized signatory of Subrecipient must attest to the following by checking the box next to the statement and signing this document.

- ☒ 1. I have the authority to request payment from the State of Vermont. I am requesting payment for costs incurred in connection with section 602 of the Social Security Act, as amended by section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (“section 602”).
- ☒ 2. As required by federal law, the SFR will only be used for approved economic support or costs incurred during the period that begins on March 3, 2021 and December 31, 2024, in response to the COVID-19 public health emergency and its negative economic impacts.
- ☒ 3. Subrecipient will report on incurred expenses and/or losses, in a form and at a frequency prescribed by the State of Vermont and will cooperate with the State of Vermont in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 602.
- ☒ 4. To the extent that actual expenditures or demonstrated need is less than the total award amount, Subrecipient agrees to return the balance of unspent funds to the State of Vermont. If the United States Department of the Treasury recoups funds from the State of Vermont based on a determination that these award funds were used in a manner not in compliance with section 602, Subrecipient agrees that the State of Vermont may recover funds from Subrecipient by reducing future funding in State budgets.
- ☒ 5. Subrecipient must repay the award or portion of the award to the Vermont Agency of Natural Resources, Department of Environmental Conservation if: any funds received were issued in error; are based on incorrect representations made to the Vermont Agency of Natural Resources, Department of Environmental Conservation; or any costs forming the basis of an award under this program are covered by other federal funds or federally forgiven loans received by Subrecipient. I agree that the final determination of whether there has been a duplication of benefits and the amount to be repaid, if any, will be made by the Vermont Agency of Natural Resources, Department of Environmental Conservation.
- ☒ 6. Subrecipient shall maintain and make available to the State of Vermont and/or United States Department of the Treasury, upon request, all documents and financial records sufficient to establish compliance with section 602. Records and supporting documentation must be maintained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. Records to support compliance with subsection 602 may include, but are not limited to, copies of the following:
- a. General ledger and subsidiary ledgers used to account for (a) the receipt of SFR payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
 - b. Budget records;
 - c. Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
 - d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;
 - e. Contracts and subcontracts entered into using SFR payments and all documents related to such contracts;

- f. Grant agreements and grant subaward agreements entered into using SFR payments and all documents related to such awards;
- g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
- h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
- i. All internal and external email/electronic communications related to use of SFR payments; and
- j. All investigative files and inquiry reports involving SFR payments.

☒ 7. To the best of my knowledge, neither Subrecipient nor Subrecipient '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.

☒ 8. Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether a Single Audit is required for the prior fiscal year. If a Single Audit is required, Subrecipient will submit a copy of the audit report to the State of Vermont within 9 months. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F.

☒ 9. Subrecipient will submit reports as required by the State of Vermont, Agency of Administration, and/or Vermont Agency of Natural Resources, Department of Environmental Conservation.

☒ 10. The Vermont Agency of Natural Resources, Department of Environmental Conservation may share the information on this federal award with other Vermont state agencies, and other Vermont agencies can share information with Vermont Agency of Natural Resources, Department of Environmental Conservation for the purpose of verifying Subrecipient's eligibility for this or another award or stimulus payment related to the COVID-19 pandemic.

☒ 11. Subrecipient authorizes the State of Vermont to share data relevant to this award with the U.S. Department of Treasury, including but not limited to previously submitted W-9 data that is related to this award.

☒ 12. All of Subrecipient's tax returns are completed and filed through the date of application filing.

☒ 13. Subrecipient complies with local, state and federal labor laws.

☒ 14. Subrecipient is in good standing with the Vermont Secretary of State.

☒ 15. I attest, under penalty of perjury, that all information provided on this form is true and accurate. I understand that the State of Vermont will rely on this certification as a material representation in making this federal award. Further, I understand that intentional misrepresentation of information is fraud and may subject me or my organization to disqualification from receiving further benefits, administrative penalties, and criminal prosecution.

☒ 16. Subrecipient understands that, if Federal guidance on the regulations of the State Fiscal Recovery Fund change, it may change the terms of this award.

☒ 17. Subrecipient certifies that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

☒ 18. Subrecipient certifies that that they will require any subcontractors or subgrantees to also certify that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

Printed Name:

Authorized Signature:

Title:

Organization Name:

Date:

**ATTACHMENT G - TERMS AND CONDITIONS FOR FEDERAL SUBRECIPIENTS -
U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS STATE FISCAL RECOVERY FUND AWARD**

1. Use of Funds.
 - a. Participant understands and agrees that the funds disbursed under this award may only be used in compliance with section 602 of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Participant will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Reporting. Participant agrees to comply with any reporting obligations established by Treasury as they relate to this award.
3. Maintenance of and Access to Records
 - a. Participant shall maintain records and financial documents sufficient to evidence compliance with section 602 of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Participant in order to conduct audits or other investigations.
 - c. Records shall be maintained by Participant for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
4. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
5. Conflicts of Interest. Participant understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Participants must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
6. Compliance with Applicable Law and Regulations
 - a. Participant agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602 of the Act, and guidance issued by Treasury regarding the foregoing. Participant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Participant shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Participant Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
7. Remedial Actions. In the event of Participant's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602 of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602 of the Act.
8. Hatch Act. Participant agrees to comply, as applicable, with requirements of the Hatch Act (U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

9. False Statements. Participant understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
10. Publications. Any publications produced with funds from this award must display the following language:
“This project is being supported, in whole or in part, by federal award number SLFRP4407 awarded to the State of Vermont by the U.S. Department of the Treasury.”
11. Debts Owed the Federal Government.
 - a. Any funds paid to Participant (1) in excess of the amount to which Participant is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 602 of the Act and have not been repaid by Participant shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Participant. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Participant knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
12. Disclaimer
 - a. The United States expressly disclaims any and all responsibility or liability to Participant or third persons for the actions of Participant or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
 - b. The acceptance of this award by Participant does not in any way establish an agency relationship between the IFA, United States and Participant.
13. Protections for Whistleblowers.
 - a. In accordance with 41 U.S.C. § 4712, Participant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Participant, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

- c. Participant shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
-
- 14. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Participant should encourage its contractors to adopt and enforce on-the- job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
 - 15. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Participant should encourage its employees and contractors to adopt and enforce policies that ban text messaging while driving, and Participant should establish workplace safety policies to decrease accidents caused by distracted drivers.

Board of Finance and City Council Submission Checklist

Department: DPW-Water Resources Division Submitter: Megan Moir/ James Sherrard

Title/Subject: Authorization to Accept MS4 Community Formula Grant Funds

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	Click or tap to enter a date.	Chapin Spencer was out of the country and delegated authority to the Division Director
Mayor's Office informed and approved memo	Yes	3/6/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan reviewed the draft grant agreement
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/6/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Draft grant agreement
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



To: Board of Finance
City Council

From: Megan Moir, Division Director Water Resources

Date: March 11, 2024

Cc: Chapin Spencer, DPW Director
Ashley Walenty, Water Resources Engineer

RE: Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds

REQUEST

The Department of Public Works, Water Resources Division (WRD) seeks Board of Finance and City Council authorization for the acceptance of \$3,294,440 of American Rescue Plan Act (ARPA) Statewide Sewer Overflow Elimination and Abatement funds through the execution of a grant agreement with the Vermont Department of Environmental Conservation (VTDEC). These funds will assist with the design and construction of Combined Sewer Overflow (CSO) reduction projects identified in the City's CSO Long Term Control Plan (LTCP).

EXECUTIVE SUMMARY

Background

While the City has implemented numerous projects since the 1990s to successfully reduce the annual volume of combined sewer overflows, there is still more work to be done to continue to reduce the frequency and volume of CSOs in Burlington. In 2016, the State updated its CSO control policy and issued Vermont communities with remaining CSOs 1272 orders in 2019 which required those communities to develop and submit a Combined Sewer Long Term Control Plan (LTCP) by February 2022 (<https://www.burlingtonvt.gov/water/LTCP>). The LTCP identifies the next phase of CSO controls required to eliminate CSOs fully or, at a minimum, to ensure that they are compliant with requirement that a discharge not occur for storm events up to the 5 year, 24 hour design storm. This LTCP was completed as part of the City's Integrated Water Quality Planning effort to ensure that the City was able to prioritize all of its water quality goals (wastewater, combined sewer, stormwater improvements) holistically and to leverage financial capability assessments to inform appropriate implementation schedules.

The LTCP identified (in 2021 \$s) a minimum of \$11.5 million of combined sewer improvements that would need to be implemented by 2030 and an additional potential \$13.4 million total by 2040. This is in addition to funding that is necessary for the upgrade and renewal of the City's wastewater plants, which also includes projects to upgrade the treatment of CSO flows at Main Plant.

The State developed their State ARPA Statewide Sewer Overflow Elimination and Abatement grant program to assist CSO communities with the implementation of projects identified in their LTCPs. Given

that there was less ARPA funding than documented overall CSO need in Vermont, the State awarded funds based on a formula. Burlington was awarded \$3,294,440 for use towards our CSO projects.

While there are a number of CSO projects that would be eligible for expenditure of these funds, WRD currently intends to apply this funding towards our highest priority project, a large underground storage tank located at the lower Callahan Park fields which would substantially reduce the frequency and volume of discharges at our highest priority CSO location, the Pine Street CSO. It is the highest priority CSO given that it is the most frequent, has the highest volume and has a discharge point to the Pine Barge Canal which is more directly connected to Burlington's waterfront than the other CSO locations (which discharge to either the Intervale Wetland waterways or the Winooski River). Based on a preliminary hydraulic and hydrologic model, the LTCP estimated that a 300,000 gallon tank was necessary at a cost of approximately \$4.7 Million.

An updated, calibrated planning model was completed in late 2023, based on updated flow metering and rain events from 2022. Over the next several months, consultants and WRD staff are working to confirm the size of the tank based on the new modeling results and account for any updates in growth projections in the sewershed – including redevelopment of properties within the South End Innovation District. They will also produce an updated cost estimate. It is anticipated that certainly the cost of the original 300,000 gallon tank will increase, and that a larger tank overall may be necessary to meet the 5 year, 24 hour design storm goal required by the State's CSO policy.

It is possible that remaining funding from the 2018 Clean Water Resiliency Plan bond will be sufficient to cover any tank implement costs above the \$3.294M grant funding, but this will greatly depend on the final bids for Stage 0 of the Wastewater Treatment Plant project which are due to be secured later in 2024, as well as any construction subsidy that might be awarded from the Clean Water State Revolving Fund program once the City applies for a loan. If remaining bond authority is not sufficient, the City could either 1) pursue phased construction of a tank system (not ideal) or 2) request additional bonding authority as part of a currently planned Clean Water bond in November 2024 in order to construct the proper sized tank. Alternatively, the City could use the ARPA funding for other CSO flow reduction projects such as additional green stormwater infrastructure projects. The State has requested that the City accept this grant in anticipation of the steps above to ensure that the ARPA award can be encumbered in support of the City's efforts. WRD will not expend any of the ARPA grant funds until it is clear that we can meet the requirements of the grant with an eligible project(s).

ARPA funds must be expended by December 2026.

ATTACHMENTS

- A. Draft FFA Standard ARPA Grant Agreement: 06140-2023-ARPA-CSO-03

MOTIONS

The Water Resources Division of the Department of Public Works respectfully requests the Board of Finance and City Council approve the following motions:

Board of Finance:

1. To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute a 2023 ARPA Statewide Sewer Overflow Elimination and Abatement grant agreement with the Vermont Department of Environmental Conservation for up to \$3,294,440 for the design and implementation of CSO reduction practices, subject to final review and approval by the City Attorney's Office.

City Council:

1. To approve and recommend to the City Council that the Director of the Department of Public Works be authorized to execute a 2023 ARPA Statewide Sewer Overflow Elimination and Abatement grant agreement with the Vermont Department of Environmental Conservation for up to \$3,294,440 for the design and implementation of CSO reduction practices, subject to final review and approval by the City Attorney's Office.



FFA - STANDARD ARPA GRANT AGREEMENT

1. **Parties:** This is a Grant Agreement between the State of Vermont, Department of Environmental Conservation (hereinafter called "State"), and the Burlington City Treasurer with principal place of business at City Hall Room 22, 149 Church St. Burlington, VT 05401 (hereinafter called "Subrecipient"). It is the Subrecipient's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Subrecipient is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter:** The subject matter of this Grant Agreement is 2023 ARPA Statewide Sewer Overflow Elimination and Abatement, pursuant to the federal American Rescue Plan Act of 2021 and the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions, attached hereto. Detailed scope to be provided by the Subrecipient are described in Attachment A.
3. **Maximum Amount:** In consideration of the scope of work to be performed, the State agrees to pay Subrecipient, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$3,294,440.00. Attachment B, Payment Provision provides details on how the grantee will be reimbursed. This grant award cannot be used as match for the purpose of obtaining additional federal funds by the subrecipient without written approval from the State.
4. **Procurement:** The Subrecipient certifies that for any equipment, supplies, and/or services outside of their organization, that they have and will follow their procurement policy.
5. **Ownership and Disposition Assets:** At the end of the grant term, Subrecipient will retain any pipes, valves, pumps, tanks, or other equipment installed under the grant agreement and described in the scope of work for the same use and intended purpose as outlined in this agreement.
6. **Source of Funds:** ___ General **X** Federal ___ Other

\$ \$3,294,440.00 \$ Fund

 - a. For grants funded with federal dollars only.

CFDA Title	Coronavirus State and Local Fiscal Recovery Fund
CFDA Number	21.027
Award Name	American Rescue Plan Act (ARPA) Vermont State Recovery Fund
Award Number	SLFRP4407
Award Year	2021
Federal Granting Agency	US Department of the Treasury
Research and Development Grant?	☐ Yes ☒ No
7. **Grant Term:** The period of Subrecipient's performance shall begin upon date of execution, signified by the date of signature by the State and end on September 30, 2026.
8. **Amendment:** No changes, modifications, or amendments in the terms and conditions of this Grant Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Subrecipient. No amendment will be considered without a detailed justification to support the amendment request. Failure to provide an adequate justification may result in the denial of the request. Any request for an amendment to this agreement must be made in writing at least 30 days prior to the end date of this agreement or the request may be denied.

9. Cancellation: This Grant Agreement may be cancelled by either party by giving written notice at least 30 days in advance.
10. Fiscal Year: The Subrecipient's fiscal year starts July 1 and ends June 30.
11. Attachments: This Grant consists the following attachments that are incorporated herein:
- Attachment A – Scope of Work to be Performed
 - Attachment B – Budget and Payment Provisions
 - Attachment C – Standard State Provisions for Contracts and Grants
 - Attachment D – Other Grant and Contract Provisions
 - Attachment E – State Fiscal Recovery Quarterly Project Report Template
 - Attachment F – State Fiscal Recovery Fund (SFR) Program Assurances
 - Attachment G – Terms and Conditions for Federal Subrecipients
 - Attachment H – ARPA CSO Grant Post-Award Form for Project Selection

Legal Name and Unique Entity Identifier (UEI) on File with the www.sam.gov (1):

City of Burlington
Print Legal Name

KXQQKNB2GZL1
UEI (2)

Did this business or organization (the legal entity to which the UEI provided belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?*:

☐ Yes ☒ No

If yes, please list the top five highest paid senior executive salaries that are not available to the public:

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS GRANT.

STATE OF VERMONT

By:

Commissioner

Dept of Environmental Conservation

Date: _____

SUBRECIPIENT

By:

Name: (Print) _____

Title: _____

Date: _____

Attachment A

Scope of Work to be Performed

Part or All of the Scope May be Sub-Granted

1. **Project Overview:** This project can involve any of the following: planning, design, construction of combined sewer overflow (CSO) abatement projects found in the Long Term Control Plan (LTCP) dated July 2022 and included in the State Fiscal Year 2023 Clean Water State Revolving Fund (CWSRF) Project Priority List.

Table 1: SFR Program Information

SFR Program	Infrastructure
SFR Expenditure Category	5.4 Clean Water: Combined Sewer Overflows
SFR Project Name	Old N. End and Pine St CSOs
SFR Project ID No.	ANR-6140892205-008
Primary Place of Performance	645 Pine St., Burlington
National Pollutant Discharge Elimination System (NPDES) Permit # (if applicable)	VT0100153; VT0100226; VT0100307
Public Water System ID # (if applicable)	N/A
Median Household Income for Service Area	\$50,089.00
Lowest Quintile Income for Service Area	\$9,344.00

2. **Statement of Need:** Sewer overflows occur in wastewater collection systems that are either co-mingled with stormwater collection systems or are subject to excessive stormwater water infiltration. During heavy rains, the additional stormwater entering the pipes can overwhelm the capacity of the wastewater facility to process the water. Abating combined or sanitary sewer overflows (jointly termed CSOs) is expensive, takes time, and typically requires multiple iterative projects before adequate abatement or elimination is achieved. Burlington's LTCP outlines a need of \$74,000,000 to address their CSOs within the sewer system.
3. **Population Served:** To maintain transparency and reliability, and avoid disparity, the latest census population for the municipality is reported as the "population served". The 2020 Census for the City of Burlington is 44,743 people.
4. **Scope of Work:** Subrecipient shall ensure the following are completed as deemed necessary by the CSO Technical Project Manager dependent on State Revolving Fund (SRF) Project Steps to be funded with ARPA Grant dollars:
 - a. **Project Selection**
 - i. Select project from LTCP dated July 2022. A downloadable copy of the Subrecipient's LTCP can be found here:
<https://anrweb.vt.gov/DEC/IronPIG/DownloadFile.aspx?DID=202788&DVID=0>
 - ii. Complete and submit the ARPA CSO Grant Post-Award Form for Project Selection (Attachment H) to identify projects selected.
 - b. **Step 1 – Preliminary Engineering and Planning**

Project shall follow the CWSRF Preliminary Engineering and Planning process. Deliverables shall follow the Step 1 process outlined on the Water Infrastructure Financing Program webpage:

<https://dec.vermont.gov/water-investment/water-financing/srf/srfstep1>

Subrecipient shall ensure the completion of the following:

- i. Provide information and reports to receive Facility Plan Approval from the State.
 - 1. Preliminary Engineering Report (PER) or LTCP Addendum if needed
 - 2. Environmental Review
 - a. Vermont Division of Historic Preservation Review

c. Step 2 – Final Design

Project shall follow the CWSRF Final Design process. Deliverables shall follow the Step 2 process outlined on the Water Infrastructure Financing Program webpage:

<https://dec.vermont.gov/water-investment/water-financing/srf/srfstep2>

Subrecipient shall ensure the completion of the following:

- i. Provide Design Plans and Specifications for any projects to be funded wholly or in part with these grant dollars:
 - 1. Meeting Agenda, Submittals, Minutes & draft construction documents
 - 2. Final Design Plans
 - a. 30% Preliminary Alignments, Layouts, Hydraulic Profiles, Standard Notes
 - b. 60% Profiles, Elevations, Completed Alignments, Layouts, and Hydraulic Profiles, Standard Details
 - c. 90% Final Profiles, Elevations, Alignments, Layouts, and all Details.
 - d. Final stamped and signed by a Vermont Registered Professional Engineer
 - 3. Technical Specifications
 - a. 30% Table of Contents
 - b. 60% Standard Technical Specifications
 - c. 90% Specialty Technical Specifications
 - d. Final stamped and signed by a Vermont Registered Professional Engineer
 - 4. Contract Documents
 - a. 90% Draft EJCDC Front End Documents
 - b. Final, documents ready to bid, complete with dates for meetings and bids coordinated and accepted by the State Construction Engineer.
 - 5. Project Cost Summary at 90% Design
- ii. Obtain required State Permitting
- iii. Final Design Plans shall be used to determine reporting metrics for construction on the ARPA CSO Grant Post-Award Form for Project Selection (Attachment H).

d. Step 3 – Construction

Project shall follow the CWSRF Construction process. Deliverables following the Step 3 process outlined on the Water Infrastructure Financing Program webpage:

<https://dec.vermont.gov/water-investment/water-financing/srf/srfstep2>

Subrecipient shall ensure the completion of the following:

- i. Progress will be tracked with quarterly grant reporting and the monthly invoicing tracked as a percentage of dollars spent.
- ii. Bid project through a public bidding process using Engineers Joint Contract Documents Committee (EJCDC) 2013 or 2018 front end documents, the Vermont Bid Systems, and per Vermont SRF Guidance Document 25.
<https://anrweb.vt.gov/DEC/IronPIG/DownloadFile.aspx?DID=129141&DVID=0>
- iii. Construct the project per the plans and specifications, as submitted and approved under Step 2.
- iv. Provide Project Closeout Documentation.
 - 1. Updated (or new if it does not exist) Operations & Maintenance Manual for CSO projects with mechanical equipment

2. Water Quality Analysis reports for projects which are directly part of a wastewater treatment facility

e. Project Reporting

- i. During each Step, progress will be tracked on each project with submission of:
 1. Ensure submission of updated ARPA CSO Grant Post-Award Form for Project Selection (Attachment H) at the onset of each new Step.
 2. Ensure submission of SFR Quarterly Project Report (Attachment E)
 3. Ensure submission of monthly invoicing tracked as a percentage of dollars spent

Table 1. Milestone and Deliverables schedule per identified project if more than one:

	#	Milestone	Deliverable	Due Date
Project Implementation	1	Step 1 – Preliminary Engineering and Planning	A. Submit PER or LTCP Addendum B. Submit Environmental Review	
	2	Step 2 – Final Design	A. Submit Final Design Plans and Specifications B. Submit or certify all required permitting has been obtained C. Submit EJCDC Front End Documents	
	3	Step 3 – Construction	A. Bid Phase Please submit the following items: A. Copy of Bid Advertisement B. Right-of-way (ROW) Certificate C. Copy of any Addenda D. Recommendation for Award E. Certified Bid Tab F. Updated “Vermont SRF Standard Project Cost Summary Form” with Bid Information G. Notice of Award H. Executed contract agreement with successful bidder I. Notice to Proceed J. Preconstruction Meeting and Meeting Minutes B. Construction Phase Please submit the following items: A. Placement of Clean Water Project Sign B. Contractor’s Monthly Pay Requests C. Engineer’s Monthly Pay Requests D. Monthly Progress Meetings and Meeting Minutes E. Updated Monthly PCS Statement F. Any Change Orders G. Signed Substantial Completion Certificate and Punch List C. Project Conclusion Submit Close-out Documents: 1. Record Drawings 2. Testing Results	

Final reporting			3. Signed Release of Liens 4. Updated (or new if it does not exist) Operations & Maintenance Manual -if applicable 5. Engineer's or Designer's Installation Certification 6. Water Quality Analysis – if applicable 7. Compliance with all mitigation measures identified in the Environmental Review, permit conditions, and contract requirements 8. Balancing Change Order 9. Final Completion Certificate 10. Project Receipts Received and Approved D. Return of Clean Water Project Sign	9/30/2026
	4	Reporting-Programmatic	a. Attachment H – ARPA CSO Grant Post-Award Form for Project Selection	Submitted for each project at selection. An updated form shall be submitted at the onset of each step.
	5	Reporting - ARPA Quarterly Progress Tracking	a. SFR Quarterly Progress Report (Attachment E)	Due 5 days after the close of each quarter (December 31st, March 31st, June 30th, September 30th) for the life of the agreement
	6	Final Reporting	a. Final ARPA Reporting	Submit SFR Quarterly Progress Report (Section 1 of Attachment E) and Annual Performance Measure Information (Section 3 of Attachment E) with final invoice

* Due dates for interim deliverables can be extended upon written approval by the State.

5. Results: At the completion of the projects, Subrecipient installs the projects in accordance with the approved plans and specifications, and any approved change orders or addenda. The mandatory quarterly performance will measure the following performance measures:

1. Performance Measure: Final Designs Complete
2. Performance Measure: Percent completion by dollars spent
3. Performance Measure: Linear feet of pipe installed

6. Evaluation: During design, we will track progress with the quarterly reporting. During the construction phase the monthly pay requests from the contractor to the Subrecipient will show the itemized costs, which include the percent of completion by dollars spent. Based on the specific project, this will also include linear feet of pipe installed, catch basins removed from combined system, or volume of storage provided. Programmatically, we will also track the number of Long-Term Control Plan Projects completed.
7. Equity Impact: This project will help build a just, equitable, and sustainable COVID-19 recovery by assisting Burlington with the financial costs of implementing the projects in the Long Term Control Plan as required under the Burlington 1272 Order for CSO overflow events. This funding will allow for the project to be built while keeping the costs off the sewer rate payers. These efforts help to reduce pollutants in the surface waters of Vermont.
8. Reporting :
 - a. Subrecipient is required to submit quarterly progress reports for the quarters ending December 31, March 31, June 30, and September 30 on a template provided by the State (Attachment E) by the 5th day after the end of each quarter.
 - b. Subrecipient shall submit Final ARPA Reporting with the final invoice. The final report shall consist of SFR Quarterly Progress Report (Section 1 of Attachment E) and Annual Performance Measure Information (Section 3 of Attachment E)."
9. Other Requirements.
 - a. Subrecipient will own and operate and maintain (in good condition) the Project for its useful life (or cause it to be so operated and maintained).
 - b. Subrecipient will establish, adjust and maintain rates and charges at levels adequate to maintain sufficient revenues to operate and maintain (in good condition) the Project.
 - c. Subrecipient shall seek written pre-approval from the State for minor modifications to construction element locations due to variations in terrain or budget. The scope and site plans in this Agreement portray an ideal situation. Minor adjustments which result in an equivalent end product shall be allowed following State approval.
 - d. Subrecipient shall install and return a Clean Water Project Sign during construction. Vermont DEC requires the use of a Clean Water Project sign for all clean water projects:
 - i. Find guidelines for Clean Water Project Signs at:
https://dec.vermont.gov/sites/dec/files/DEC-CWIP_CleanWaterProjectSignsGuidance_FINAL.pdf
 - ii. Additional sign information:
<https://dec.vermont.gov/sites/dec/files/wsm/erp/docs/2017-09-05%20Clean-Water-Sign-Plan%20Final.pdf>
 - e. When bidding contracts using Federal funds, the Subrecipient must consider applicable Federal procedures for solicitation and award and required contract clauses. The basic authority for the Federal requirements, the Federal Office of Management and Budget's "Uniform Guidance", is 2 CFR Part 200.
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>

Attachment B

Payment Provisions

1. This grant is a performance-based grant with cost reimbursable payment terms. Payments made to the Subrecipient by the State are based on the submittal of invoices not more than monthly and the inclusion of a date range in which activities on this grant were undertaken. Subrecipient is required to keep documentation of all expenses reported to the State on the invoice, and are required to submit those documents with each invoice. The State reserves the right to ask for expense documentation upon request. Invoices must be submitted on the Clean Water State Revolving Fund Request for Reimbursement of Expenses Form
2. The State will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. The State may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

3. Risk-Based Assessment:

Risk Level: High

Risk Level	Monitoring Requirements
High	- Subrecipient is required to submit quarterly progress reports. Progress report must include: summary of progress made on deliverables within reporting timeframe, milestone status updates, technical/cost/schedule issues encountered, and work planned for next period.

- a. These monitoring requirements are required deliverables even when not listed explicitly in the deliverables table in Attachment A.
 - b. If you are required to have a Single Audit, you are to report to the State, the audit, findings, Management Response Letter including corrective actions within 9 months after the end of your fiscal year.
4. Final Payment: Final payment will be paid upon receipt and satisfactory review of all deliverables, as described in the scope of work, a final financial report documenting expenditure of 100% of grant funds, and where appropriate, documentation of required match.
5. The Subrecipient shall:
 - ☐ Maintain a copy of all receipts on file for review upon request by the State,
 - ☒ Include a copy of all receipts for costs requested for reimbursement.
 - ☐ Other:
6. Other Provisions
 - a. Pre-award costs starting March 3, 2021, are allowable under this agreement as determined by the Grant Manager and as related to the scope of work in Attachment A.
 - b. All invoices must be received within 90 days after the end date of this agreement. Any invoices received after 90 days may not be honored.
 - c. Subrecipient is conferred blanket approval from the State to execute any subgrant or subcontracts associated with this Agreement and related amendments according to Attachment C, #19. As part of the procurement process, the Subrecipient must verify and document that none of its subcontractors/subgrantees are listed on the federal debarment list located at <https://sam.gov/content/home> or the State debarment list maintained by the Vermont Buildings and General Services (BGS) and located at: <https://bgs.vermont.gov/purchasing-contracting/debarment>. Both the name of the entity and name of the primary point of contact must be checked.

7. Payment requests must be submitted on the Payment Request Form at the following link:
<https://anrweb.vt.gov/DEC/IronPIG/DownloadFile.aspx?DID=169995&DVID=0>
8. Submit completed forms to: anr.srfpayments@vermont.gov

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED DECEMBER 4, 2023

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee, or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. 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 regarding 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:

- A. 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.

- B. 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.
- C. 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.
- D. 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 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: During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: <https://aoa.vermont.gov/Risk-Claims-COI>.

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: Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) 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. Use and Protection of State Information:

- A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").
- B. With respect to State Data, Party shall:

- i. take reasonable precautions for its protection;
 - ii. not rent, sell, publish, share, or otherwise appropriate it; and
 - iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.
- C. With respect to Confidential State Data, Party shall:
- i. strictly maintain its confidentiality;
 - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
 - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
 - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
 - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
 - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.3 above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
- i. industry-standard firewall protection;
 - ii. multi-factor authentication controls;
 - iii. encryption of electronic Confidential State Data while in transit and at rest;
 - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
 - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;
 - vi. training to implement the information security measures; and
 - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential 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 United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont

Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.

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 this 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, and shall include this provision in all subcontracts for work performed in Vermont. 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. Offset: The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

16. Taxes Due to the State: 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.

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, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. 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), as amended by Section 17 of Act No. 142 (2010) and by Section 6 of Act No. 50 (2011).

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 ("Confidentiality and Protection of State Information"); 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. Regulation of Hydrofluorocarbons: Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.

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:

<https://bgs.vermont.gov/purchasing-contracting/debarment>.

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Vermont Public Records Act: Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information 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 lockouts) ("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 use the State’s logo or otherwise 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 this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement 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 Agreement immediately, and the State shall have no obligation to pay Party from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party’s delay or failure to exercise any right, power, or remedy under this Agreement shall not impair any such right, power, or remedy, or be construed as a waiver of any such right, power, or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party’s performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to, and use of, State facilities, which shall be made available upon request. State facilities will be made available to Party on an “AS IS, WHERE IS” basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. A Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission.
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,000, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify; and (ii) that it will comply with the requirements stated therein.

(End of Standard
Provisions)

ATTACHMENT D – OTHER GRANT AND CONTRACT PROVISIONS

Risk Management approval required for modification of Attachment C.8 insurance clause.

☐ YES ☒ NO

RISK Approved: N/A

VERMONT STATE INSURANCE SPECIFICATION- REVISED NOVEMBER 1, 2023**1. Applicability and Definitions.**

- a. This Specification applies to providers of goods or services under a contract or grant (either is “the Agreement”) for the State of Vermont and is incorporated, whether directly or by reference, into the Agreement.
- b. “Party” shall mean the Contractor or Grantee as stated in the Agreement.

2. Operation of this Specification.

- a. Before commencing work under the Agreement, the Party must provide certificates of insurance to show that each and all of the minimum insurance coverages listed below, which are or may be applicable, are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State throughout the term of this Agreement.
- b. The State does not warrant that the coverages and limits listed in this document or otherwise required for the Agreement 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.
- c. It is the Party’s responsibility to timely ask the State and seek clarification if Party is uncertain of any particular application of any provision.

3. Additional coverages or amounts required although not stated in this Specification.

In many circumstances, the Party is required by the State to have insurance coverages in addition to those stated in this Specification, or to have higher limits or terms for listed coverages beyond what is required in this Specification. Those additional requirements may be stated in the Agreement or in other attachments or exhibits to the Agreement. It is the Party’s responsibility to meet such additional requirements in the manner and according to the terms stated for coverages listed in this Specification.

4. General Liability and Property Damage: With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- a. Premises - Operations
- b. Products and Completed Operations
- c. Personal Injury Liability
- d. Contractual Liability
- e. The policy shall be on an occurrence form and limits shall not be less than:
 - i. \$1,000,000 Each Occurrence
 - ii. \$2,000,000 General Aggregate
 - iii. \$1,000,000 Products/Completed Operations Aggregate
 - iv. \$1,000,000 Personal & Advertising Injury

- f. If the performance of the Agreement involves construction, then:
 - i. a “per project” aggregate endorsement is required; and
 - ii. completed operations coverage must be carried for three years post project completion.
5. **Automotive Liability:** If motor vehicles will be or are used in connection with the Agreement, the Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. For Contracts involving construction or when performance under the Contract would require a commercial or other specialized driver’s license, limits shall not be less than \$1,000,000. When performance includes interstate commerce or transport of hazardous products or materials regulated by the Federal Motor Carrier Administration and set forth in 49 C.F.R. § 387.9, the coverage shall include the MCS-90 endorsement.
6. **Umbrella or Excess Liability:** For Contracts involving construction, or when performance under the Contract would require a commercial or other specialized driver’s license, the Party shall carry umbrella or excess liability insurance covering over the underlying general and automotive liability policies. Coverage shall be on an occurrence form and limits shall not be less than \$1,000,000 per occurrence, \$1,000,000 general aggregate, unless higher limits are required by the State of Vermont. This requirement need not be met if the Party’s applicable underlying coverages meet or exceed \$2,000,000.
7. **Additional Insured:**
 - a. The General Liability, Property Damage, and Umbrella/Excess coverages required for performance of the Agreement shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds using ISO forms CG2010 and CG2037 or their equivalents.
 - b. If performance of the 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.
 - c. If third-party cyber liability coverage is required, such coverage shall include the State of Vermont and its agencies, departments, officers, and employees as Additional Insureds.
 - d. Additional Insured coverage shall be primary and non-contributory with any other insurance and self-insurance and shall include a waiver of subrogation in favor of the State of Vermont.
8. **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. The State 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.
 For work involving construction, workers compensation coverage shall include a waiver of subrogation in favor of the State of Vermont.
9. **Professional Liability Insurance:**
 Whenever the performance of the Agreement is to involve any of: (a) licensed professional services, such as, but not limited to, attorneys, medical providers, financial professionals like accountants or actuaries, architects, engineers, management consultants, and providers of services requiring occupational licenses; (b) technology professional services; or (c) when otherwise required by the Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under the Agreement, with minimum coverage of \$1,000,000 per claim, or such higher minimum so provided.
 Party shall maintain such professional liability insurance for a period of two years following completion of services under the Agreement.

10. Cyber Liability and Breach Response Insurance Coverage:

When the Party's performance involves hosting confidential State data, or services in or on State information technology systems where confidential State data may reside, the Party shall have and maintain cyber liability and breach response insurance coverage at no less than \$1,000,000 per claim, \$2,000,000 aggregate. Such policy shall expressly provide, but not be limited to, coverage for losses arising from the following:

- a. unauthorized use of or access to: computer systems (including mobile devices), servers, client's data, or software;
- b. defense of any regulatory action involving a breach of privacy;
- c. failure to protect the confidential or proprietary information (personal and commercial information) and intellectual property from unauthorized disclosure or unauthorized access;
- d. failure to adequately protect physical security of servers and systems including from cyber terrorism;
- e. the costs for: notification (whether or not required by statute), credit file or identity monitoring, identity restoration, public relations, or legal experts;
- f. third-party liability;
- g. cyber extortion and cyber terrorism; and
- h. no exclusion for actual or alleged breaches of professional services agreements associated with the above.

11. Notice of Cancellation or Change: With respect to all required coverage, there shall be no cancellation, change, potential exhaustion of aggregate limits, or non-renewal of insurance coverage(s) without thirty (30) days prior written notice to the State.

OTHER GRANT AND CONTRACT PROVISIONS

12. For contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.
13. For projects over \$10 million, the following is required to be reported to the State with Quarterly Project Reports, as applicable:
- a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - i. The number of employees of contractors and sub-contractors working on the project;
 - ii. The number of employees of contractors and sub-contractors working on the project;
 - iii. The number of employees on the project hired directly and hired through a third party;
 - iv. The wages and benefits of workers on the project by classification; and
 - v. Whether those wages are at rates less than those prevailing.¹ Recipients must maintain sufficient records to substantiate this information upon request.
 - b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

¹ As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

- i. How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - ii. How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
 - iii. How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - iv. Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
 - v. Whether the project has completed a project labor agreement.
- c. Whether the project prioritizes local hires.
- d. Whether the project has a Community Benefit Agreement, with a description of any such agreement
- e. State and Local Fiscal Recovery Funds (SLFRF) funds may be used to acquire real and personal property, supplies, and equipment. Except for property, supplies, or equipment acquired using revenue loss funds, recipients must follow the applicable provisions of the Uniform Guidance regarding property standards (2 CFR 200.310-316. During the period of performance, a recipient may use property, supplies, or equipment purchased or improved with SLFRF funds for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the eligible use requirements. If a recipient changes the use of an asset to an ineligible use or sells the asset prior to the end of the period of performance, then the recipient must follow the disposition procedures in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315. After the period of performance, the property, supplies, or equipment must be used consistent with the purpose for which it was purchased or improved or for any other eligible purpose in the same category as the purpose reported to Treasury as of the final reporting period. Recipients are responsible for being able to substantiate their determinations on whether the use of an asset is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with their award. Recipients are not required to seek or obtain the approval of Treasury prior to changing the use within the parameters of the authorized purpose.

ATTACHMENT E – STATE FISCAL RECOVERY (SFR) QUARTERLY PROJECT REPORT TEMPLATE

Name: City of Burlington

Contact Completing Report: [Click or tap here to enter text.](#)

Report Date: [Click or tap here to enter text.](#)

Grant Project: 2023 ARPA Statewide Sewer Overflow Elimination and Abatement

Grant ID: 06140-2023-ARPA-CSO-03

Quarter End Date: [Click or tap here to enter text.](#)

Quarterly Information Collected Every Quarter	
Projected/Actual Construction Start Date (month/year):	Click or tap here to enter text.
Projected/Actual Initiation of Operations Date (month/year):	Click or tap here to enter text.
Project Status:	Click or tap here to enter text.

Risk-Based Information High Risk: Collected Every Quarter	
Summary of progress made on deliverables within reporting timeframe.	Click or tap here to enter text.
Milestone status updates	Click or tap here to enter text.
Technical/cost/schedule issues encountered	Click or tap here to enter text.
Work planned for next period	Click or tap here to enter text.

Annual Performance Measure Information Collected Quarter ending on March 31 st	
1. Performance Measure: Final Designs Complete	
2. Performance Measure: Percent completion by dollars spent	
3. Performance Measure: Linear feet of pipe installed	

ATTACHMENT F – STATE FISCAL RECOVERY FUND PROGRAM ASSURANCES

An authorized signatory of Subrecipient must attest to the following by checking the box next to the statement and signing this document.

- ☒ 1. I have the authority to request payment from the State of Vermont. I am requesting payment for costs incurred in connection with section 602 of the Social Security Act, as amended by section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (“section 602”).
- ☒ 2. As required by federal law, the SFR will only be used for approved economic support or costs incurred during the period that begins on March 3, 2021 and December 31, 2024, in response to the COVID-19 public health emergency and its negative economic impacts.
- ☒ 3. Subrecipient will report on incurred expenses and/or losses, in a form and at a frequency prescribed by the State of Vermont and will cooperate with the State of Vermont in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 602.
- ☒ 4. To the extent that actual expenditures or demonstrated need is less than the total award amount, Subrecipient agrees to return the balance of unspent funds to the State of Vermont. If the United States Department of the Treasury recoups funds from the State of Vermont based on a determination that these award funds were used in a manner not in compliance with section 602, Subrecipient agrees that the State of Vermont may recover funds from Subrecipient by reducing future funding in State budgets.
- ☒ 5. Subrecipient must repay the award or portion of the award to the Vermont Agency of Natural Resources, Department of Environmental Conservation if: any funds received were issued in error; are based on incorrect representations made to the Vermont Agency of Natural Resources, Department of Environmental Conservation; or any costs forming the basis of an award under this program are covered by other federal funds or federally forgiven loans received by Subrecipient. I agree that the final determination of whether there has been a duplication of benefits and the amount to be repaid, if any, will be made by the Vermont Agency of Natural Resources, Department of Environmental Conservation.
- ☒ 6. Subrecipient has applied for FEMA-Public Assistance funding first for all FEMA-eligible expenses before applying to this grant. Subrecipient will only use this grant to cover expenses that are not eligible for FEMA-Public Assistance reimbursement.
- ☒ 7. Subrecipient shall maintain and make available to the State of Vermont and/or United States Department of the Treasury, upon request, all documents and financial records sufficient to establish compliance with section 602. Records and supporting documentation must be maintained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. Records to support compliance with subsection 602 may include, but are not limited to, copies of the following:
- a. General ledger and subsidiary ledgers used to account for (a) the receipt of SFR payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
 - b. Budget records;
 - c. Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
 - d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;

- e. Contracts and subcontracts entered into using SFR payments and all documents related to such contracts;
- f. Grant agreements and grant subaward agreements entered into using SFR payments and all documents related to such awards;
- g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
- h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
- i. All internal and external email/electronic communications related to use of SFR payments; and
- j. All investigative files and inquiry reports involving SFR payments.

☒ 8. To the best of my knowledge, neither Subrecipient nor Subrecipient '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.

☒ 9. Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether a Single Audit is required for the prior fiscal year. If a Single Audit is required, Subrecipient will submit a copy of the audit report to the State of Vermont within 9 months. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F.

☒ 10. Subrecipient will submit reports as required by the State of Vermont, Agency of Administration, and/or Vermont Agency of Natural Resources, Department of Environmental Conservation.

☒ 11. The Vermont Agency of Natural Resources, Department of Environmental Conservation may share the information on this federal award with other Vermont state agencies, and other Vermont agencies can share information with Vermont Agency of Natural Resources, Department of Environmental Conservation for the purpose of verifying Subrecipient's eligibility for this or another award or stimulus payment related to the COVID-19 pandemic.

☒ 12. Subrecipient authorizes the State of Vermont to share data relevant to this award with the U.S. Department of Treasury, including but not limited to previously submitted W-9 data that is related to this award.

☒ 13. All of Subrecipient's tax returns are completed and filed through the date of application filing.

☒ 14. Subrecipient complies with local, state and federal labor laws.

☒ 15. Subrecipient is in good standing with the Vermont Secretary of State.

☒ 16. I attest, under penalty of perjury, that all information provided on this form is true and accurate. I understand that the State of Vermont will rely on this certification as a material representation in making this federal award. Further, I understand that intentional misrepresentation of information is fraud and may subject me or my organization to disqualification from receiving further benefits, administrative penalties, and criminal prosecution.

☒ 17. Subrecipient understands that, if Federal guidance on the regulations of the State Fiscal Recovery Fund change, it may change the terms of this award.

☒ 18. Subrecipient certifies that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

☒ 19. Subrecipient certifies that that they will require any subcontractors or subgrantees to also certify that for contracts awarded over \$200,000 for maintenance, construction, or improvement project shall provide that all construction employees working on the project shall be paid not less than mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

Printed Name:

Authorized Signature:

Title:

Organization Name:

Date:

**ATTACHMENT G - TERMS AND CONDITIONS FOR FEDERAL SUBRECIPIENTS -
U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS STATE FISCAL RECOVERY FUND AWARD**

1. Use of Funds.
 - a. Participant understands and agrees that the funds disbursed under this award may only be used in compliance with section 602 of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Participant will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Reporting. Participant agrees to comply with any reporting obligations established by Treasury as they relate to this award.
3. Maintenance of and Access to Records
 - a. Participant shall maintain records and financial documents sufficient to evidence compliance with section 602 of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Participant in order to conduct audits or other investigations.
 - c. Records shall be maintained by Participant for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
4. Conflicts of Interest. Participant understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Participants must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
5. Compliance with Applicable Law and Regulations
 - a. Participant agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602 of the Act, and guidance issued by Treasury regarding the foregoing. Participant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Participant shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all

lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

- v. Participant Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
6. Remedial Actions. In the event of Participant's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602 of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602 of the Act.
7. Hatch Act. Participant agrees to comply, as applicable, with requirements of the Hatch Act (U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
8. False Statements. Participant understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

9. Publications. Any publications produced with funds from this award must display the following language: “This project is being supported, in whole or in part, by federal award number SLFRP4407 awarded to the State of Vermont by the U.S. Department of the Treasury.”
10. Debts Owed the Federal Government.
- a. Any funds paid to Participant (1) in excess of the amount to which Participant is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 602 of the Act and have not been repaid by Participant shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Participant. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Participant knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
11. Disclaimer
- a. The United States expressly disclaims any and all responsibility or liability to Participant or third persons for the actions of Participant or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
 - b. The acceptance of this award by Participant does not in any way establish an agency relationship between the IFA, United States and Participant.
12. Protections for Whistleblowers.
- a. In accordance with 41 U.S.C. § 4712, Participant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Participant, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
 - c. Participant shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
13. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Participant should encourage its contractors to adopt and enforce on-the- job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

14. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Participant should encourage its employees and contractors to adopt and enforce policies that ban text messaging while driving, and Participant should establish workplace safety policies to decrease accidents caused by distracted drivers.

Place saver for Attachment H – ARPA CSO Grant Post-Award Form for Project Selection

Board of Finance and City Council Submission Checklist

Department: DPW-Water Resources Division Submitter: Megan Moir

Title/Subject: Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	3/11/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	No	Click or tap to enter a date.	Chapin Spencer was out of the country and delegated authority to the Division Director
Mayor's Office informed and approved memo	Yes	3/6/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan has reviewed the draft grant agreement
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	3/5/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	3/6/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Draft grant agreement
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.