



Board of Finance

Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall

Please click the link below to join the webinar:

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Webinar ID: 952 9385 8813

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

1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	1. Agenda
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to amend/adopt agenda as follows: remove from the consent agenda items 3.2., 3.3. and 3.4. (per CAO Schad)

2. Public Forum

Subject	2.1. Verbal Comments
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	2. Public Forum

Department	Council and Board
Type	Action Procedural
Recommended Action	open the Public Forum close the Public Forum

3. Consent Agenda

Subject	3.1. Motion to adopt the consent agenda (as amended) and take the actions indicated
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. 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	3.2. March 11, 2024 Board of Finance Meeting Minutes, Draft **AGENDA ITEM REMOVED**
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Minutes
Recommended Action	approve the minutes
Subject	3.3. March 18, 2024 Board of Finance Meeting Minutes, Draft **AGENDA ITEM REMOVED**
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Minutes
Recommended Action	approve the minutes
Subject	3.4. March 25, 2024 Board of Finance Meeting Minutes, Draft **AGENDA ITEM REMOVED**

Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Minutes
Recommended Action	approve the minutes
Subject	3.5. Authorization to Accept Grant funds from Vermont Housing Conservation Board (VHCB) and increase our budget - BPRW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Parks, Recreation, & Waterfront
Type	Action (Consent)
Recommended Action	1. To approve and authorize the acceptance of grant funds in the amount of \$6,000 from the VHCB; and, to authorize the Director of Parks Recreation and Waterfront to execute all documents necessary to accept the funding, subject to the final review and approval of the City Attorney's Office and Chief Administrative Officer. 2. To approve and authorize a budget amendment to increase the Conservation Legacy Fund budget by \$18,240 through a \$6,000 VHCB grant and \$12,240 of CLF Fund Balance; and, to authorize the Chief Administrative Officer or designee to affect such amendment and all necessary transfers of funds in furtherance of increasing the budget.
Subject	3.6. Sponsorship Agreements for the Congolese Community of Vermont and Village Hydroponics - REIB
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Racial Equity, Inclusion, & Belonging (REIB)
Type	Action (Consent)
Recommended Action	The Office of Racial Equity, Inclusion, and Belonging requests the Board of Finance approve the following motions: 1. To approve and authorize the Acting Director of the Racial Equity, Inclusion, and Belonging Office and the Chief Administrative Officer to issue a grant of City funds to the Congolese Community of Vermont for a total authorized grant amount of \$15,000 from the Empowerment Fund GL, and to execute a grant agreement memorializing the same, subject to review by the City Attorney's Office. 2. To approve and authorize the Acting Director of the Racial Equity Inclusion and the Chief Administrative Officer to issue a grant of City funds to Vermont Hydroponics for a total authorized grant amount of \$10,000 from the Empowerment Fund GL and to execute a grant agreement memorializing the same, subject to review by the City Attorney's Office.

Subject	3.7. Waterfront Overnight Security Contract - BPRW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Parks, Recreation, & Waterfront
Type	Action (Consent)
Recommended Action	to approve and recommend that the City Council approve and authorize the contract with Green Mountain Concert Services to provide waterfront overnight security services for a total contract amount not to exceed \$138,000 and to authorize Cindi Wight, BPRW Director to execute the contract and any related documents, subject to review by the City Attorney's Office
Subject	3.8. Lease for the Spirit Of Ethan Allen - BPRW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Parks, Recreation, & Waterfront
Type	Action (Consent)
Recommended Action	to approve and recommend that the City Council approve and authorize the lease of the assigned area as shown in the map in Attachment A to Green Mountain Boat Lines through 12/31/2028, in substantial conformance with the existing lease terms and the updated terms as detailed herein; and, to further authorize Mayor Emma Mulvaney-Stanak to execute the lease agreement and any related documents, subject to review by the City Attorney's Office

4. Deliberative Agenda

Subject	4.1. Budget Neutral Amendment making adjustments based on recent budget to actual - C/T
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Clerk/Treasurer's Office
Type	Action
Recommended Action	to approve and recommend that the City Council approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to reduce the CT budget by \$700,000 and to reduce expenses by a total of \$700,000 in the CT, REIB, CA, and Assessor departments, per the attached form
Subject	4.2. Burlington Fire Department Community Response Team (CRT) - Fire
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall

Category	4. Deliberative Agenda
Department	Fire Department
Type	Action
Recommended Action	move to approve and recommend that the City Council authorize the Chief Administrative Officer to make any and all necessary budget amendments to allocate the use of the assigned Opioid Money Fund to support operating costs of the Fire Department Community Response Team until funds are exhausted with a budget not to exceed the original approval of \$182,598.00; and, to further authorize the extension of the CRT pilot program through the end of City Fiscal Year '24 or the end of available funding
Subject	4.3. Burlington Electric Department Memorandum of Understanding for CityPlace Public Improvements - DPW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	to approve and recommend that the City Council authorize the Director of Public Works to execute a Memorandum of Understanding with the Burlington Electric Department in an amount up to \$311,237 for construction of street lighting associated with the CityPlace Public Improvements project, subject to the review and approval of the City Attorney's Office
Subject	4.4. Champlain Parkway - City of Burlington and Champlain Water District MOA - DPW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	to approve and recommend to City Council they authorize the Director of Public Works or his designee to execute the Memorandum of Agreement with Champlain Water District, for the purposes of delineating the Parties' respective rights and obligations with respect to CWD's existing easement that was recorded in the City of Burlington Land Records on March 19, 1984 and City's easement originally executed on November 7, 1988
Subject	4.5. Colchester/Riverside/Barrett/Mill Intersection Finance and Maintenance Agreement Acceptance: Burlington STP 5000(29) - DPW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda

Department	Public Works Department
Type	Action
Recommended Action	1. To approve and recommend that the City Council authorize the Director of Public Works to execute the FM0477: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington STP 5000(29) from the Vermont Agency of Transportation for design and construction of the Colchester/Riverside/Barrett/Mill Intersection with a VTrans commitment to cover 100% of eligible project costs. 2. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachment 2.
Subject	4.6. Burlington - Winooski Bridge Finance and Maintenance Agreement Acceptance BF RAIZE(2) - FM0449 - DPW
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	1. To approve and recommend that the City Council authorize the Director of Public Works to execute the FM0449: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington-Winooski BF RAIZ(2) from the Vermont Agency of Transportation for design and construction of the Winooski Bridge with the funding split for this project being 80% Federal, 10% State, 5% Burlington, and 5% Winooski. 2. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the abovereferenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachment 2.
Subject	4.7. Authorization to Execute a Contract with Hallam ICS for Supervisory Control and Data Acquisition (SCADA) System Upgrade at Water Plant - DPW - Water Resources
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Public Works Department - Water Resources
Type	Action
Recommended Action	to approve and recommend that the City Council authorize the Director of the Department of Public Works to award a contract with Hallam-ICS for up to \$110,000 to

complete the SCADA upgrade scope at the Water Plant, subject to final review and approval of the City Attorney's Office

Subject	4.8. Authorization to Execute a Contract with Corrosion Products & Equipment for the Rebuild of Three Finished Pumps at Water Plant - DPW - Water Resources
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Public Works Department - Water Resources
Type	Action
Recommended Action	to approve and recommend that the City Council authorize the Director of the Department of Public Works to award a contract with Corrosion Products & Equipment for up to \$182,500 to complete the rebuilding of the Water Plant's three (3) Vertical Turbine finished pumps, subject to the final review and approval of the City Attorney's Office

5. For Discussion

Subject	5.1. Sale of 200 Church Street - CEDO
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	5. For Discussion
Department	Community & Economic Development Office (CEDO)
Type	Information Discussion

6. Adjournment

Subject	6.1. Motion to adjourn
Meeting	April 9, 2024 - Board of Finance Meeting - Tuesday, April 9, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	6. Adjournment
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to adjourn

**BURLINGTON BOARD OF FINANCE
BUSHOR CONF. ROOM, FIRST FLOOR, CITY HALL *OR*
REMOTE MEETING WITH CALL-IN NUMBER
BURLINGTON, VERMONT
MINUTES OF MEETING
DRAFT
March 11, 2024**

MEMBERS PRESENT:

Karen Paul (at 5:15 PM)
Ali Dieng (via Zoom)
Joe Magee
Mark Barlow
Miro Weinberger (via Zoom at 5:15 PM)

OTHERS PRESENT:

Katherine Schad
Darren Springer
Chris Burns
Kara Alnasrawi
Laura Wheelock
Julia Ursaki
Chapin Spencer
Norm Baldwin
Megan Moir

1.0 CALL TO ORDER and AGENDA

1.1 Motion to amend/adopt the agenda

Chief Administrative Officer Schad called the Board of Finance meeting to order at 5:04 PM.

MOTION by Councilor Magee, SECOND by Councilor Barlow, to adopt the agenda.

VOTING: unanimous; motion carries (Mayor Weinberger, City Council President Paul absent for vote).

2.0 PUBLIC FORUM

2.1 Verbal Comments

3.0 CONSENT AGENDA

3.1 Motion to adopt the consent agenda and take the actions indicated

3.2 City of Burlington Seasonal Warming Shelter Project: Acceptance of Hannaford Donation – 1. Approve the acceptance of SFY 2024 grant funds in the amended amount of \$603,712 from the State of Vermont Housing and Opportunities Program for the operations of the seasonal overnight shelter and authorize the Director of CEDO to execute all contracts and documents necessary to accept the funding through the period of June 30th 2024, including retroactive approval for the period of November 1, 2023 thru June 30, 2024, subject to the final review and approval of the City Attorney’s Office; and 2. Approve the acceptance of the Hannaford Supermarkets donation in the amount of \$90,000 and authorize the Director of CEDO to execute all agreements and documents necessary to accept funding, subject to the final review and approval of the City Attorney’s Office.

3.3 Renewal of Main On-Call Contract for Financial Advisor and Utility Management Services with Raftelis Financial Consultants (Third and Final Renewal) - DPW - Water Resources - 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; and 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.

MOTION by Councilor Barlow, SECOND by Councilor Magee, to approve the consent agenda and take the actions indicated for items 3.1-3.3.

VOTING: unanimous; motion carries (Mayor Weinberger, City Council President Paul absent for vote).

4.0 FOR APPROVAL AND RECOMMENDATION TO THE CITY COUNCIL

4.1 BED Switch & Save Program subgrant – BED

BED General Manager Springer began by describing the program, which includes \$400,000-\$500,000 for Burlington to replace less efficient water heaters in income-qualified residences with more efficient heat pump water heaters. He noted that this funding came from legislation at the State level. He noted that staff are working with the housing organizations in the community to deploy the funding as quickly as possible to qualified residents, and that the funding is intended to be used in 2024.

Councilor Barlow asked how many conversions would be possible with this amount of funding. General Manager Springer replied that they are estimating between 75-125 switchovers, using \$300,000 for the heat pumps and \$100,000 for associated electrical work.

MOTION by Councilor Magee, SECOND by Councilor Barlow, 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.

VOTING: unanimous; motion carries (Mayor Weinberger, City Council President Paul absent for vote).

4.2 Church Street Marketplace Capital Improvement – Request to Accept Bid – Business & Workforce Development

Director Alnasrawi noted that Burlington received a \$1,000,000 grant through former Senator Leahy’s office, and wrote and posted an RFP to re-evaluate a street assessment that was last conducted in 2017. She said that they received one bid that fits into the budget (Don Weston

Excavating), and she noted that this vendor has previously worked with Burlington. She asked the Board of Finance to approve the acceptance of the bid.

Councilor Magee asked about what types of repairs would be prioritized for this work. Director Alnasrawi spoke about certain parts of the street that are trip hazards that need to be addressed, as well as needing to raise certain portions of the street to signal to the visually-impaired that they are approaching an intersection.

MOTION by Councilor Dieng, SECOND by Councilor Magee, 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.

VOTING: unanimous; motion carries (Mayor Weinberger, City Council President Paul absent for vote).

4.3 Authorization to Execute the Design Contract for the CDS Cherry Street and RAISE Reconnecting Downtown Project – DPW
City Engineer Ursaki noted that this pertains to the \$22 million grant that was previously accepted by the Board of Finance and City Council for work related to reconnecting downtown. She said that they have been working with VTrans and FHWA to issue a Request for Qualifications for the design work for this project. She said that due to the scale, size, and cost of this project, a RFQ was issued instead of an RFP, and that they received several statements of qualifications from three design firms. She said that they have selected Stantec, which was involved in a previous version of this project, which gave them an advantage in terms of efficiency, and said that they demonstrated understanding of this project's schedule, and have the technical expertise needed for this project.

Councilor Magee asked about the timeline for the design of this project. City Engineer Ursaki replied that the design work must be completed and ready to go to construction for Cherry Street by June of 2026 and for Bank Street by June of 2027.

MOTION by Councilor Barlow, SECOND by Councilor Magee, to approve and recommend that the City Council 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.

VOTING: unanimous; motion carries (Mayor Weinberger absent for vote).

4.4 Champlain Parkway - FY24 Project Budget Amendment & Consultant Contract Amendments – DPW
Assistant Director Baldwin said that this is the third season of construction for the first phase of the Champlain Parkway and that they anticipate completing this phase by August of 2024. He said that for this request, they are seeking budget amendment authorizations and contract authorizations for design, resident engineering services, and project management for the initial phase and future phases of this project. He noted that there is also a request to use capital bond proceeds for non-participating costs, and he described the non-participating costs as relating to soil development and management, landscaping, and various amenities that are not eligible for state funding.

Councilor Magee asked if the City has conducted traffic modeling that takes the South End Innovation District into account. Assistant Director Baldwin replied that they had not conducting modeling to show the effects of that specific project. He said that DPW is working with the development team to understand the consequences of that project and whether future improvements to address traffic challenges may need to occur. Director Spencer added that DPW and the development team have just set up a meeting to do another round of traffic review from the larger planning perspective, to ensure that assumptions are understood for future projects and determine whether an initial phase or two of a new project can go ahead with only minor traffic adjustments while they work to finish the Parkway.

Councilor Barlow noted specific concerns around the use of street capital funding, but said that Director Spencer had clarified that these funds are being used for contingency funding. He also noted concerns around the use of \$900,000 in capital bond proceeds, but that Director Spencer clarified that this funding was allocated for local match, which is consistent with how it was intended to be used.

Councilor Dieng asked why the federal government is not covering the cost of the contaminated soil remediation. Director Spencer replied that it is consistent with other projects, which also hold the City liable for the soil management costs. He said that Vermont has more stringent regulations than most states around this, and part of the federal government's concern is around bearing the extra cost associated with soil remediation in Vermont, which is why municipalities are required to cover the costs.

MOTION by City Council President Paul, SECOND by Councilor Barlow, 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; and 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 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; and 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 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; and 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 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.

VOTING: unanimous; motion carries.

4.5 Authorization to Accept Combined Sewer Overflow Abatement ARPA Grant Funds - DPW - Water Resources

Division Director Moir noted that part of the City's long-term control plan identified a number of additional combined sewer overflow mitigation items that will be required in the coming decades. They noted that the State had funding that was set aside and allocated across communities and that the City was able to secure around \$3.3 million of that funding for several high-priority projects. They noted that the highest priority project is a substantially-sized tank underneath Calahan Park that would provide storage for the combined sewage overflows that currently go to the Pine Barge Canal and then into the lake. They said that this funding is flexible and if the tank project stalls, they have other spending options.

MOTION by City Council President Paul, SECOND by Councilor Magee, 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.

VOTING: unanimous; motion carries.

4.6 Authorization to Accept MS4 Community Formula ARPA Grant Funds – DPW – Water Resources

Division Director Moir began by noting that Burlington is an MS4 community, which comes with more requirements than non-MS4 municipalities in the state. They said that one requirement is around phosphorous reduction, and this is articulated as a goal of the City's Integrated Water Quality Plan, which also outlines a tertiary treatment system to help further reduce phosphorous before water is discharged into the lake. They noted that the high priority project identified for this specific grant funding is to retrofit an old stormwater pond in the Southwind neighborhood into a gravel wetland, which has the highest rate of phosphorous reduction of any stormwater treatment practice. They noted that this grant funding is also flexible and that there are several backup projects as well, should the Southwind project not occur or not expend all of the funding.

MOTION by Councilor Magee, SECOND by City Council President Paul, 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.

VOTING: unanimous; motion carries.

5.0 ADJOURNMENT

5.1 Motion to Adjourn

With no further business and without objection the meeting was adjourned at 5:38 PM.

RScty: AACoonrad

**BURLINGTON BOARD OF FINANCE
BUSHOR CONF. ROOM, FIRST FLOOR, CITY HALL *OR*
REMOTE MEETING WITH CALL-IN NUMBER
BURLINGTON, VERMONT
MINUTES OF MEETING
DRAFT
March 18, 2024**

MEMBERS PRESENT:

Karen Paul
Ali Dieng (via Zoom)
Joe Magee
Mark Barlow
Miro Weinberger

OTHERS PRESENT:

Katherine Schad
Jordan Redell
Dora Bean
Chapin Spencer
Brian Pine
Samantha Dunn
Scott Gustin
Cindi Wight
Nic Longo
Jeff Glassberg
Marty Spaulding
Megan Moir
Scot Barker
Melo Grant
Ben Traverse

1.0 CALL TO ORDER and AGENDA

1.1 Motion to amend/adopt the agenda

Mayor Weinberger called the Board of Finance meeting to order at 5:36 PM.

MOTION by Councilor Barlow, SECOND by Councilor Magee, to amend and adopt the agenda as follows:

- **Remove from the consent agenda item 3.9 and place it on the deliberative agenda as item 4.5 (per Mayor Weinberger per Councilor Barlow);**
- **Add to the agenda item 6.0 Discussion Regarding 200 Church Street – CEDO (per CAO Schad per CEDO Director Pine)**

VOTING: unanimous; motion carries.

2.0 PUBLIC FORUM

2.1 Verbal Comments

Sharon Bushor expressed support for the agenda item that would seek to continue contracting with Burlington Telecom for an additional five years. She additionally expressed support for the proposed lease agreement at the Airport for the Burlington School District. She expressed concern about the agenda item related to spending certain Conservation Legacy Fund dollars on a comprehensive rewrite of the Open Space Plan, as the legacy fund is intended to be used to acquire open space for the City.

3.0 CONSENT AGENDA

3.1 Motion to adopt the consent agenda and take the actions indicated

3.2 February 20, 2024 Board of Finance Meeting Minutes, Draft – approve minutes.

3.3 February 26, 2024 Board of Finance Meeting Minutes, Draft – approve minutes.

3.4 CVOEO Fair Housing Month Sponsorship 2024 – REIB – approve and authorize the Acting Director of the Racial Equity Inclusion and Belonging Office and the Chief Administrative Officer to issue a grant of City Empowerment Funds to CVOEO to support Fair Housing Month programming for a total authorized grant amount of \$1,000.

3.5 Parking Facilities Fund FY'24 Budget Amendment for Credit Card Service Charges – DPW – approve and recommend that the City Council approve the attached FY'24 Parking Facilities Fund budget amendment dated March 18, 2024.

3.6 Authorization to Accept Grant Funds from the State of Vermont Historic Preservation Program – approve and authorize the acceptance of historic preservation grant funds in the amount of \$20,000 from the State of Vermont subject to a \$20,000 local match obligation; and, to authorize the Director of Parks, Recreation, and Waterfront to execute all documents necessary to accept the funding, subject to the final review and approval of the City Attorney's Office and Chief Administrative Officer.

3.7 Conservation Legacy Fund Discussion – Arms Parks Connection to Greenway – recommend that the City Council approve and authorize the use of the Conservation Legacy Fund, in the amount of \$101,975, towards improved access, connectivity, and amenities in Arms Park from the Burlington Greenway through the newly acquired Elks Property.

3.8 Champlain St Park Renovations, Contract Amendment – BPRW – approve and recommend that the City Council approve and authorize the execution of a contract amendment in the additional amount of \$19,950.00 with Waterman Siteworks, LLC, for a contract value not to exceed \$183,794.00 for the Champlain Street Park Renovations Construction project, plus a contingency of \$15,481.09, for a total authorized expenditure not to exceed \$199,275.09; and, to authorize Cindi Wight, Director of Parks and Recreation, to execute the contract amendment and any related documents needed to carry out the project, subject to review by the City Attorney's Office.

3.9 Request to execute a Lease Agreement with the Burlington School District for the use of the "South Hangar" as the new home of aviation-oriented education at the Burlington Technical Center – Airport ****NOW AGENDA ITEM 4.5****

3.10 Contract for TylerTech FireCAD Cloud Migration – Fire/I&T – approve and recommend that the City Council authorize the Fire Chief and/or the Chief Innovation Officer to execute a three-year contract with TylerTech to provide cloud-based FireCAD services for a total contract value not to exceed \$385,000 (including \$75,000 for implementation and system migration services and three years of an annual software and hosting cost of \$89,500), subject to the review and approval by the City Attorney's Office.

3.11 Contract for UKG Payroll and Human Resources Software – HR/I&T – approve and recommend that the City Council authorize the Director of Human Resources and/or the Chief Innovation Officer to execute a three-year contract with UKG to provide payroll and human resources information technology services for a total contract value not to exceed \$550,000 (including \$38,000 for implementation and system migration services), subject to review and approval by the City Attorney's Office.

MOTION by Councilor Dieng, SECOND by Councilor Magee, to approve the consent agenda and take the actions indicated for items 3.1-3.11.

VOTING: unanimous; motion carries.

4.0 FOR APPROVAL AND RECOMMENDATION TO THE CITY COUNCIL

4.1 CY24 Paving Contract – DPW

Associate Public Work Engineer Bean said that this is a request for approval for a contract with ECI for this year's paving work in the City. She said that they anticipate paving North Avenue from Plattsburg Avenue to Shore Road and Stanniford Road from Oakwood Terrace to North Avenue, as well as patching various streets throughout the City. She noted that the City has a town highway grant of \$200,000 to put toward this work.

Councilor Barlow said that there are a number of roads that aren't on the 2024 season paving list and asked what the plan is for addressing needs that arise during the season. Associate Public Works Engineer Bean noted that the contingency for this contract is 30%, which is high, as they hope to use it to conduct additional patching, though she noted that they have limited funding to address all of the streets in need. She noted that they will conduct crack sealing as a preventative measure in addition to addressing the roads that need fixing. Director Spencer noted that this is an area of the City's work where they have put in collective effort since the 2016 Sustainable Infrastructure Plan. He said that every year there has been supplemental bond funding for enhanced paving, but that little of it remains. He said that the next Administration will likely need to determine how to secure more street capital funding, as the current street capital tax is not sufficient to maintain the City's systems.

MOTION by Councilor Barlow, SECOND by City Council President Paul, to 1. Approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to effect all necessary budget amendments and transfers of funds from the above-referenced funding sources, as further detailed in the attached CY24 paving project budget, as needed to a total of \$1,027,573.00 for the projected construction costs to complete the CY24 Paving Project; 2. Approve and recommend that the City Council authorize the Director of Public Works, or their designee, to execute a construction contract with Engineers Construction Inc. for the CY24 Paving Project in the amount of \$1,027,573.00, with an additional \$289,628.00 in contingency funds, equaling a total authorized expenditure of \$1,317,201.00, subject to the final review and approval by the Office of the City Attorney.

VOTING: unanimous; motion carries.

4.2 Request to Execute a Contract and Property Use Agreement with Friends of the FRAME – CEDO

Assistant Director Dunn noted that the City has been working with Friends of the Frame over the last several years on a pilot program for activation of the site through public programming and investment in the infrastructure, and that this request seeks to extend that partnership through a contract and property use agreement.

MOTION by City Council President Paul, SECOND by Councilor Magee, to approve and recommend that the City Council approve and authorize the Director of the Community & Economic Development Office to enter into a Property Use Agreement and a Contract with Friends of the FRAME for the purposes of ongoing collaboration, activation of the site and development of a Phase 2 capital strategy with a maximum limiting amount of \$105,000, both subject to final review and approval of the City Attorney's Office.

VOTING: unanimous; motion carries.

4.3 Conservation Legacy Fund Request – Open Space Plan Re-Write – DPI

Principal Planner Gustin began by noting that the City's Open Space Protection Plan and Urban Forest Plan are 25 years old, and while they could be rewritten separately, there is a lot of overlap between the two. He noted that this rewrite would be spearheaded by the Department of Permitting and Inspections, with collaboration from the Conservation Board and Parks Commission, as well as support from UVM's Spatial Analysis lab for data analysis. He said that this is a request for up to \$100,000 to conduct the comprehensive rewrite.

Mayor Weinberger asked about the timeline to conduct the rewrite. Principal Planner Gustin said that they have the RFP drafted and will post it soon. He said that once the work gets underway, it should take about a year. He said that there is likely an opportunity to check in with the new Administration and new City Council on this when that transition occurs.

MOTION by Councilor Magee, SECOND by Councilor Barlow, to approve and recommend that the City Council approve up to \$100,000 in Conservation Legacy Fund monies for a comprehensive rewrite of the Open Space Plan as recommended by the Conservation Board and Parks Commission.

DISCUSSION:

- **Councilor Dieng asked about the other current project that would be using Conservation Legacy Fund dollars, the Elks/Arms Forest Project. Director Wight noted that that project is focusing on the entrance to the Greenway, and will include universal trail access and a kiosk to ensure that the entrance is more accessible.**

VOTING: unanimous; motion carries.

4.4 Request to Accept and Execute a Federal Aviation Administration (FAA) Grant for design, construction manager at risk coordination and selection, pricing construction inspection and construction of the North Concourse Replacement Project "Project NEXT" – Airport
Aviation Director Longo began by describing the project, which would be for the Airport's expanded north terminal and replacement project. He said that this is the result of years of planning that went into a congressionally directed spending bill of \$34 million. He said that the project's improvements would accommodate larger aircraft and new jet bridges. He noted that underneath the new terminal is a geothermal field which would provide the heating and cooling for the building. He also noted that it would include a new pre-security observation area, which could also be rented out as an event space. He said that this request is to accept the \$34 million, but that a construction contract will be a future ask of this Board, since they are currently finishing up design work for the project.

MOTION by City Council President Paul, SECOND by Councilor Magee, to approve and recommend that the City Council approve and authorize the Director of Aviation to execute a grant from the Federal Aviation Administration to accept an amount up to \$34,000,000.00, with a 15% contingency, totaling up to \$39,100,000.00, as allowed under the grant, for design, construction manager at risk coordination and selection, pricing, construction inspection and construction of the North Concourse Replacement Project "Project NEXT", subject to review and approval by the City Attorney's Office.

DISCUSSION:

- **Councilor Barlow asked about the timeline for this project and whether it is anticipated to impact current operations. Aviation Director Longo replied that they are about 80% finished with design work, and anticipate obtaining pricing bids within the next 60 days. He said that they anticipate breaking ground in late summer or early fall. He said that the construction will be complex, but that the current building is unusable in its current state. He said that the construction will likely last 18 months, so it will be 2025 before they will need to plan the reallocation of space and relocation of airlines to the new terminal.**

VOTING: unanimous; motion carries.

4.5 Request to execute a Lease Agreement with the Burlington School District for the use of the "South Hangar" as the new home of aviation-oriented education at the Burlington Technical Center – Airport **WAS CONSENT AGENDA ITEM 3.9**
Aviation Director Longo said that this proposed lease agreement came out of a competitive bid process for what the FAA calls the aeronautical use facility. He noted that the Burlington School District was the sole bidder, and that through the bid process they demonstrated how they would transition their current avionics program to the South Hangar and that the Airport saw the benefits of improving the existing South Hangar through this 40-year lease term.

Councilor Barlow asked about programming and ongoing compliance with FAA requirements. Marty Spaulding of PCI consultants noted that there is an existing aviation program at the Airport, but that it is primarily for adult education students. He noted that the high school had an aviation program at the Burlington Tech Center, at the old school. He said that one program moving into the South Hangar space is that aviation student program, as well as the advanced manufacturing program. He said that they will be able to fit four programs into this hangar space (and the fourth program has yet to be determined). Councilor Barlow asked about the process of ensuring that any new program that comes online is FAA-compliant. Mr. Spaulding replied that there is language in the lease that requires programs to meet FAA requirements. Jeff Glassberg, a consultant on this project, also noted that descriptions of the programs were included in the lease agreement and this description was sent to the FAA for their review and approval. He also noted lease language that requires Airport, TSA, and FAA review of any changes to programming.

MOTION by Councilor Magee, SECOND by City Council President Paul, to approve and recommend that the City Council approve and authorize the leasing of certain identified space, the so-called South Hangar building located at 200 Da Vinci Drive, at the Patrick Leahy Burlington International Airport to the Burlington School District, and to authorize the Mayor of Burlington to execute the lease agreement, subject to final review and approval by the City Attorney's Office.

DISCUSSION:

- **Councilor Dieng asked about the rent credit. Mr. Glassberg replied that the School District must spend at least \$11.5 million on improvements in the hangar, and will receive a rent credit from the Airport to be applied against the rent. Councilor Dieng asked about how the school district would fund the improvements, and Mr. Spaulding replied that there was funding identified and set aside two years ago in the school district's budget specifically for this project. Councilor Dieng asked about ways to leverage the Airport as an enterprise fund to ensure that the burden isn't solely falling on the school district and the backs of taxpayers. Aviation Director Longo said that throughout the schematic design phasing and initial conversations, the Airport spent about \$600,000 of its own funding to ensure that the design work was moving forward. He said that the Airport will work with the school district through the remaining design to identify ways to support the district.**

VOTING: unanimous; motion carries.

4.6 Authorization for a Budget Amendment for Emergency Phase of Sewer Siphon Break Response – DPW – Water Resources
Division Director Moir began by noting that this item is related to the fixes that were implemented when a City sewer siphon broke in July of 2023. They noted that the big purchases (anything over \$50,000) has come to the various Board of Finance and City Council meetings for review and approval, and that this item seeks retroactive authorization for a budget amendment of \$50,331.51, as well as a request to encumber a portion of the Wastewater fund balance (up to \$259,194.44) to use for local match for expenses to date. They said that there

was extra cash from a refund of principal from the Vermont Bond Bank (about \$640,000) that was originally set aside in FY24 for debt service, which they would propose to use to fund this.

MOTION by Councilor Dieng, SECOND by Councilor Barlow, to 1. Approve and recommend that the City Council approve a budget amendment totaling \$50,331.51 of expenses and revenues to the Wastewater Capital Fund 862 by increasing the accounts as described in Table 2 of this memo; and 2. Approve and recommend that the City Council authorize the use of Fund 480 fund balance and approve an expense budget amendment of \$259,194.44 to the Wastewater Fund 480 by increasing the accounts described in Table 3 of this memo.

VOTING: unanimous; motion carries.

4.7 Contract Renewal for Continuing Engagement with Burlington Telecom – I&T

Chief Innovation Officer Barker said that the City is seeking Board of Finance and City Council approval for entering into a sole-source contract with Burlington Telecom, as the City's current five-year agreement with Burlington Telecom for phone and internet services is expiring. He said that Burlington Telecom has been an excellent partner to work with, both in terms of service provision and reasonableness of cost. He noted that during the current contract term, Burlington Telecom had the ability to charge the City up to \$81,000 per month but that invoices came in below that, at around \$65,000 per month. He noted that Burlington Telecom also provided a number of services, such as free WiFi at City buildings and certain parks and community spaces, installation of WiFi access points, project management and engineering work, and the relocation of equipment out of Memorial Auditorium. He said that further, changing to another internet service provider would be complex and costly.

MOTION by City Council President Paul, SECOND by Councilor Barlow, to approve and recommend that the City Council authorize the Chief Innovation Officer to execute a five-year contract with Burlington Telecom to provide high-speed internet and phone services in an amount not to exceed a total contract value of \$4,000,000, subject to review and approval by the City Attorney's Office.

VOTING: unanimous; motion carries.

5.0 MONTHLY BUDGET TO ACTUALS REPORT FOR GENERAL FUND – C/T

5.1 Monthly Budget to Actuals Report for General Fund – C/T

Chief Administration Officer Schad said that this is the first monthly budget to actuals report for the General Fund for the current fiscal year, and that the City will be producing these and presenting them to the Board of Finance regularly. She noted that this report is through the month of January. She said that in general, the City is currently on budget with the General Fund.

City Council President Paul expressed support for this monthly report, saying that it will be helpful information to have during the remainder of the FY25 budget discussions and addressing budget gaps in the FY25 budget.

Councilor Dieng also expressed support for this monthly report and the information within it. He asked how many insurance policies the City pays premiums on, and said he wanted to better understand the full picture of them. Chief Administration Officer Schad said it would be helpful to have the City's insurance agent back to present an overview of the City's insurance policies, noting that he had spoken at Board of Finance about six months ago to outline several issues around the City's worker's compensation, liability, and property insurance policies. She

said that the City also works with a separate agent for its health insurance, and said it would be helpful to have agents for both of those back to Board of Finance. She said that health insurance has seen increased premium costs across the City, state, and country.

Councilor Barlow said that one useful tool for the school budget review was adopting a red/yellow/green indicator for each budget, and asked about whether that same technique could be applied to this budget. Chief Administration Officer Schad replied that she has adopted this to show where departmental budgets are at in terms of risk of overspending on the expense side or under-performing on the revenue side.

Councilor Grant noted that the names within the City Council department budget need to be updated, as they are outdated. She also noted that she has submitted expenses but that they haven't been reflected in this budget report. She said she will work with Chief Administration Officer Schad on getting up-to-date information reflected in the report. She also asked whether the City uses health reimbursement accounts as an offering in its health insurance plans. Chief of Staff Redell noted that employees have the option to use flexible spending accounts, and Mayor Weinberger recommended that Councilor Grant get in touch with human resources staff to further follow up on this.

6.0 DISCUSSION REGARDING 200 CHURCH STREET – CEDO

6.1 Discussion Regarding 200 Church Street – CEDO

Director Pine began by noting that this relates to the potential sale of a City asset (the 200 Church Street building), and that though the Administration and Council will change significantly in early April, he would like to begin this conversation now, as part of the process of exploring this potential sale. He noted that the 200 Church Street building was built in 1958 as an office building, is 15,000 square feet, with offices for the City (Community Justice Center, Human Resources, and Payroll) and Burlington Telecom. He noted that CJC is anticipated to transition to the building that is being redeveloped on the VFW site. He noted that the asset purchase agreement lays out the terms of the potential transaction (a sale of the building to Burlington Telecom), and that the City would like to sell the building to Burlington Telecom prior to the next lease renewal, as the building is in need of maintenance and the City does not have the \$1.5 million to make those improvements prior to selling it. Mayor Weinberger provided more historical context, noting that when the City and Burlington Telecom reached a settlement when they separated, the 200 Church Street building remained in the City's ownership at that time. He said that because the City is facing certain budgetary pressures and lack of funding to maintain its core assets and infrastructure, this sale could help alleviate some of that pressure. Councilor Dieng asked about the parking lot behind the property, and Assistant Director Dunn replied that the City only owns the footprint of the building itself, not the parking lot.

7.0 ADJOURNMENT

5.1 Motion to Adjourn

With no further business and without objection the meeting was adjourned at 7:11 PM.

RScty: AACoonradt

**BURLINGTON BOARD OF FINANCE
SPECIAL MEETING
BUSHOR CONF. ROOM, FIRST FLOOR, CITY HALL *OR*
REMOTE MEETING WITH CALL-IN NUMBER
BURLINGTON, VERMONT
MINUTES OF MEETING
DRAFT
March 25, 2024**

MEMBERS PRESENT:

Karen Paul
Ali Dieng (at 5:16 PM)
Joe Magee
Mark Barlow
Miro Weinberger (at 5:16 PM)

OTHERS PRESENT:

Katherine Schad
Samantha Dunn

1.0 CALL TO ORDER and AGENDA

1.1 Motion to amend/adopt the agenda

Chief Administrative Officer Schad called the Board of Finance meeting to order at 5:15 PM.

MOTION by City Council President Paul, SECOND by Councilor Magee, to adopt the agenda (Councilor Dieng, Mayor Weinberger absent for vote).

VOTING: unanimous; motion carries.

2.0 PUBLIC FORUM

2.1 Verbal Comments

None.

3.0 DELIBERATIVE AGENDA

3.1 Request to Execute a Contract with Utile for the South End Coordinated Redevelopment Public Realm Design – CEDO

Assistant Director Dunn began by noting that this is funding coming from the state for the public realm design for the South End Coordinated Redevelopment Project. She noted that this would fund streetscapes, mobility hubs and connectivity to surrounding neighborhoods, and will help determine what goes into a Planned Unit Development (PUD) master plan application.

MOTION by City Council President Paul, SECOND by Councilor Magee, to approve and recommend that the City Council approve and authorize the Director of the Community & Economic Development Office to execute the contract with Utile for the design

of the public realm elements of the South End Coordinated Redevelopment, with a cost up to \$133,000 subject to final review and approval by the City Attorney's Office.

VOTING: unanimous; motion carries.

4.0 ADJOURNMENT

4.1 Motion to Adjourn

With no further business and without objection the meeting was adjourned at 5:19 PM.

RScty: AACoonrad



MEMO

Date: April 9, 2024
To: Board of Finance
From: Cindi Wight, Director, Department of Parks, Recreation & Waterfront
CC: Deryk Roach, Parks Superintendent, Dan Cahill, City Land Steward
Re: Authorization to Accept Grant Funds from Vermont Housing Conservation Board (VHCB) and increase our budget.

I. Purpose

The Department of Parks, Recreation and Waterfront (BPRW) seeks approval and authorization to accept \$6,000 in grant funding towards the cost of an appraisal and survey of land the City is exploring for acquisition and to increase our professional and consultant line by \$18,240.

II. Background

Lake Champlain Basin Program (LCBP) opened a new grant program for property acquisition that would benefit Lake Champlain. The program has \$6,000,000 set aside for grants with a zero match with a due date of July 17, 2024.

With the grant opportunity opening, the City is exploring the acquisition of property and is underway on an appraisal. With the acceptance of the motion, the City will sign a contract for the survey to help inform the decision about whether to acquire the parcel.

The total cost of the survey and appraisal is approximately \$18,240, and the remaining \$12,240, after the \$6,000 from VHCB, will be covered by the administrative portion of the Conservation Legacy Fund (CLF). The fund had savings in FY23 that we will use to cover the expense along with FY24 money (that is also extra or how do we have this FY24 money?).

**Sources**

FY24 CLF	\$ 3,740.00
FY23 CLF	\$ 8,500.00
VHCB grant	\$ 6,000.00
Total	\$ 18,240.00

Uses

Appraisal	\$ 4,000.00
Survey	\$ 14,240.00
Total	\$ 18,240.00

DEPARTMENT RECOMMENDATION**Board of Finance Motion:**

1. To approve and authorize the acceptance of grant funds in the amount of \$6,000 from the VHCB; and, to authorize the Director of Parks Recreation and Waterfront to execute all documents necessary to accept the funding, subject to the final review and approval of the City Attorney's Office and Chief Administrative Officer..
2. To approve and authorize a budget amendment to increase the Conservation Legacy Fund budget by \$18,240 through a \$6,000 VHCB grant and \$12,240 of CLF Fund Balance; and, to authorize the Chief Administrative Officer or designee to affect such amendment and all necessary transfers of funds in furtherance of increasing the budget.

Attachments:

1. VHCB notice of award



March 8, 2024

Cindi Wight
City of Burlington
645 Pine Street, Suite B
Burlington, VT 05401

Re: VHCB Feasibility Fund Award # 1946-003-061

Dear Cindi,

VHCB staff has reviewed your request for feasibility funds for the XXX Parcel project in Burlington. We will award an amount not to exceed \$6,000 to be used for land survey and appraisal costs as described by the application.

Any changes in the use of VHCB funds must be reviewed and approved by VHCB in advance. If the full amount of this award has not been drawn down within six months this commitment will automatically expire unless you specifically request an extension. Should you proceed with this project and apply to VHCB for additional funding, this award must be noted in the Sources and Uses Statement as a grant.

If you agree to accept these funds, please indicate acceptance by signing below and returning this letter to our office, or return via email. In order to request funds, you must submit invoices to our office for the items outlined above, and include a copy of the product resulting from the work, i.e. appraisal report or other analysis. We will then request a check for this amount from the State Treasurer to be paid to you. You can expect to receive payment within two weeks from when we request the check.

To the extent that the specifics of the project are not included in this letter, reference is made to your proposal dated February 27, 2024. Those documents are incorporated herein and made a part of this Agreement. Any variation from this agreement will need approval by the Vermont Housing & Conservation Board, and the Board does not guarantee payment for work other than that which is outlined in this agreement. If you have any questions about this award please call Bill Dell'Isola at 802-828-3252.

Sincerely,

A handwritten signature in blue ink that reads "Karen Freeman".

Karen Freeman
Associate Conservation Director

I agree to accept the conditions of this award:

Duly Authorize Representative



58 East State Street, Montpelier, Vermont 05602 TEL: 802-828-3250 WEB: www.vhcb.org

BOARD OF DIRECTORS: David R. Marvin, Chair • Neil Mickenberg, Vice Chair • Maura Collins • Clarence Davis • Ann Fielder • Kate McCarthy • Julie Moore • Amy Richardson • Jenney Samuelson • Anson Tebbetts • Emily Wadhams • **EXECUTIVE DIRECTOR:** Gustave Seelig

Board of Finance and City Council Submission Checklist

Department: BPRW Submitter: Cindi Wight

Title/Subject: VHCB grant and budget amendment

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☐	City Council	
☐	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	3/29/2024	Cindi Wight
Mayor's Office informed and approved memo	N/A	4/1/2024	CAO Schad approved for Mayor's office
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	4/1/2024	Hayley McClenahan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/1/2024	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/1/2024	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	lease
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.



MEMORANDUM

Date: April 9, 2024
To: Board of Finance

From: Kerin Durfee, Acting Director of Racial Equity, Inclusion, and Belonging
CC: Katherine Schad, Chief Administrative Officer

Re: **Sponsorship Agreements for the Congolese Community of Vermont and Village Hydroponics**

Request

The Office of Racial Equity, Inclusion, and Belonging (REIB) is seeking approval and authorization to execute two sponsorship agreements subject to review by the City Attorney's Office, granting City funds as follows: one agreement with the Congolese Community of Vermont to coordinate educational meetings, plan cultural events in 2024, and secure funds for rent and office supplies granting \$15,000.; and one agreement with Village Hydroponics for the Village Hydroponics Project aimed at promoting food security, granting \$10,000.

Background

1. The Racial Equity, Inclusion, and Belonging (REIB) Office seeks to fund the Congolese Community of Vermont (CCVT), a group dedicated to uniting Congolese and Congolese Americans in Vermont through community engagement, mutual support, and cultural events. CCVT seeks \$15,000 for rent, supplies, and cultural activities. CCVT's unique position as the sole organization representing the Congolese community in Vermont makes them uniquely suited for these initiatives. Their deep understanding of the community's needs, cultural dynamics, and their established networks within the Congolese and Congolese American population in Vermont enable CCVT to effectively utilize the funding to advance REIB's equity goals, particularly in supporting Black and Brown communities in Burlington.
2. The REIB seeks to grant Village Hydroponics (VH) \$10,000 to support the Village Hydroponics Project to construct a controlled environment agriculture operation within a shipping container, aligning with The Peoples Kitchen and Farmstand projects to address



fresh produce scarcity. VH, led by individuals from BIPOC, refugee, and immigrant backgrounds, offers specialized expertise and a proven track record in similar ventures. Their approach, informed by firsthand experiences with food insecurity and systemic injustices, ensures culturally sensitive and community-driven efforts. The REIB recognizes the project's value in tackling food insecurity, promoting environmental sustainability, and empowering immigrant and refugee communities, aligning with its commitment to equity and social justice. By sponsoring Village Hydroponics, the City aims to foster healthier, more resilient neighborhoods, engage diverse communities, strengthen social interconnection, and build partnerships focused on addressing food insecurity and climate issues through collaboration and knowledge exchange.

Funding for Project

The Congolese Community of Vermont's grant from the REIB is \$15,000 and is included in the REIB's FY24 Empowerment Fund Line. The Vermont Hydroponics grant from the REIB is \$10,000 and is included in the REIB's FY24 Empowerment Fund line.

Department Contact

If you have any questions, please contact Kerin Durfee, Acting Director of Racial Equity, Inclusion, and Belonging, at kdurfee@burlingtonvt.gov.

Motions

The Office of Racial Equity, Inclusion, and Belonging requests the Board of Finance approve the following motions:

1. To approve and authorize the Acting Director of the Racial Equity, Inclusion, and Belonging Office and the Chief Administrative Officer to issue a grant of City funds to the Congolese Community of Vermont for a total authorized grant amount of \$15,000 from the Empowerment Fund GL, and to execute a grant agreement memorializing the same, subject to review by the City Attorney's Office.
2. To approve and authorize the Acting Director of the Racial Equity Inclusion and the Chief Administrative Officer to issue a grant of City funds to Vermont Hydroponics for a total authorized grant amount of \$10,000 from the Empowerment Fund GL and to execute a grant agreement memorializing the same, subject to review by the City Attorney's Office.

Board of Finance and City Council Submission Checklist

Department: REIB Submitter: Kerin Durfee, Acting Director

Title/Subject: REIB Sponsorships for the Congolese Community of Vermont and Village Hydroponics

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☐	City Council	Click or tap to enter a date.
☐	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	Click or tap to enter a date.	Department Head initiated
Mayor's Office informed and approved memo	N/A	Click or tap to enter a date.	Click or tap here to enter text.
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 to enter a date.	
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	Click or tap to enter a date.	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	Click or tap to enter a date.	Katherine Shad
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.	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Choose an item.	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.

MEMO

Date: April 9, 2024

To: Board of Finance and City Council

From: Erin Moreau, Waterfront Superintendent & Harbormaster;
Cindi Wight, Director, Department of Parks, Recreation & Waterfront

Re: Waterfront Overnight Security Contract

I. Purpose

This memo seeks approval of a six-month contract with Green Mountain Concert Services (GMCS) to provide overnight waterfront security at our municipal marinas and campground.

II. Background

BPRW seeks to contract with GMCS from May 15, 2024, until October 15, 2024, to provide overnight security at North Beach Campground, Perkins Pier Marina, and the Community Boathouse following a competitive Request for Proposals (RFP) process. This will be the second year using GMCS as our overnight security provider. The first year went very well, and we hope to expand on that going forward. Security at both locations answer our overnight phones. The North Beach security patrols the beaches, campground and assists campers to their sites at night. The Boathouse security guard patrols a large area around the docks and boathouse.

III. Process

On February 09, 2024, BPRW issued an RFP for overnight waterfront security services using public advertising on the BPRW website, the City's website for active RFPs, and through BPRW's social media outlets. Bids were due to BPRW by March 01, 2024.

One bid was received and evaluated by a team of BPRW staff. Green Mountain Concert Services (GMCS) proposal was complete and, as the only one received, accepted. The review committee found the bid to be competitively priced.

IV. Compensation to the Vendor & Terms of Lease Agreement

The City will compensate GMCS for their security services for the duration of our operating season (May 15-October 15), not to exceed a total of \$138,000. Funding comes from both the North Beach and Marina Budgets for both FY24 & FY25.

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To approve and recommend that the City Council approve and authorize the contract with Green Mountain Concert Services to provide waterfront overnight security services for a total contract amount not to exceed \$138,000 and to authorize Cindi Wight, BPRW Director to execute the contract and any related documents, subject to review by the City Attorney's Office.



City Council Motion:

To approve and authorize the contract with Green Mountain Concert Services to provide waterfront overnight security services for a total contract value not to exceed \$138,000 and to authorize Cindi Wight, BPRW Director, to execute the contract and any related documents, subject to review by the City Attorney's Office.

Board of Finance and City Council Submission Checklist

Department: BPRW Submitter: Alec Kaeding

Title/Subject: Waterfront Security Contract

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	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	3/20/2024	Cindi Wight
Mayor's Office informed and approved memo	Yes	Click or tap to enter a date.	Katherine Schad
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	No		Hayley McClenahan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/1/2024	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/3/2024	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	
Contract Attached, if applicable?	No	
Additional Materials, if necessary	Choose an item.	Click or tap here to enter text.
Draft Resolution or Motion?	No	Attached to the Memo
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

MEMO

Date: April 9, 2024

To: Board of Finance and City Council

From: Cindi Wight, Director, Parks, Recreation & Waterfront

CC: Erin Moreau, Waterfront Superintendent and Rob Peterson, Marina Manager

Re: Lease for the Spirit of Ethan Allen

I. Purpose

This memo seeks approval to execute all necessary lease agreements related to the lease for Green Mountain Boat Lines, more commonly known as the Spirit of Ethan Allen (SOEA).

II. Background

The Spirit of Ethan Allen has operated in Burlington Harbor since 1984, and in 2023, the City received \$131,791 for the lease. Approximately 68,000 visitors ride the Spirit each year, contributing not only to the marina's revenue but also to parking revenue and supporting the Burlington economy as the SOEA is a regular stop for tour buses from throughout New England.

III. Process

The City has had a lease with the SOEA since 1984, with the last iteration signed in 2019 with an amendment in 2021. The new lease is for five years.

We began negotiations with Mike Shea, the owner of the Spirit of Ethan Allen, to continue the successful partnership and negotiated the following changes to the previous lease:

1. Raised the minimum annual payment from \$95,000 to \$114,000
2. Added an automatic 5% annual increase to the annual minimum payment
3. Shifted the cost of compost collection from the City to the Spirit of Ethan Allen
4. More clearly defined the additional benefits to the City including free trips for our youth programs and seniors.
5. After numerous complaints from boaters we limited the number of extended evening trips in June, July and August starting in 2025 and are working with SOEA to reduce noise levels overall including in the morning with an Agreement to provide a noise reduction plan by December 31, 2024

The new agreement, (a five-year lease), allows the SOEA to start operations as early as April 15th and, with permission, earlier. The SOEA will provide a special Eclipse cruise in 2024.

IV. Compensation to the City & Terms of Lease Agreement

The City will receive 5.25% of gross revenue with a minimum payment of \$114,000 in 2024, with the minimum payment increasing by 5% annually thereafter to compensate for inflation over time. The minimum payment at the end of the previous lease was \$95,000.



DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To approve and recommend that the City Council approve and authorize the lease of the assigned area as shown in the map in Attachment A to Green Mountain Boat Lines through 12/31/2028, in substantial conformance with the existing lease terms and the updated terms as detailed herein; and, to further authorize Mayor Emma Mulvaney-Stanak to execute the lease agreement and any related documents, subject to review by the City Attorney's Office.

City Council Motion:

To approve and authorize the lease of the assigned area as shown in the map in Attachment A to Green Mountain Boat Lines through 12/31/28 in substantial conformance with the existing lease terms and the updated terms as detailed herein;, and, to further authorize Mayor Emma Mulvaney-Stanak to execute the lease agreement and any related documents, subject to review by the City Attorney's Office.



Attachment A
Map of Leased Area





CONCESSION AND LEASE AGREEMENT
Between
THE CITY OF BURLINGTON
DEPARTMENT OF PARKS, RECREATION & WATERFRONT
And
GREEN MOUNTAIN BOAT LINES, LTD
FOR
OPERATION OF THE SPIRIT OF ETHAN ALLEN III at
THE BURLINGTON BOATHOUSE AND MARINA

THIS Concession and Lease Agreement (hereinafter "Agreement"), made and entered into this day of _____, 2024, by and between the City of Burlington, a municipal corporation of the State of Vermont, (hereinafter the "City"), and Green Mountain Boat Lines, LTD, a Vermont corporation qualified to do business in the State of Vermont, (hereinafter the "Concessionaire").

WITNESSETH:

WHEREAS, City owns and operates the Burlington Community Boathouse (hereinafter the "Boathouse") and Marina, located at the foot of College Street on the shore of Lake Champlain in Burlington, Vermont; and

WHEREAS, Concessionaire is engaged in the commercial boat tour and boat space rental business including the operation of the vessel The Spirit of Ethan Allen III; and

WHEREAS, Concessionaire wishes to conduct Spirit of Ethan Allen III tour and rental operations out of a berth located at the Boathouse pursuant to an Agreement with the City containing mutually satisfactory terms and conditions; and

WHEREAS Concessionaire has previously conducted such operations from the Boathouse and Marina; and

WHEREAS, both parties agree that the terms and conditions contained herein shall serve to replace all other pre-existing concession agreements between the parties for such operations at the site.

NOW, THEREFORE, for and in consideration of the mutual covenants, terms, conditions, privileges, obligations and agreements herein contained, the City and Concessionaire hereby mutually undertake, promise and agree, each for itself, and its successors and assigns, as follows:



1. DEFINITIONS

1.1 The "Boathouse" shall mean the City of Burlington's Community Boathouse, the land area associated therewith and any connected or associated buildings or facilities now or hereafter constructed or acquired. Additionally, the Boathouse shall encompass the Marina facilities including the pier and any docks owned by the City.

1.2 The "Burlington City Council" shall mean the body having the exclusive general management and control of the Boathouse, subject to any limitations or restrictions contained in its ordinances, resolutions and orders. Where this Agreement speaks of approval and consent by the City, such approval is understood to be manifested by act of the City Council.

1.3 "City of Burlington" and "City" shall include such public officials and public bodies as may, by operation of law, succeed to any or all of the rights, powers or duties which lawfully reside in the City Council of Burlington. For purposes of this Agreement, the City will be acting by and through the Burlington Parks, Recreation, and Waterfront Department, except for where the City is specifically referred to in the Agreement.

1.4 "Department" shall mean the Burlington Parks, Recreation, and Waterfront Department.

1.5 "Assigned Area" is the area(s) of the Boathouse and Marina designated by this Agreement as specified on Exhibit " A " attached hereto and made a part hereof as to the place or places where the business of Concessionaire may be conducted. If the Concessionaire wishes to conduct business outside of the "Assigned Area", Department permission is required.

2. TERM

2.1 This Agreement is binding upon execution by the parties hereto. The term and fees hereunder shall be for a period of five years commencing on the 1st day of January 2024. This Agreement shall terminate as of midnight on December 31, 2028.

3. GRANT OF LEASE FOR CONCESSION

3.1 Lease. The City hereby leases the Assigned Area to the Concessionaire year-round, subject to the terms and conditions of this Agreement, with the privilege and obligation to provide passenger tours on the 363-passenger Spirit of Ethan Allen III tour boat. It is understood that said vessel is 120 feet long on its deck, has a 32 foot beam, a 6 foot draft and is 96 tons gross. If a new or different vessel is to be docked at this location, it must be approved in advance of purchase by the Director and Harbormaster. The



Concessionaire is permitted to operate business within the current land structure that houses their ticket sales and small storage area on the deck area adjacent to their boat slip. The location of this is identified in Exhibit A, map of the Assigned Area.

3.2 Permitted uses. The privilege granted herein is for the operation of guided tours and food and beverage operations. Tour, music, concert and promotional event schedules shall be coordinated and approved in advance by the Department.

3.3 Signs. Concessionaire has the right to install and maintain appropriate signs advertising the concession on the Boathouse property provided that the design, installation and maintenance of such signs shall be consistent with the graphic standards of the City and that the Department grants written site and design approval prior to installation. The location and amount of signage must be pre-approved by the Director and Harbormaster.

3.4 Utilities. Concessionaire is responsible for one hundred percent of actual utility costs including but not limited to water, wastewater, storm water, and electric charges. Concessionaire shall have necessary equipment so as to prevent disruption to the City's municipal services such as grease traps and pumping facilities. The City shall make every effort to install the water meter which supplies the Concessionaire's vessel with potable water by April 15th each year of this contract, however, weather and other conditions outside of the City's control may prohibit this from occurring by this date. The City shall communicate with the Concessionaire should a delay to the annual water meter installation occur and shall make every effort possible to install the water meter in a timely manner.

3.5 Food Scrap Disposal. Concessionaire is responsible for one hundred percent of actual food scrap disposal costs related to the Concessionaire's operation for the duration of this contract. Concessionaire shall contract with a food scrap hauling service of their choice and remove food scraps at their own cost.

3.6 Passenger Boardings. Concessionaire shall provide an annual report to the City stating the number of monthly passenger boardings of the Concessionaire's vessel so the City can better understand and extrapolate economic and visitor use statistics for future planning efforts, resource justification and facility needs assessments.

4. IMPROVEMENTS BY CITY

4.1 In general. City shall provide unimpeded access to the Assigned Area. The City makes no representation or warranty with respect to the condition of the Assigned Area or its fitness for any



particular use and the City shall not be liable for any latent or patent defect therein. City is not responsible for weather events or natural disasters that impede access to the Assigned Area.

4.2 Improvements during term. The City and Concessionaire agree and acknowledge that improvements to the Assigned Area may be undertaken during the term of this Agreement. City will attempt to perform such improvements in a manner so as not to unreasonably interfere with the operations of Concessionaire. As for non-emergency improvements to the Assigned Area, the City will make reasonable efforts to schedule and perform such improvements between Labor Day and Memorial Day. Concessionaire hereby expressly waives any and all claims for damages occasioned by the loss of profits, if any, as a result of the interruption of business of Concessionaire that may arise as a result of such improvements undertaken by City. If as a result of such improvements being undertaken by City, however, Concessionaire is reasonably unable to carry out its business activities at the Boathouse, it may suspend its rental payments to the City upon written notice to the City received no less than 30 days prior to the cessation of rental payments until such time as the business interruption ceases. In such event, at the time that the City has concluded the improvements, the term of this agreement may be extended for a period of time equal to the time that the business was closed due to the City's work in the sole discretion of City.

5. IMPROVEMENTS BY CONCESSIONAIRE

5.1 In general. Concessionaire shall, without cost to the City, provide and maintain the Assigned Area with all improvements necessary for the customary operation of such services in a first-class- tour operation including, but not limited to, the pilings and guidance system. An assessment of the infrastructure that supports the vessel, both water and landside, must be completed by a third party every three years.. The cost of this assessment shall be fully paid by the Concessionaire. The findings must be presented to the City's BPRW Director and Harbormaster within one week of receipt.

Concessionaire shall not seek reimbursement from the Department or the City for any improvements made to the Assigned Area unless otherwise agreed in writing by the Parties and at the sole discretion of City. Any substantial improvements to the Assigned Area shall be subject to City approval. Cost sharing for such improvement is permissible under this Agreement where mutually agreed upon by the parties. The Concessionaire is responsible for the warranty, maintenance, safety and liability of any new structure or equipment. Any expansion of landside or waterside structures shall be pre-approved by the Director and Harbormaster. When the Agreement expires for whatever reason, any fixtures or structures



attached to the Assigned Area by Concessionaire shall be promptly removed by Concessionaire and the Assigned Area restored to its original condition, unless otherwise agreed in writing between the Parties.

When the Agreement expires, regardless of the cause, Concessionaire shall ensure that the Assigned Areas are in a satisfactory condition, taking into account normal wear and tear. The Department will be the sole judge of whether Concessionaire has properly satisfied this term but will make the determination in a reasonable manner.

The City has an interest in both maintaining and improving this facility and enters into this Agreement with an understanding that Concessionaire will continue to make improvements to the facility that are mutually beneficial to the City and Concessionaire. All improvements not to Concessionaire's vessel itself must be approved by the Department prior to any contract or agreement for installation.

Concessionaire shall provide at their own cost a written noise mitigation plan to the City no later than December 31, 2024, which shall include a plan to reduce noise impacts created by the Concessionaire's diesel engines and generators that adversely impact the recreational experience of seasonal and transient boaters on A and B docks at the Community Boathouse Marina. The noise mitigation plan shall include, but not be limited to, options for constructed sound barriers, operational changes to reduce the use of diesel engines and generators, increased use of shore power for operating the vessel in a quieter manner, and other noise mitigation strategies as determined by the Concessionaire to bring the decibel levels into the accepted EPA range of 55 decibels for outdoor locations. Any and all designs shall minimize negative impacts on navigability and aesthetics in the marina. All state, federal and local permits and all costs associated with design, engineering and construction shall be the responsibility of the Concessionaire. Upon pre-approval by the City, the Concessionaire shall implement and complete construction no later than May 15th, 2025.

6. PRIVILEGES, FEES, CHARGES AND ACCOUNTABILITY

6.1 Gross Revenue payment. Concessionaire agrees to pay to the City a 5.25% of gross revenue or a minimum annual rent payment ("base minimum") , whichever is greater. Flat Rate based on the Compensation Chart below:



Compensation Chart

Contract Year	Minimum Rent Payment (5.0% inflationary rate after year one)
Year One	\$114,000
Year Two	\$119,700
Year Three	\$125,685
Year Four	\$131,969
Year Five	\$138,568

As used in this section, “gross revenue” shall mean all charges or other fees charged by Concessionaire and all revenues of every kind and character derived from, arising out of, or payable on account of the business conducted by Concessionaire or from the operations of the Concessionaire under this Agreement whether for cash or credit whether the same shall be paid or unpaid. It shall include the amount of all orders received by Concessionaire for events at the Boathouse, Waterfront Park or any other location. Excluded from “Gross Revenue” are the amounts of any Federal, State or municipal sales taxes or other similar taxes separately stated and collected from customers, whether currently or hereinafter levied or imposed, and bona fide refunds for returned merchandise. Concessionaire may exclude 50% of the costs of credit card discounts from the calculation of its annual “Gross Revenues.” Taxes levied on concession activities, facilities, equipment or real or personal property of Concessionaire shall not be excluded from “Gross Revenue.”

6.3 Other Compensation.

- a) Concessionaire shall provide the City two lunch cruises per year on a mutually agreed scheduled for up to 24 passengers per cruise
- b) Concessionaire shall provide the City two senior 12pm cruises for up to 24 passengers per cruise with pastries and coffee included per year on a mutually agreed scheduled.
- c) Concessionaire shall provide the City four 12pm cruises for the summer program ‘Champ Camp’ with snacks provided by City per year for up to 60 passengers per cruise on a mutually agreed upon schedule during the weeks of June - August.
- d) Concessionaire shall provide the City thirty (30) scenic tickets to be used at the Department’s discretion per year.



6.5 Payment Schedule. Payment schedule each year is as follows.

- a) 1st Payment – July 15 - 25% of base minimum
- b) 2nd Payment – September 15th - 30% of base minimum
- c) 3rd Payment – December 1st - 45% of base minimum or the remainder of the 5.25% of gross, whichever is greater.

6.6 Fees or charges. Fees and charges paid to the City shall not include any taxes, fees or license charges that may be levied, assessed or charged by any governmental entity. Concessionaire agrees to pay such taxes, fees or license charges directly to the appropriate taxing authority.

6.7 Interest. Without waiving any other right available to the City in the event of default in the payment of the amounts due hereunder, in the event that Concessionaire is delinquent for a period of ten (10) days or more in paying to City any fees payable to the City pursuant to this Agreement, Concessionaire shall pay to the City interest thereon at the rate of eighteen (18%) percent per annum from the date such item was due and payable until it is paid.

7. OPERATIONAL STANDARDS

7.1 Dates and hours of operation

From April 1 through October 31 each year, the Concessionaire agrees to operate and conduct its tours on a daily basis. Operation outside of these times may be permissible with prior Department notification and agreement.

Three to four regular narrated scenic tours and dinner cruises shall be conducted daily between the hours of 10am and 10pm.

No cruise shall arrive at the Assigned Area after 10pm without Department permission. Upon arrival back to port anytime past 10pm, all amplified noise shall cease outside of the harbor as to not disturb other boaters, and shore power shall be used for all cleanup purposes to reduce noise. The concessionaire shall comply with the City's noise ordinance which prohibits unreasonable noise at all times, with special emphasis on the hours of 10:00 PM to 7:00 AM.

Starting in 2025, a maximum of one cruise past 10:00pm is allowed per month in June, July and August with no restrictions in April, May, September and October. In all cases, Concessionaire must seek permission a minimum of four weeks in advance.



7.2 Condition of premises. Concessionaire agrees to operate and maintain the Assigned Area in a safe, clean, orderly and inviting condition. Concessionaire shall conduct its operations in an orderly and proper manner so as not to commit any nuisance or waste in the concession areas or annoy, disturb or be offensive to others in the boarding area, City Marina Docks and other adjacent City facilities, and shall take all reasonable measures, using the latest known and most practicable devices and means, to eliminate any unusual, nauseous or objectionable smoke, gases, vapors, odors, noises, or any vibrations which may tend to damage Premises or cause offense, annoyance or injury to persons in the vicinity.

7.3 Supervision. Concessionaire shall see to it that at all times it is open for the transaction of business; the Assigned Area shall be under the supervision of an active, qualified and competent manager or staff.

7.4 Conduct and dress of employees. The operation of Concessionaire, its employees, invitees, suppliers and contractors shall be conducted in an orderly and proper manner so as not to annoy, disturb or be offensive to others. All employees of Concessionaire must conduct themselves at all times in a courteous manner toward the public and in accordance with the rules, regulations and policies of the City. Employees shall dress neatly and their clothing shall identify them as employees of the Concessionaire.

7.5 Service of Alcohol. Concessionaire will secure an exclusive license for alcohol use at the Boat and agrees to be solely responsible for ensuring that all statutes, regulations and licensing conditions regarding the sale, service and use of alcohol are followed and enforced on the Boat premises. Concessionaire will serve alcohol responsibly to ensure patrons departing their vessel are not inebriated and a danger to themselves or others.

8. MAINTENANCE

8.1 General repair

City shall not be required to make repairs or improvements of any kind to the Assigned Area on behalf of Concessionaire if said repairs are the result of any willful, careless or negligent act of Concessionaire, its employees, invitees or others under the control of Concessionaire. Further, City shall not be required to make repairs or improvements of any kind to the Concessionaire's Assigned Area.



The City will make those repairs for which it is responsible as promptly as reasonable under the circumstances and so as not to interfere in the operation of Concessionaire where possible. Concessionaire shall promptly notify City of any necessary repairs for which City may be responsible.

If Concessionaire refuses or neglects to undertake the maintenance, repair or replacements requested by the City, or if the City is required to make any repairs necessitated by the negligent acts or omissions of Concessionaire, its employees, agents, servants or licensees, the City shall have the right to make such repairs on behalf of and for Concessionaire. Such work shall be paid for by Concessionaire within ten (10) days following demand by the City for said payment at the City's standard rates plus any overhead which may be incurred by the City.

8.2 Trash, recycling and composting. The City shall make available an area for the Concessionaire to dispose of trash and recycling materials generated by the operation of their vessel from May 1st to October 31st each year of this contract. Trash generated before May 1st or after October 31st shall be the responsibility of the Concessionaire to dispose of using services outside of the City's trash and recycling contracts. Concessionaire will deposit all such trash and recycling and other refuse in a container or containers provided by the City, unless Concessionaire decided to contract privately with a food scrap vendor (see 3.5). As the refuse area is shared amongst other waterfront users, the Concessionaire agrees to keep the space tidy and place all refuse in the appropriate containers. Concessionaire agrees to provide and use suitable covered receptacles for all trash, recycling, compostables and other refuse in its Assigned Area. Piling of boxes, cartons, barrels or similar items shall not be permitted in a public area. Excessive quantities of food waste or other which requires the City to contract for additional hauling services may result in additional fees charged to the concessionaire. The regular cost of trash and Recycling is included in the base minimum. Refuse area is only to be utilized during the operational season. Only refuse generated from onsite operations is permitted in the waterfront refuse containers. No City provided receptacles shall leave the Waterfront premises to be used off-site.

8.3 Snow removal. The Department will normally perform snow removal duties before 11:00 A.M on days Concessionaire is open for business. On previous notice from the Concessionaire of an early morning event at the Assigned Area, the Department will make reasonable efforts to perform snow removal duties prior to 11:00 a.m.



8.4 Right of access to facility by Concessionaire and limitations. Concessionaire has the right of ingress and egress to and from its Assigned Area over City roadways and common use areas, subject to any rules or regulations which may have been established or shall be established in the future by the City or the Department. Such rights of ingress and egress shall apply to Concessionaire's employees, guests, patrons, invitees, suppliers and other authorized individuals.

The rights of ingress and egress likewise shall apply to the transport of equipment, material, machinery and other property. All deliveries of merchandise, including but not limited to daily newspapers and magazines, shall be made at locations designated by the City.

The south path shall be used by Concessionaire only for loading and unloading of supplies (including food) for the facility. Normal deliveries shall be made prior to 10:00 a.m. No vehicles are permitted on the decking and must remain on the paved access path. No parking of vehicles shall occur on the south path except for temporary loading and unloading as provided above. No staff parking is allowed on the deck or south path in the off season. No parking is allowed in the traffic circle at the bottom of College Street at any time.

From April 15th to October 31st of each year, Concessionaire shall have one dedicated parking spot in the Pease lot and one unassigned parking permit for the Pease Lot on a space available basis. An additional 18 parking passes, valid only at Perkins Pier from April 15th to October 31st, shall be provided to the Concessionaire by the City at no additional cost. If the City expands the wastewater plant into Perkins Pier, the City is not obligated to provide the 18 parking passes to Perkins Pier. Beginning November 1st, Concessionaire shall have access to one assigned parking space in Pease lot and up to three additional unassigned parking spaces in the Pease Lot with an authorized vehicle plate permit, which shall be managed by the Marina Manager.

9. COMPLIANCE

9.1 In general. Concessionaire shall comply with all present and future laws, ordinances, orders, directives, rules and regulations of the United States of America, the State of Vermont, the City of Burlington and their respective agencies, departments, authorities or commissions which may either directly or indirectly affect Concessionaire or its operations at the Assigned Area including but not limited to the Burlington Livable Wage Ordinance if applicable.



9.2 Taxes. Concessionaire shall pay, on or before the due date, all Federal, State and local taxes and fees which are now or may hereafter be levied upon the premises, or upon Concessionaire, or upon the business conducted on the premises, or upon any of Concessionaire's property used in connection therewith, and shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by Concessionaire.

10. INSURANCE AND INDEMNIFICATION

10.1 To the extent permitted by law, Concessionaire covenants and agrees to indemnify, defend, and save harmless the City, its officers, agents and employees, their successors and assigns, individually or collectively from and against all liability for any fines, claims, suits, demands, actions or causes of action of any kind and nature including, but not limited to personal injury or death and property damage, in any way arising out of or resulting from any activity or operation of Concessionaire in, on or about the Assigned Area or in connection with the conduct of Concessionaire's business activities pursuant to this Agreement. Concessionaire further agrees to pay all expenses in defending against any claims made against the City in connection with Concessionaire's operations or activities in the Assigned Area. Concessionaire shall give prompt and timely notice of any claim made or suit instituted which, in any way, directly or indirectly, contingently or otherwise, affects or might affect the City.

The Concessionaire shall not be liable for any injury, damage or loss occasioned by the sole negligence or willful misconduct of the City, its agents, officers or employees.

10.2 Concessionaire shall procure and maintain at its own expense during the term of this Agreement and/or until surrender of its Assigned Area comprehensive general liability insurance with insurance carriers with an AM Best Rating of A- or above, qualified to transact business in the State of Vermont, and naming the City as an additional insured, on a primary and non-contributory basis, against all legal liability for injuries to person (including wrongful death) and damages to property, suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount of:

General Liability & Property Damage:

- (a) With respect to all operations performed by the respondent, agents or workers, it is the respondent's responsibility to ensure that general liability insurance coverage provides all major divisions of coverage including, but not limited to:
 - 1. Premises Operations
 - 2. Independent Contractors' Protective
 - 3. Products and Completed Operations
 - 4. Personal Injury Liability



5. Contractual Liability
6. Broad Form Property Damage
7. Medical Expenses
8. Collapse, Underground and Explosion Hazards

(b) The policy shall be on an occurrence form with limits not less than:

- | | |
|---|-------------|
| 1. General Aggregate: | \$2,000,000 |
| 2. Products-Completed/Operations Aggregate: | \$2,000,000 |
| 3. Personal & Advertising Injury: | \$1,000,000 |
| 4. Each: | \$1,000,000 |
| 5. Fire Damage (any one fire): | \$ 250,000 |
| 6. Med. Expense (any one person): | \$5, 000 |

Automobile liability

1,000,000 liability limit (combined single limit) to include non-owned and hired autos.

Workers Compensation (statutory coverage)

With respect to all operations performed, the Concessionaire shall carry workers compensation insurance in accordance with the laws of the State of Vermont and ensure that all subcontractors and sub-consultants carry the same workers' compensation insurance for all work performed by them under this contract. 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

Endorsements for USL&H, Maritime Coverage Endorsement, and Voluntary Compensation Maritime Endorsement required, if applicable to Concessionaire's operation.

Protection and Indemnity Coverage:

With respect to all operations performed, the Concessionaire shall carry protection and indemnity in accordance with the laws of the State of Vermont. Minimum limits of \$5,000,000

Vessel Pollution Liability:

With respect to all operations performed, the Concessionaire shall carry vessel pollution liability in accordance with the laws of the State of Vermont. Minimum limits of \$1,000,000 per claim/vessel

10.3 Concessionaire further agrees that with respect to the above required insurance, the City shall:

- a. Be provided with forty-five (45) days advance notice, in writing, of cancellation or material change.



- b. Be provided with Certificates of Insurance evidencing the above -required insurance, prior to the commencement of this Agreement and annually thereafter. Said notices and Certificates of Insurance shall be provided to the Director. The City shall have the right to examine the required insurance policies upon reasonable notice to Concessionaire.

11. DEFAULT BY CITY

11.1 The following contingencies shall constitute a condition of default by City:

- a. The permanent abandonment of the Assigned Area by City.
- b. The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Boathouse in such a manner as to substantially restrict Concessionaire from carrying out its activities pursuant to this Agreement and the remaining enforce of such injunction for a period of at least thirty (30) days.
- c. The breach by the City of any of the terms, covenants or conditions of this Agreement to be kept, performed and observed by the City and the failure of the City to remedy such breach for a period of sixty (60) days after written notice from Concessionaire of the existence of such breach has been received by City or, if more than sixty (60) days shall be required because of the nature of such breach, if City shall fail within said sixty (60) day period to commence and thereafter diligently proceed to cure such default.

If termination occurs as a result of the default of the City, Concessionaire shall be entitled to recover its lost net profit reasonably to be anticipated from its operations hereunder.

12. DEFAULT BY CONCESSIONAIRE

12.1 Each of the following shall constitute an event of default by Concessionaire:

- a. A failure by Concessionaire to pay any rent or charges as provided for in this Agreement with such failure continuing for a period of ten (10) days after receipt by Concessionaire of written notice of such failure.
- b. The failure by Concessionaire to perform or observe any of the terms, provisions, conditions or covenants herein contained, and on Concessionaire's part to be performed or in any way observed, if such neglect or failure should continue for a



period of thirty (30) days after receipt by Concessionaire of written notice of such neglect or failure, or if more than thirty (30) days shall be required because of the nature of the default, if Concessionaire shall fail within said thirty (30) day period to commence and thereafter diligently proceed without interruption to cure such default.

- c. If Concessionaire shall fail to take possession of its Assigned Area.
- d. If Concessionaire shall abandon all or any part of its Assigned Area or shall discontinue the conduct of its operations in all or any part of its Assigned Area.
- e. If Concessionaire shall fail to abide by all applicable criminal laws, including statutes, ordinances and rules and regulations of the United States, State of Vermont and the City.

12.2 In the event any condition of default shall occur (notwithstanding any waiver, license or indulgence granted by City with respect to any condition of default in any form or instance) City, then, or at any time thereafter, shall have the right, at its election, either to terminate this Agreement by giving at least five (5) days written notice to Concessionaire at which time Concessionaire will then quit and surrender the Assigned Area to City, but Concessionaire shall remain liable as hereinafter provided, or, to enter upon and take possession of the Assigned Area (or any part thereof in the name of the whole), without demand or notice, and repossess the same as of the City's former estate, expelling Concessionaire and those claiming under Concessionaire, forcibly, if necessary, without prejudice to any remedy for arrears of rent or proceedings for breach of covenant and without any liability to Concessionaire or those claiming under Concessionaire for such repossession.

12.3 City's repossession of the Assigned Area shall not be construed as an election to terminate this Agreement nor shall it cause a forfeiture of rents or other charges remaining to be paid during the balance of the term hereof, unless a written notice of such intention be given to Concessionaire, or unless such termination is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by City because of any default by Concessionaire, City may at any time after such reletting elect to terminate this Agreement for any such default.

12.4 Upon repossession, City shall have the right (whether or not this Agreement shall be terminated) to relet the Assigned Area or any part thereof for such period or periods (which may extend beyond the term of this Agreement) at such rent or rents and upon such other terms and conditions as City



may, in good faith, deem advisable. The City agrees that upon repossession it shall make a good faith effort to relet the concession.

12.5 In the event that City shall relet, then rentals received by City from such reletting shall be applied: first, to the payment of any indebtedness other than rent due hereunder from Concessionaire to City; second, to the payment of any reasonable cost of such reletting; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by City and applied in payment of future rent as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of rent hereunder, be less than the rent payable during that month by Concessionaire hereunder, then Concessionaire shall pay such deficiency to City. Such deficiency shall be calculated and paid monthly. Concessionaire shall also pay to City, as soon as ascertained, any costs and expenses incurred by City in such reletting not covered by the rentals received from such reletting of the Assigned Area.

12.6 If City shall terminate this Agreement or take possession of the Assigned Area by reason of a condition of default, Concessionaire and those holding under Concessionaire, shall no later than fourteen (14) days following such termination or possession remove its goods and effects from the Assigned Area. If Concessionaire or any such claimant shall fail to effect such removal such property shall become the property of the City without the payment of any amount to Concessionaire therefor.

12.7 If City shall enter into and repossess the Assigned Area for reason of the default of Concessionaire in the performance of any of the terms, covenants or conditions herein contained, then and in that event Concessionaire hereby covenants and agrees that Concessionaire will not claim the right to redeem or reenter the Assigned Area to restore its operations hereunder and Concessionaire hereby waives the right to such redemption and reentrance under any present or future law, and hereby further, for any party claiming through or under Concessionaire, expressly waives its rights, if any, to make payment of any sum or sums of rent, or otherwise, of which Concessionaire shall have made default under any of the covenants of this Agreement and to claim any subrogation of the rights of Concessionaire under these presents, or any of the covenants thereof, by reason of such payment.

12.8 All rights and remedies of City herein created or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as deemed advisable.



12.9 If proceedings shall at any time be commenced for recovery of possession as aforesaid and compromise or settlement shall be effected either before or after judgment whereby Concessionaire shall be permitted to retain possession of the Assigned Area, then such proceeding shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or to this Agreement.

12.10 If the Concessionaire shall fail to make any payment or perform any act required to be made or performed by it hereunder, City, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make payment or perform such reasonable act on account of and at the expense of the Concessionaire, and may enter upon the Premises or any part thereof at reasonable times for such purpose and take all such action thereon as, in the opinion of City, may be necessary or appropriate therefore. All payments so made by City and all cost and expenses (including, without limitation, attorney's fees and expenses) incurred in connection therewith or in connection with the performance by the City of any such act shall constitute Additional Rent hereunder and the same may, at the option of the City, be added to any rent then due or thereafter falling due hereunder.

13. HOLDING OVER

13.1 It is agreed and understood that any holding over of Concessionaire after the termination of this Agreement shall not renew and extend same but shall operate and be construed as a tenancy from month to month and, unless otherwise agreed in writing, Concessionaire agrees to pay to the City the agreed upon rate during such time. Concessionaire shall be liable to the City for all loss or damage on account of any such holding over against the City's will after the termination of this Agreement, whether such loss or damage may be contemplated at this time or not. It is expressly agreed that acceptance of the foregoing payment by the City in the event that Concessionaire fails or refuses to surrender possession shall not operate to give Concessionaire any right to remain in possession nor shall its constitute a waiver by the City of its right to immediate possession.

14. FIRE AND OTHER DAMAGE

14.1 In the event that structural or permanent portions of the building within the Assigned Area shall be partially damaged by fire or other casualty, Concessionaire shall give immediate notice thereof to the Department and the same shall be repaired at the expense of the City without unreasonable delay unless City determines that (1) the damage is so extensive that repair or rebuilding is not feasible, or (2) the damage resulted from a negligent act or omission of Concessionaire, its officers, agents, employees,



contractors, visitors or licensees in which case there shall be no suspension or termination of this Agreement or of Concessionaire's obligation to pay in full all charges, notwithstanding any other provisions hereunder to the contrary. Concessionaire acknowledges that if it is found that the damage resulted from a negligent act or omission of Concessionaire, its officers, agents, employees, contractors, visitors or licensees the City's insurer may elect to exercise its subrogation rights.

From the date of such casualty until said area is repaired, monthly payments hereunder shall, except as hereinabove provided, abate in such proportion as the part of the area thus destroyed or rendered untenable bears to the areas assigned and the Minimum Annual Guarantee owed by Concessionaire shall be adjusted accordingly.

However, if an area shall be so slightly injured in any such casualty as not to be rendered unfit for occupancy, the rent hereunder shall not cease or be abated during any repair period. In the event that the damage to an area should be so extensive as to render it untenable, the rent for such area shall, except as hereinabove provided, cease until such time it shall again be put in repair, but in the event of the area being damaged by fire or other casualty to such an extent as to render it necessary in the exclusive judgment of the City not to rebuild the same, then, at the option of the City, and upon notice to Concessionaire, this Agreement as it applies to said area shall cease and come to an end, and the rent hereunder shall be apportioned and paid up to date of such damage. If the City elects to rebuild said areas, the City shall notify Concessionaire of such intention within thirty (30) days of the date of the damage, otherwise, the Agreement as it applies to said area shall be deemed canceled and of no further force or effect.

14.2 The City's obligations to rebuild or repair under this Article shall in any event be limited to restoring said area to substantially the condition that existed prior to the commencement of improvements by Concessionaire and shall further be limited to the extent of the insurance proceeds available to City for such restoration. Concessionaire agrees that if the City elects to repair or rebuild as provided in this Article, then Concessionaire will proceed with reasonable diligence and at its sole cost and expense to rebuild, repair and restore its signs and fixtures provided or installed by Concessionaire, in or about the Assigned Area in a manner and to a condition at least equal to that which existed prior to its damage or destruction.

14.3 In the event City elects not to repair or rebuild as provided in this Article, and in the event that the damage or loss is covered by insurance secured by Concessionaire under Article 10, Concessionaire shall immediately pay over to City the portion of the insurance proceeds as described below and this Agreement shall then be terminated. Concessionaire's obligation to remit insurance proceeds to City shall be limited to



the value of the fixtures and equipment owned by the City, except where damages resulted from the act omission or negligence of Concessionaire in which case proceeds will be paid over to City in accordance with provisions of Section 14.1.

16. AMENDMENT

16.1 This Agreement constitutes the entire agreement between the parties. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

17. RELATIONSHIP OF PARTIES

17.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto. It is understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of City and Concessionaire.

18. NON-DISCRIMINATION

18.1 Concessionaire, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the grounds of race, color, sex, sexual orientation or national origin or other protected classification or characteristic shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, and (2) that in the construction of any improvements on, over or under said land and the furnishings of services hereon, no person on the grounds of race, color, sex, sexual orientation or national origin or other protected classification or characteristic shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

18.2 The parties hereto covenant not to discriminate against any employee or member applicant for employment, or membership to be employed in the performance of this Agreement with respect to his/her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of his/her race, religion, national origin or sex or other protected classification or characteristic.



That in the event of breach of any of the above non-discrimination covenants, the City shall have the right to terminate this Agreement and to re-enter and repossess said premises and facilities thereon, and hold the same as if said Agreement had never been made or issued.

19. GENERAL PROVISIONS

19.1 Acceptance of Fees - No acceptance by City of rentals, fees, charges or other payments in whole or in part, for any period or periods after a default of any of the terms, covenants, and conditions hereof to be performed, kept or observed by Concessionaire, shall be deemed a waiver of any right on the part of the City to terminate this Agreement for any subsequent violation by Concessionaire.

19.2 Non-waiver of Rights - No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.

19.3 Notices - Notices required herein may be given by registered or certified mail by depositing the same in the United States mail in the continental United States, postage prepaid. Any such notice so mailed shall be presumed to have been received by the addressee seventy-two (72) hours after deposit of same in the mail. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices to the parties shall be delivered as follows:

City of Burlington
c/o Director, Parks, Recreation, and Waterfront
645 Pine Street, Suite B
Burlington, VT 05401

Mike Shea
Green Mountain Boat Lines, LTD.
348 Flynn Avenue
Burlington, VT 05401



19.4 Captions - The headings of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

19.5 Severability - If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is agreed that the remainder of the Agreement shall not be affected thereby.

19.6 Incorporation of Exhibits - All exhibits referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

19.7 Force Majeure - Neither the City nor the Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, act of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control, and the party experiencing force majeure shall give immediate notice to the other party identifying the nature of such force majeure and when it began. The party experiencing force majeure shall take immediate action to attempt to remove such causes of force majeure as may occur from time to time and its operations under this Agreement shall be resumed immediately after such cause has been removed, provided that neither party shall be required to settle any labor dispute except upon terms that party deems acceptable. The suspension of any obligations under this section shall not cause the term of this Agreement to be extended and shall not affect any rights accrued under this Agreement prior to the commencement of the force majeure. The party giving notice of the force majeure shall also give notice of its cessation.

19.8 Interpretation - The language in all parts of this Agreement shall in all cases be construed simply according to its fair meaning and not strictly construed against the City.

The individuals executing this Agreement warrant that they have full authority to execute this lease on behalf of the entity for whom they are acting herein.

The parties to this Agreement do hereby execute this document on this _____ day of _____, 2024:



CITY OF BURLINGTON

BY _____

Miro Weinberger, Mayor

City of Burlington

Date _____

GREEN MOUNTAIN BOAT LINES, LTD

BY _____

Mike Shea, Owner

Green Mountain Boat Lines, LTD.

Date _____



EXHIBIT A

Map of Assigned Area



Board of Finance and City Council Submission ChecklistDepartment: BPRWSubmitter: Cindi WightTitle/Subject: Green Mountain Boat Lines/Spirit of Ethan Allen Lease

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	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	3/29/2024	Cindi Wight
Mayor's Office informed and approved memo	N/A	4/1/2024	CAO Schad approved for Mayor's office
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	4/1/2024	Hayley McClenahan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/1/2024	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/1/2024	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	lease
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.



Date: April 9, 2024 and April 15, 2024

To: Board of Finance and City Council

From: Katherine Schad, Chief Administrative Officer

CC: Mayor Emma Mulvalney-Stanak

Memo: Budget Neutral Amendment making adjustments based on recent budget to actual

Summary: On March 18, the CT office presented this [budget to actual report](#) to the Board of Finance reporting on how the general fund is performing year to date against budget. The report identified several revenue areas that are not expected to meet budget as well as commensurate expenses that are expected to come in under budget. To ensure that the City stays on budget and to follow the best practices recommended by our auditor, the CT Office seeks to make some of the budget amendments mentioned in the memo.

Specifics:

This budget amendment will reduce revenues budgeted in the Clerk Treasurer's Office by \$700K, specifically:

- (\$500K) of miscellaneous revenue – this item has been carried over in budget for a few years; however, it has never been realized and, we do not have a plan to realize it so we are taking it out of the FY24 budget, and it will not be in the FY25 budget.
- (\$200K) of purchasing savings – this item was first introduced several years ago but efficiencies are realized on the expense side and yet this has mistakenly r been carried over in the budget for many years. As the City is not able to realize this on the revenue side we are taking it out of the FY24 budget, and it will not be in the FY25 budget.

To make this a budget neutral amendment, the City will reduce these expenses:

- (\$100K) of CT salaries & benefits – the City expects additional savings here as CT had higher than anticipated staff turnover and chose not to fill positions that were originally included in the budget.
- (\$200K) of REIB salaries & benefits – FY24 budget contained salary and benefits for nine full-time staff, but actual staffing has been consistently lower.
- (\$150K) of City Attorney salaries & benefits – FY24 budget contained salary and benefits for nine full-time staff (including six attorneys), but actual staffing has been consistently lower.
- (\$200K) of City Attorney consultants – FY24 budget contained \$470,000 for outside consulting, a sharp increase over previous years to compensate for a lack of a City Attorney, which based on FY24 actuals has proven unnecessary.

- (\$50K) of Assessor salaries & benefits – We expect additional savings because the department has had higher than anticipated staff turnover.

Board of Finance Motion

To approve and recommend that the City Council approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to reduce the CT budget by \$700,000 and to reduce expenses by a total of \$700,000 in the CT, REIB, CA, and Assessor departments, per the attached form.

City Council Motion

To approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to reduce the CT budget by \$700,000, and to reduce expenses by a total of \$700,000 in the CT, REIB, CA, and Assessor departments, per the attached form.

Department: CT Requested by: Katherine Schad Date: 3/27/2024

Briefly explain the reason for the amendment:

to correct the FY24 budget based on our budget to actuals report

_____ (under 10k)

Dept. Head Approval

_____ (10k to 24,999)

Chief Administrative Officer _____ Date _____

_____ (25K - 50K)

Mayor _____ Date _____

BUDGET AMENDMENT DETAILS

[illegible]



Burlington Fire Department

136 South Winooski Avenue
Burlington, Vermont 05401-8378

(802) 864-4554 • (802) 658-2700 (TTY)

Business Fax (802) 864-5945 • Central Station Fax (802) 865-5387



To: Board of Finance; City Council

From: Michael LaChance, Fire Chief

Date: BoF: April 09, 2024; City Council: April 15, 2024

Re: Burlington Fire Department Community Response Team (CRT)

The fire department requests support from the Board of Finance and City Council to continue the Community Response Team (CRT) service past the six-month pilot end date of 04/14/2024. Current approved funding utilizing the Opioid Settlement Fund has a cap of \$182,598.00. Based on cost averaging, this current funding should allow the service to be funded through 06/16/2024.

As of March 24, the CRT has:

- Connected with individuals 1322 times.
- Distributed 2296 wound care items.
- Distributed 79 items for comfort care (Kleenex/hand warmers)
- Distributed 165 Narcan Leave Behind (NLB) kits
- Made 25 direct referrals to bridge service providers
- Received 13 direct phone call requests for services
- Dispatched as the primary response unit on 199 incidents
- Staffed for an average of 56 hours per week, relying on BFD members to work an extra 112 hours of voluntary OT per week.

We have seen a significant and consistent impact on our overdose numbers. It is difficult to quantify how much of this change is directly due to the CRT, as numerous efforts are underway that affect this number.

	2022	2023	% change 22/23	2024	% change 23-24
January	19	40	111%	25	-38%
February	20	29	45%	25	-14%
March	20	28	40%		
April	26	43	65%		
May	26	38	46%		
June	38	56	47%		
July	38	39	3%		
August	39	57	46%		
September	24	67	179%		
October	33	25	-24%		
November	31	24	-23%		
December	44	24	-45%		
		Implementation of CRT			

The City has seen a positive impact on fire crews. I've received feedback like the following:

“The CRT allowed me to interact with people when they are NOT in crisis and has provided a fresh perspective.”

The morale of the on-duty crews has improved. The CRT is handling many low-severity calls or preventing them from being received in the first place. Anecdotal evidence shows that compassion fatigue rates are reduced, allowing for greater job satisfaction and improved retention rates.

Including upfit costs, as of 03/24/24, the City has spent \$119,199.61 of the \$182,598.00 budget. With average weekly costs of \$4,426.34, available funding should last through June 16, 2023.

Board of Finance Motion:

Move to approve and recommend that the City Council authorize the Chief Administrative Officer to make any and all necessary budget amendments to allocate the use of the assigned Opioid Money Fund to support operating costs of the Fire Department Community Response Team until funds are exhausted with a budget not to exceed the original approval of \$182,598.00; and, to further authorize the extension of the CRT pilot program through the end of City Fiscal Year '24 or the end of available funding.

City Council Motion:

Move to approve and authorize the Chief Administrative Officer to make any and all necessary budget amendments to allocate the use of the assigned Opioid Money Fund to support operating costs of the Fire Department Community Response Team until funds are exhausted with a budget not to exceed the original approval of \$182,598.00; and, to further authorize the extension of the CRT pilot program through the end of City Fiscal Year '24 or the end of available funding.

Board of Finance and City Council Submission ChecklistDepartment: Fire Submitter: M. LaChanceTitle/Subject: Community Response Team

	Approval:	Meeting Date:
☐	Board of Finance	4/9/2024
☐	City Council	4/15/2024
☐	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	4/1/2024	LaChance
Mayor's Office informed and approved memo	Yes	4/1/2024	Schad
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		
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/1/2024	McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/1/2024	Schad
Human Resources, if personnel action -Identify HR Manager in note	Yes	4/1/2024	Durfee
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	N/A	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.



**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, PE, Public Works Transportation Engineer
Laura Wheelock, PE, Senior Public Works Engineer

DATE: April 9, 2024 (BOF) & April 15, 2024 (CC)

CC: Chapin Spencer, Director of Public Works
Norman Baldwin, PE, Division Director - Tech Services/City Engineer
Ashley Parker, Capital Program Director

RE: Burlington Electric Department Memorandum of Understanding for CityPlace
Public Improvements

Request:

The Department of Public Works ("DPW") is requesting approval and recommendation from Board of Finance and authorization from City Council to execute a Memorandum of Understanding ("MOU") with the Burlington Electric Department ("BED") to construct street lighting associated with the CityPlace Public Improvements project. The MOU allows BED to seek reimbursement for eligible street lighting work in the amount of \$311,237.

Background on the CityPlace Public Improvements Project

The CityPlace Public Improvements project area includes the new sections of Pine Street and St. Paul Street between Bank Street and Cherry Street, as well as the north side of Bank Street and south side of Cherry Street, as defined under the Second Amended and Restated Development Agreement as Amended (ARDA 2.0). Public Improvement elements include:

- Construction of the new street to Great Streets Design Standards;
- Amenities such as decorative lighting, benches, and bike racks;
- Durable materials with granite curbs, paver amenity belts, and new concrete sidewalks;
- Street ecology supported with new trees/plantings with soils cells to support growth;
- Stormwater collection with rain gardens and infiltration within the tree belt through

pervious pavers and curb inlets into these practices

Based on the Burlington Electric Department Lighting Policy (revised 2/12/2020), the Burlington Electric Department is the municipal utility in charge of street lighting design and construction in the City up to the Illuminating Engineering Society (IES) standards ("Standard Street Lighting"). The City is responsible for the additional cost to design and install decorative lighting to the Great Streets Standards ("Decorative Street Lighting"). The total amount that DPW is responsible for is shown in Table 1.

Table 1. Street Lighting Cost

Element	Cost
Decorative Street Lighting	\$420,431
Standard Street Lighting	\$109,194
Total DPW Cost (Decorative minus Standard)	\$311,237

Funding for the CityPlace Public Improvements

Funding for the street lighting comes from Waterfront Tax Increment Financing (TIF) under Tier 2 as described in the ARDA for Public Improvements. The budget was presented to the City Council on June 20, 2023 when construction costs were approved.

Attachments

1. Memorandum of Understanding between the Burlington Public Works Department and the Burlington Electric Department for the Construction of Street Lighting for the CityPlace Public Improvements

Motions

Board of Finance:

1. To approve and recommend that the City Council authorize the Director of Public Works to execute a Memorandum of Understanding with the Burlington Electric Department in an amount up to \$311,237 for construction of street lighting associated with the CityPlace Public Improvements 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 Memorandum of Understanding with the Burlington Electric Department in an amount up to \$311,237 for construction of street lighting associated with the CityPlace Public Improvements project, subject to the review and approval of the City Attorney's Office.

DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN THE BURLINGTON PUBLIC WORKS DEPARTMENT AND THE BURLINGTON ELECTRIC DEPARTMENT

For the Construction of Street Lighting for the City Place Public Improvements

The Burlington Electric Department (BED) and Department of Public Works (DPW) are jointly entering into this Memorandum of Understanding (MOU) for construction work of Street Lighting associated with the City Place Public Improvements project (the "Project"). The Project area consists of new sections of Pine Street and St. Paul Street between Bank Street and Cherry Street, as well as the north side of Bank Street and south side of Cherry Street, as defined under the Second Amended and Restated Development Agreement as Amended (ARDA 2.0). The Project is being managed by DPW. Funding for the construction and inspection work required by the Project is provided by Tax Increment Financing (TIF). The following Definitions, Scope of Work, Schedule, and Billing and Payment associated with the Project are agreed to as follows:

A. Definitions

1. BED – Burlington Electric Department
2. DPW – Burlington Public Works Department
3. City Project Manager is Julia Ursaki, P.E., Public Works Engineer
4. BED Project Engineer is Bradley Williams, P.E., Senior Operations Engineer
5. "Others" will be Contractor(s)/Consultant(s) selected by DPW.

B. Scope of Work

Decorative Street Lighting construction on new sections of Pine Street and St. Paul Street between Bank Street and Cherry Street, as well as the north side of Bank Street and south side of Cherry Street ("Street Lighting"). All BED work captured in the scope of work below is included in the fee schedule and shall be incurred by BED and reimbursed.

1. BED will procure and install Street Lighting as specified by the Project documents. This shall include anchor bolts, poles, arms, street light conductors, cables and fixtures.
2. Anchor bolts shall be provided to Others in a timely fashion to allow for casting of light pole bases.
3. All new conduits and handholds to be supplied and installed by Others.
4. BED will perform quality control and on the job inspection of the work described in the items above, and inspection of Others conduit and light pole base installation prior to backfilling.
5. Others will be required to correct any work that does not pass BED inspection.
6. BED to install grounding hardware at each base pole location.
7. BED shall be responsible for all de-energizing or energizing of street lighting.
8. BED line crew to make final connections to energize the Street Lighting system
9. BED will attend all regular construction meetings as necessary.
10. BED will provide responses to RFIs and questions from DPW and Others, and complete

review of shop drawings as necessary .

11. Changes to the scope or work or cost of the project will be agreed upon via email correspondence between the BED Project Engineer and DPW Project Manager.

C. Schedule

1. All electric system construction work will be completed as follows:
 - The Others shall provide two weeks minimum notice when BED is required to perform work.
 - Electrical installation of Street Lighting in accordance with the Scope of Work and the Others' Schedule. BED's compliance with Others' schedule is dependent on long lead time items being procured.
2. Complete review of construction shop drawings and change orders as needed within two weeks unless otherwise agreed upon by BED Project Engineer and DPW Project Manager.
3. Project responses to RFIs as needed within two weeks unless otherwise agreed upon by BED Project Engineer and DPW Project Manager.

D. Fee

1. Street Lighting: Per BED's Lighting Policy, the Project shall be responsible for reimbursing BED for the cost of Decorative Street Lighting minus the Standard Street Lighting costs as follows:
 - Decorative Street Lighting, BED Estimate \$420,431
03/20/24
 - Standard Street Lighting, BED Estimate \$(109,194)
03/20/24
 - Resulting Total, \$420,431 - \$109,194 = \$311,237
2. Street Lighting conduits and handholes: All Costs to be borne by the Project.

E. Billing and Payment

1. BED will provide DPW a Level of Effort (LOE) table, including billing rates, administrative and general costs, expenses, associated with the Project as defined in this MOU. Once approved by DPW, this fee will become a part of this agreement.
2. Following execution of this agreement, BED shall provide an invoice for the Street Light material costs to DPW to allow for purchasing of long lead time items. This invoice shall be paid with 30 days of receipt.
3. Invoices from BED shall be directed to the DPW Project Manager and billed according to the approved LOE table.

4. Each bill will be paid at 100% directly to BED for their professional services within 30 days of receiving an invoice.
5. The amount for reimbursement under this MOU is for both the City and BED are listed in the Fee Schedule above. Any work beyond this amount will require a prior executed amendment between DPW and BED, expressly stating the defined scope of additional work and additional fee.
6. DPW shall have the ability to review work completed by BED, and request modifications if necessary to achieve the Project Scope of Work as defined in this MOU. All work will be done in accordance with BED's construction standards and specifications.

F. Ownership

1. At the conclusion of Work, including additional work by Others to remediate failure to pass initial BED inspection pursuant to B.6 above, BED will perform a final inspection of any Street Lighting work performed by Others under the Project, and if compliant with BED standards, will accept ownership of all Project Street Lighting. Upon acceptance\ownership, all the Project Street Lighting and associated equipment and materials will, if not already owned by BED, be transferred to BED, and BED will assume responsibility for these assets pursuant to its Street Lighting Policy now in effect and add those assets to monthly billings to the City pursuant to BED's normal Street Lighting (SL) Tariff.

G. Signature Page

Signed:

General Manager of the Burlington Electric
Department

Date: _____

Signed: _____

Director of the Burlington Department of
Public Works

Date: _____

Underground Stantard Option

City Place (CPP) Street Lighting - Standard Underground/Cobra Head	(A) BED Traffic Control	Material	Material Adder Extension (30%)	(B) Total Material Cost	Total Labor Units	Labor Extension	Labor Adder Extension (38%)	(C) Total Labor Cost	Admin & General Sub-Total A+B+C	Admin & General Adder (12%)	Truck Cost	Total
BED Electrical Installation	\$0	\$28,600	\$8,580	\$37,180	415	\$25,166	\$9,563	\$34,729	\$71,909	\$8,629	\$4,980	\$85,518
BED Electrical Removal	\$0	\$0	\$0	\$0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Engineering	\$0	\$0	\$0	\$0	30	\$2,452	\$932	\$3,384	\$3,384	\$406	\$0	\$3,790
Inspector	\$0	\$0	\$0	\$0	59	\$2,731	\$1,038	\$3,768	\$3,768	\$452	\$708	\$4,928
CAD	\$0	\$0	\$0	\$0	10	\$463	\$176	\$639	\$639	\$77	\$0	\$715
Project Subtotal												\$94,951
Contingency (15%)												\$14,243
Total Street Lighting Cost Estimate												\$109,194

Revised 3/20/2024

Underground Decorative Option

City Place (CPP) Street Lighting - Underground Decorative	(A) BED Traffic Control	Material	Material Adder Extension (30%)	(B) Total Material Cost	Total Labor Units	Labor Extension	Labor Adder Extension (38%)	(C) Total Labor Cost	Admin & General Sub-Total A+B+C	Admin & General Adder (12%)	Truck Cost	Total
BED Electrical Installation	\$0	\$180,499	\$54,150	\$234,649	735	\$44,570	\$16,937	\$61,507	\$296,156	\$35,539	\$8,820	\$340,514
BED Electrical Removal	\$0	\$0	\$0	\$0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Engineering	\$0	\$0	\$0	\$0	100	\$8,173	\$3,106	\$11,279	\$11,279	\$1,353	\$0	\$12,632
Inspector	\$0	\$0	\$0	\$0	137	\$6,340	\$2,409	\$8,750	\$8,750	\$1,050	\$1,644	\$11,444
CAD	\$0	\$0	\$0	\$0	14	\$648	\$246	\$894	\$894	\$107	\$0	\$1,001
Project Subtotal												\$365,592
Contingency (15%)												\$54,839
Total Street Lighting Cost Estimate												\$420,431

Assumptions:

Revised 3/20/2024

BED to procure and install decorative poles, fixtures, and cables.

DPW's Contractor to install conduit system, handholes, and pole bases to BED's specifications.

BED inspector to inspect all conduits, handholes, and pole bases prior to any backfilling.

BED inspector to install grounding hardware at each pole base location.

Board of Finance and City Council Submission Checklist

Department: Department of Public Works Submitter: Julia Ursaki
Burlington Electric Department Memorandum of Understanding for City Place Public
Title/Subject: Improvements

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	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	4/1/2024	Chapin Spencer/Norm Baldwin
Mayor's Office informed and approved memo	N/A	Click or tap to enter a date.	Click or tap here to enter text.
Board/Commission, if required	N/A		Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/2/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/2/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/2/2024	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	Board of Finance



City of Burlington
Department of Public Works

Technical Services Engineering Division
645 Pine Street
Burlington, VT 05402
P 802-863-9094 / F 802-863-0466 / TTY 802-863-0450
www.burlingtonvt.gov/DPW

Memorandum

Date: April 9, 2024

To: Board of Finance(April 9, 2024) and City Council(April 15, 2024)

From: Norman Baldwin, P.E., Division Director/City Engineer
Corey Mims, P.E., Senior Public Works Engineer
Phillip Peterson, P.E., Senior Transportation Planner

CC: Chapin Spencer, Director

Subject: Champlain Parkway – City of Burlington and Champlain Water District MOA

REQUEST

The Burlington Department of Public Works (DPW) respectfully requests Board of Finance and City Council authorize the Public Works Director or his designee to execute the Memorandum of Agreement (MOA) with the Champlain Water District (CWD). The referenced MOA seeks to harmonize the establishment of the proposed Champlain Parkway shared use path directly west of the 189/Route 7 Interchange with the existing segment of the CWD's 24 inch Water Transmission Line.

BACKGROUND

On February 9, 1984 CWD acquired a 20 foot wide easement right from South Meadow Housing Associates to establish a 24 inch water transmission line over South Meadow's Upper Tier Condominium Association Parcel 216. Subsequent to the establishment of CWD's Easement, on November 7, 1988, the City of Burlington acquired an easement for the same parcel seeking property rights to establish the Champlain Parkway shared use path. The City's Easement, at a later date was amended on May 1, 1990 and recorded on July 17, 1990.

Obtaining this property right is a requirement for constructing the Champlain Parkway project as permitted. After years of successful work across multiple Administrations, the Champlain Parkway project has been enhanced to include approximately two miles of new shared-use paths to improve bicycle and pedestrian accommodations in the project area.

Given the CWD easement pre-dates the City Easement, the CWD Easement takes priority over the City's Easement, requiring the City's easement to not interfere with the CWD Easement. Working in collaboration with CWD, City Staff has proposed a shared use path design that can coexist with CWD's 24 inch water Transmission line.

CWD's water transmission line is coincidental for approximately 150 feet to the proposed shared use path as part of the Champlain Parkway. Under the terms of the MOA, should CWD need to

repair or replace sections of their water main, the City will be financially responsible for restoring the shared use path after the water repair work has been completed.

The MOA is a legal document prepared in partnership with CWD's attorney and the Champlain Parkways private attorney at SRH Law in consultation with the City Attorney's Office.

In its current form, the draft MOA has received verbal sign-offs from both City staff and CWD executive leadership. There may be minor final administrative edits necessary to reference design plan sets and any other refined mutually agreeable language subject to the City Attorney's review and approval.

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

1. Burlington-CWD Memorandum of Agreement and mutual agreement to indemnify and hold harmless.
2. Champlain Water District easement 3/19/1984
3. City of Burlington easement 11/7/1988
4. Champlain Parkway ROW Plans Excerpt South Meadow Condominium Association
5. Champlain Parkway-South Meadow Shared Use Path Design

MOTIONS

Action for Board of Finance:

To approve and recommend to City Council they authorize the Director of Public Works or his designee to execute the Memorandum of Agreement with Champlain Water District, for the purposes of delineating the Parties' respective rights and obligations with respect to CWD's existing easement that was recorded in the City of Burlington Land Records on March 19, 1984 and City's easement originally executed on November 7, 1988.

Action for City Council

To authorize the Director of Public Works or his designee to execute the Memorandum of Agreement with Champlain Water District for the purposes of delineating the Parties' respective rights and obligations with respect to CWD's existing easement that was recorded in the City of Burlington Land Records on March 19, 1984 and City's easement originally executed on November 7, 1988.

MEMORANDUM OF AGREEMENT AND MUTUAL AGREEMENT TO INDEMNIFY AND HOLD HARMLESS

Champlain Water District, a municipal corporation in the County of Chittenden, State of Vermont (hereinafter “CWD”) and the City of Burlington, a Vermont municipality (“City”) hereby enter into this Memorandum of Agreement and Mutual Agreement to Indemnify and Hold Harmless (“Agreement”) for the purposes of delineating the Parties’ respective rights and obligations with respect to CWD’s existing easement that was recorded in the City of Burlington Land Records on March 19, 1984 in Book 302 and Pages 520-521 (“CWD Easement”) and the City’s existing easement that was recorded in the City of Burlington Land Records on July 17, 1990 at Book 419, Pages 492-499 (“City Easement”).

WHEREAS, the CWD Easement grants CWD a permanent 20 foot easement to lay, maintain, repair and replace water transmission lines; consistent with the rights granted to CWD under the CWD Easement, CWD owns, operates, and maintains an existing 24-inch ductile iron waterline that runs from CWD’s Water Treatment Facility toward Shelburne Street in the City of Burlington;

WHEREAS, consistent with the rights granted to the City under the City Easement, the City plans to construct a new 20’ wide shared used path and related improvements (the “Project”) as generally depicted on design and landscape plans or any other plans or drawings that relates to the CWD Easement Area (Exhibit 1) (“Project Plans”), parts of which will occur on the surface in the same location as the CWD Easement, and this Agreement involves only that portion of the Project within the CWD Easement;

WHEREAS, both CWD and the City have an obligation not to unreasonably interfere with the other’s use of CWD’s Easement as authorized in this Agreement;

WHEREAS, the CWD Easement was granted first in time, and therefore the City agrees that CWD’s use of the CWD Easement area takes priority over the City’s use;

WHEREAS, CWD must retain complete easement rights in the CWD Easement area, but agrees that the Project will not unreasonably interfere with its use of the CWD Easement, so long as the following terms and conditions are honored.

NOW, THEREFORE,

1. Acknowledgement of Rights and Agreements.

- (a) The Parties agree that the City may access a portion of the CWD Easement (the “CWD Easement Area”) in the City of Burlington, Vermont as more specifically defined and depicted on the Project Plans for the purposes of:
 - i. Accessing, constructing, maintaining, repairing, and utilizing the Project that will be fully or partially located within the CWD Easement Area in the City of Burlington, and

- ii. CWD agrees that the City may modify the surface of the existing CWD Easement Area as more specifically defined and depicted on the Project Plans, and
- iii. As defined in this section, the Project are those improvements depicted on the Project Plans (Exhibit 1), except that once the Project is built consistent with those plans, the exact specifications of the Project shall be the “as built” condition. Any change from the Project Plans, or after construction from the as-built Project plans, in the CWD Easement Area shall require notice by the City and written approval by CWD as described in Sections 1(b)(vi) and 5.

(b) This Agreement is subject to the following City obligations, whose breach by the City shall be the cause for termination or revocation of this Agreement by CWD:

- i. The City’s shared use path shall not interfere with the CWD infrastructure within the CWD Easement area and access thereto unless as specifically authorized herein;
- ii. Other than as described herein, the ground topography, landscaping, and utilities within the CWD Easement Area shall not be changed in the future without the consent of CWD;
- iii. This Agreement does not authorize the City to use the CWD Easement Area for any future development (such as installation of other utilities, for example).
- iv. The City shall construct, maintain, and operate the shared use path within the CWD Easement Area in a professional and workmanlike manner.
- v. CWD shall not be held liable or responsible for any maintenance or repair of any City infrastructure, including but not limited to; bituminous pavement, landscaping, guardrails, stormwater infrastructure, etc. in the event CWD needs to access, construct, maintain, or repair CWD’s existing 24-inch ductile iron waterline.
- vi. The City shall give CWD notice a minimum of five (5) business days prior to any construction work within the CWD Easement Area; in the event of an emergency, the City shall give notice as soon as practicable.

- vii. The City shall provide CWD with the as-built Project plans within 90 days of completing Project construction in the CWD Easement Area.
- viii. The City and CWD shall meet weekly when the City prepares to perform work in the CWD Easement Area and when the City constructs the Project within the CWD Easement Area.

(c) This Agreement is also subject to the following CWD obligations:

- i. If CWD anticipates that it will be necessary to disturb or damage the shared-use path or any related infrastructure in using the CWD Easement, it shall provide at least 30 days' notice to the City before commencing work, provided that if it is impractical to provide such notice due to unusual circumstances, CWD shall provide as much notice as is reasonably practical.
- ii. In performing any activities authorized by the CWD Easement, CWD shall not permanently change the ground topography or landscaping within the area of the Project without the consent of the City. Upon completion of any ground disturbance work, CWD agrees to return the surface topography to its pre-existing state, and to return the subsurface to the pre-existing state so it is suitable for any necessary paving work, which paving work will be the responsibility of the City under Paragraph 1(b)(v) above. If CWD is in breach of the requirements of this subsection, it shall be responsible for all costs incurred to return the subsurface to a suitable state for placing subbase and paving.

(d) Should either Party believe the other Party to be in breach of this section, that Party shall provide notice to the other. Within fifteen (15) days of that notice, the Parties shall meet to attempt in good faith to resolve the matter through negotiated settlement or mediation. Neither party shall file any litigation arising from or relating to this Agreement without first attempting in good faith to resolve the Parties' dispute through negotiated settlement or mediation; provided, however, that nothing herein shall prevent either party from seeking emergency relief in appropriate circumstances from a court of competent jurisdiction.

2. Non-disturbance. Other than as authorized herein, the City shall not interfere with CWD's Easement and CWD will not interfere with the City's Project.

3. Indemnification and assumption of risk.

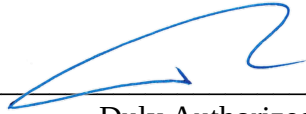
- (a) The CWD Easement Area and other CWD property are not warranted, promised, or guaranteed by CWD to be suitable or safe for any of the City's use of CWD's

Easement Area described herein. The City has had the opportunity to inspect the Licensed Area and freely acknowledge the property is in “AS IS” condition and waives any warranties, implied or express, whatsoever.

- (b) Other than as expressly set forth in this Agreement, the City assumes all costs arising out of Project activities.
 - (c) The City shall defend, indemnify, and hold harmless CWD for any claims, damages, or liability arising out of the City’s use of the CWD Easement Area.
 - (d) Other than as expressly set forth in this MOU, CWD assumes all costs arising out of the activities authorized by the CWD Easement. CWD shall defend, indemnify, and hold harmless the City for any claims, damages, or liability arising out of CWD’s use of the CWD Easement.
4. Cancellation/Termination. If either Party, its successors or assigns, no longer desires to operate within the CWD Easement Area as described herein, it shall provide notice to the other Party and, upon such notice, the other Party shall have the right to terminate this Agreement and all obligations imposed on it hereunder. If the City permanently ceases operating within the CWD Easement Area, the City shall, at its own cost, remove all infrastructure associated with its use of the CWD Easement Area. The City shall coordinate with CWD prior to performing such work.
5. Notices. Copies of any notices required or contemplated by this Agreement shall be delivered as follows.
- | | |
|---------------------------------|---|
| Notices for CWD shall go to: | Joe Duncan, General Manager
Champlain Water District
403 Queen City Park Road
South Burlington, VT 05403 |
| Notice to Licensee shall go to: | Norm Baldwin, City Engineer
City of Burlington
645 Pine St, Suite A
Burlington, VT 05401 |
6. Amendments/Modifications: No amendment or modification of this Agreement is effective unless the amendment or modification is in writing and signed by the duly authorized agents of each Party.
7. Miscellaneous: This Agreement shall be interpreted in accordance with the laws of the State of Vermont. Nothing in this Agreement is intended by the Parties to expand either Party’s legal rights or abridge, amend, or materially alter either Party’s legal authority or responsibilities, except as expressly set forth herein. The Parties agree that no right, remedy, or benefit shall be conferred by this Agreement on any third party. Neither this Agreement nor an abstract or memorandum of it shall be recorded in the official records.

Signed this 2nd day of April, 2024.

CHAMPLAIN WATER DISTRICT

By:  _____
Duly Authorized Agent
Joseph Duncan, General Manager

Signed this ____ day of April, 2024

CITY OF BURLINGTON

By: _____
Duly Authorized Agent



Know all Men by these Presents

That the CITY OF BURLINGTON, a Vermont municipal corporation

of Burlington in the County of Chittenden
and State of Vermont Grantor, in the consideration of
paid to its full satisfaction by TEN AND MORE Dollars

SOUTH MEADOW HOUSING ASSOCIATES,
a Vermont limited partnership

of Burlington in the County of Chittenden
and State of Vermont Grantee, have REMISED, RELEASED,
AND FOREVER QUITCLAIMED unto the said

SOUTH MEADOW HOUSING ASSOCIATES

all right and title which and its successors ~~heirs~~ or assigns,

the CITY OF BURLINGTON
or its successors or assigns

certain piece of land in ~~heirs~~ have in, and to a
County of Burlington in the
follows, viz: Chittenden and State of Vermont, described as

Being part of the same land and premises conveyed to the City of Burlington by the Baird Center for Children and Families by Condemnation Order dated August 11, 1986 and recorded August 12, 1986 in the City of Burlington Land Records, and being more particularly described as follows:

Beginning at a point in the present sideline of the Southern Connector project, which is designated as Ramp "D" station 50+95, 140 feet right;

then proceeding N83°49'57"E in the present north boundary line of said Southern Connector, a distance of 23 feet, more or less, to a point which is designated as Ramp "D" station 50+64, 140 feet right;

then proceeding in a southerly direction in a straight line a distance of 29 feet, more or less, to Ramp "D" station 50+64, 111 feet right. This is also the beginning of a non-tangent curve;

then proceeding along the present fence, in a curve which arcs to the right, with an approximate radius of 100 feet, and an approximate length of 87 feet, to Ramp "D" station 51+49, 120 feet right, which is also the end of the non-tangent curve;

then proceeding in a northeasterly direction, in a straight line a distance of 33 feet, more or less, to a point in the present sideline of the Southern Connector, which point is the southwest corner of the lands and premises of South Meadow Housing Associates and which is designated as Ramp "D" station 51+30, 146 feet right.

then proceeding S86°49'09"W along the present north boundary line of said Southern Connector to the point and place of beginning.

City Clerk's Office
Received 7-17-1990 at 2:49 P.M.
and recorded in Vol. 419 on Page
of Burlington Land Records.
Vermont Property Transfer Tax 32 V.S.A. Chap. 231
— ACKNOWLEDGEMENT —
Return, Certificate & Payment Received
Attest: J. M.

Excepting and reserving from this conveyance to the City of Burlington are the permanent slope rights along channel slopes, an area of 610 square feet, more or less, and located right of and between Ramp "D" stations 50+64 and 51+94 of Highway Project Burlington MEGC M 5000(1).

Excepting and reserving from this conveyance to the City of Burlington the right to maintain a powerline as sited in a Utility Relocation Agreement between State of Vermont, Agency of Transportation and Green Mountain Power Corporation dated July 21, 1983 and as amended in a Supplemental Agreement No. 2 dated April 6, 1987.

* FOR AMENDMENT SEE *
 VOL. 419 PG. 495

EASEMENT AGREEMENT

Attest: 8-17/81
 James E. Rader, City Clerk

THIS AGREEMENT dated as of this 7th day of November, 1988, by and among the City of Burlington ("City"), a Vermont municipality having an office at Room 31, City Hall, Burlington, in the County of Chittenden and State of Vermont, and South Meadow Housing Associates ("South Meadow"), a Vermont limited partnership having its principal office at Burlington, in the County of Chittenden and State of Vermont.

WITNESSETH:

WHEREAS, the City has agreed to convey a certain detention pond parcel to South Meadow and South Meadow has agreed to convey to the City an easement for the construction and maintenance of a bicycle path across the premises of South Meadow; and

WHEREAS, the parties hereto desire to effectuate that transaction in part by executing this Agreement;

NOW THEREFORE, in consideration of Ten and More Dollars and other good and valuable consideration paid by each to the other, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Conveyance of Bike Path Easement. (a) South Meadow hereby grants, bargains, sells, and conveys to City a perpetual, non-exclusive easement and right to construct and maintain a bicycle path (the "Easement") on the following property located in the City of Burlington in the County of Chittenden and State of Vermont:

Being a strip of land fourteen (14) feet in width located on the southerly portion of certain lands and premises conveyed to South Meadow by Warranty Deed of The South Meadow Partnership dated November 21, 1986, recorded in Book 345, Page 645 of the Burlington Land Records, the centerline of which shall be the centerline of the paved path, as set forth and located on the three-page plan prepared by the State of Vermont Agency of Transportation entitled "Burlington Bike Path" and being part of Agency of Transportation Project No. MEGC M5000(2) dated _____, 1988, and recorded in Map Book _____, Page _____ of the Burlington Land Records. Said lands and premises of South Meadow are subject to the encumbrances set forth in the above-

described November 21, 1986 Warranty Deed of The South Meadow Partnership to South Meadow and to the lien of real estate taxes and other municipal liens and assessments, if any, not yet due and payable. The easement hereby conveyed is subject to all rights, easements, covenants, rights of way and restrictions of record. Reference is hereby made to the aforementioned instruments and plans, the records thereof, the references contained therein and the respective records thereof, all in further aid of this description.

Such rights are more particularly described as the right to construct, maintain, repair and replace a bicycle path consisting of a paved surface no more than ten (10) feet in width and related landscaping and improvements upon the land and premises burdened by the easement, provided that such bicycle path shall be constructed in accordance with applicable standards of the City.

(b) The City, for itself, its successors and assigns, covenants with South Meadow, its successors and assigns as follows:

- (i) to maintain the bicycle path and its related improvements in good, safe and clean condition. In the event the City fails to perform these responsibilities, South Meadow, its successors and assigns, shall have the right, but not the obligation, pursuant to its right to enter the premises, to maintain, repair, replace and reconstruct the bicycle path or other improvements on the easement conveyed hereby and to provide security for the occupants of South Meadow's premises;
- (ii) to hold harmless South meadow and any occupant of the lands burdened by the Easement from and against all claims arising out of or in connection with the Easement and the use thereof by the City.

2. Conveyance of Outflow Pipe License to South Meadow.
The City hereby grants to South Meadow an irrevocable license and right to construct, repair, replace and maintain an outflow pipe located on the southwesterly side of the detention pond to allow discharges from the detention pond into Potash Brook. The detention pond referred to herein is located on a certain parcel of land located in the right-of-way of the so-called Southern Connector, Vermont Agency of Transportation Project

MEGC-M5000(1) C-1, in the City of Burlington, Vermont and abutting in part the southerly line of the land and premises of South Meadow, and more particularly described in the Quit-Claim Deed from the City of Burlington to South Meadow of even date herewith.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed this 7th day of ~~November~~ ^{December}, 1988. *P.S.*

IN PRESENCE OF

Andre D. Boufford

Butcher S. Bailey

John J. Trunio

Butcher S. Bailey

SOUTH MEADOW HOUSING ASSOCIATES
By The South Meadow Partnership,
General Partner

By: *[Signature]*
Duly Authorized Agent

CITY OF BURLINGTON

By: *[Signature]*
Mayor

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington in said County, this 7th day of ~~November~~ ^{December}, 1988, Richard Feeley, duly authorized agent for South Meadow Housing Associates and The South Meadow Partnership, personally appeared and he/she acknowledged this instrument, by him/her sealed and subscribed to be his/her free act and deed and the free act and deed of South Meadow Housing Associates and The South Meadow Partnership.

Before me, Andre D. Boufford
Notary Public

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington in said County, this 7th day of ~~November~~ ^{December}, 1988, personally appeared Bernard Sanders and acknowledged the foregoing instrument by him executed as Mayor of the City of Burlington of the State of Vermont to be his free act and deed and the free act and deed of said City of Burlington.

Before me, Butcher S. Bailey
Notary Public

B4.45.1103

AMENDMENT TO EASEMENT AGREEMENT

This Amendment to Easement Agreement is entered into
 this 1 day of ^{May}~~March~~, 1990, by and between the City of
 Burlington (hereinafter City), a Vermont municipality having
 an office at Room 31, City Hall, Burlington, in the County
 of Chittenden, and State of Vermont, and South Meadow
 Housing Associates (hereinafter South Meadow), a Vermont
 limited partnership having its principal office at
 Burlington, in the County of Chittenden, and State of
 Vermont.

W I T N E S S E T H :

WHEREAS, City and South Meadow entered into an Easement
 Agreement, dated December 7, 1988, whereunder South Meadow
 conveyed to City a perpetual, non-exclusive easement and
 right to construct and maintain a bicycle path upon South
 Meadow's property located in the City of Burlington, in the
 County of Chittenden, and State of Vermont; and

WHEREAS, the parties are desirous of amending the
 description in the Easement Agreement to reflect the actual
 description of the easement parcel and to include warranties
 of title.

NOW THEREFORE, in consideration of the mutual covenants
 and agreements hereinafter set forth, the parties hereto
 agree as follows:

The description of the easement parcel set forth in Paragraph 1(a) of the above Easement Agreement is amended to read as follows:

Being Parcel #97C consisting of 0.50 acres, more or less, land and rights therein, as shown on Pages 46B and 46C of the plans of Highway Project Burlington MEGC M 5000(1) as filed on the 22nd day of September, 1989, in the office of the Clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

An easement to construct and maintain a chain link fence left of and between approximate survey stations 14+70 and 22+50 of the revised Bike Path centerline of said Highway Project.

A temporary easement during the period of construction to extend highway slopes and embankments in an area of 0.19 acres, more or less, as shown on Pages 46B and 46C of the plans of said Highway Project, as filed on the 22nd day of September, 1989, in the office of the Clerk of the City of Burlington.

The slopes and embankments may be extended at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of highway construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff and other objectionable materials, structures, growth and any other thing of whatever kind or nature from said slope areas.

Easements to install and maintain culverts at or near and left of approximate survey stations 15+87, 17+10, 18+16, 19+60, and 22+38 of the revised Bike Path centerline of said Highway Project.

Grantee, for itself, its successors and assigns, covenants with Grantor, and its successors and assigns, to permanently maintain the bicycle path and its related improvements, including the highway slopes and embankments, at Grantee's sole cost and expense.

Being a portion of the lands and premises conveyed to the within Grantor, South Meadow Housing Associates, by Warranty Deed of the South Meadow Partnership, dated

November 21, 1986, and recorded in Volume 345 at Page 645 of the Land Records of the City of Burlington.

The easement parcel herein conveyed may be subject to the following easements and rights-of-way and encumbrances:

(a) Power line right-of-way to Green Mountain Power Company dated February 11, 1955, recorded in Book 148, Page 65 as shown on plan in Book 148, Page 48 of the Land Records of the City of Burlington.

(b) Power line right-of-way to Green Mountain Power Company dated January 7, 1960, recorded in Book 156, Page 322 of said Land Records.

(c) A 20 foot right-of-way for water line to Champlain Water Department dated February 9, 1984, recorded in Book 302, Page 520 as shown on plan in Plan Book IV, Page 17 of said Land records.

(d) A gas pipeline easement to Vermont Gas Systems, dated August 21, 1986, and recorded in Book 341, Page 467 of said Land Records.

(e) An agreement with respect to certain sewer line easements among South Meadow Housing Associates, the Baird Center for Children and Families, Inc., and Burlington Shopping Center, Inc., dated November 20, 1986, and recorded in Book 350, Page 394 of said Land Records.

(f) A mortgage from South Meadow Housing Associates to Vermont Housing Finance Agency dated January 20, 1988, and recorded in Volume 375 at Page 38 of said Land Records;

(g) A mortgage from South Meadow Housing Associates to the City of Burlington dated November 21, 1986, and recorded in Volume 351 at Page 621 of said Land Records, and as amended, dated February 13, 1987, and recorded in Volume 358 at Page 718 of said Land Records.

Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description.

TO HAVE AND TO HOLD the above granted rights and privileges in, upon and over said premises unto Grantee, its successors and assigns forever; and

Grantor does for itself and its heirs, administrators, successors and assigns, covenant with said Grantee, and its successors and assigns, that until the ensealing of these presents Grantor is lawfully seized in fee simple of the aforesaid premises, that they are free from all encumbrances except as hereinbefore described, that the Grantor has good right and title to sell and convey the rights as aforesaid and that Grantor, and its heirs, administrators, successors and assigns shall **WARRANT AND DEFEND** the same to Grantee and its successors and assigns forever against the lawful claims and demands of all persons, except as hereinbefore described.

Except as hereinabove set forth, the terms and conditions of the Easement Agreement, dated December 7, 1988, shall remain the same and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the day and year first above written.

IN PRESENCE OF:

CITY OF BURLINGTON

Linda Blanchard
Fay M. Lawes

BY: [Signature]
Mayor

SOUTH MEADOW HOUSING
ASSOCIATES

Michael S. Linnell
Elizabeth H. Davis

BY: [Signature]
Duly Authorized Agent

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington in said County and State, this 1
day of MAY, 1990, RT Fackey, duly
authorized agent for South Meadow Housing Associates and The
South Meadow Partnership, personally appeared and he/she
acknowledged this instrument, by him/her sealed and
subscribed to be his/her free act and deed, and the free act
and deed of South Meadow Housing Associates and The South
Meadow Partnership.

BEFORE ME, Elizabeth H. Dineen

Notary Public

Commission Expires: 2/10/91

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington in said County and State, this 20th
day of June, 1990, personally appeared
Peter Clavelle and he acknowledged the foregoing instrument
by him executed as Mayor of the City of Burlington of the
State of Vermont, to be his free act and deed, and the free
act and deed of the City of Burlington.

BEFORE ME, Rinda Blanchard

Notary Public

Commission Expires: 2/10/91

#9/470

PARTIAL RELEASE

THIS PARTIAL RELEASE is made the 15th day of May, 1990, between South Meadow Housing Associates (the "Mortgagor") and Vermont Housing Finance Agency (the "Agency").

WHEREAS, the Agency is the holder of a mortgage dated the 20th day of January, 1988, made by Mortgagor to Agency to secure a note in the principal sum of \$4,138,300 and recorded at Volume 375 at Page 38 of the City of Burlington Land Records (the "Mortgage") covering certain lands and tenements, of which the lands hereinafter described are part; and

WHEREAS, the Agency, at the request of the Mortgagor, has agreed to give up and surrender an easement in the lands hereinafter described unto the Mortgagor, and to hold and retain the residue of the mortgaged lands as security for the money remaining due on said mortgage;

NOW, THEREFORE, the Agency, pursuant to said agreement and in consideration of \$1.00, lawful money of the United States of America, paid by the Mortgagor, does grant, release, and quit-claim unto the Mortgagor, an easement over certain land and premises as follows:

Being Parcel #97C consisting of 0.50 acres, more or less, land and rights therein, as shown on Pages 46B and 46C of the plans of Highway Project Burlington MEGC M 5000(1) as filed on the 22nd day of September, 1989, in the office of the Clerk of the City of Burlington.

In connection with above parcel the following easements and/or rights are conveyed:

An easement to construct and maintain a chain link fence left of and between approximate survey stations 14+70 and 22+50 of the revised Bike Path centerline of said Highway Project.

A temporary easement during the period of construction to extend highway slopes and embankments in an area of 0.19 acres, more or less, as shown on Pages 46B and 46C of the plans of said Highway Project, as filed on the 22nd day of September, 1989, in the office of the Clerk of the City of Burlington.

The slopes and embankments may be extended at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of highway construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff and other objectionable materials, structures, growth and any other thing of whatever kind of nature from said slope areas.

Easements to install and maintain culverts at or near and left of approximate survey stations 15+87, 17+10, 18+16, 19+60, and 22+38 of the revised Bike Path centerline of said Highway Project.

Being a portion of the lands and premises conveyed to South Meadow Housing Associates by Warranty Deed of the South Meadow Partnership, dated November 21, 1986, and recorded in Volume 345 at Page 645 of the Land Records of the City of Burlington.

This Partial Release shall supersede and extinguish the Partial Release granted from Vermont Housing Finance Agency to South Meadow Housing Associates dated December 5, 1988.

TOGETHER WITH all right, title and interest of the Agency, in and to the same, to the intent that the easement hereby released may be discharged from said mortgage, and that the rest of the lands in said mortgage specified may remain mortgaged to the Agency as heretofore;

TO HAVE AND TO HOLD the easement hereby released and quitclaimed to the Mortgagor, and to the heirs, successors, and assigns of the Mortgagor forever, discharged of all lien and claim under and by virtue of said mortgage aforesaid.

IN WITNESS WHEREOF, the Agency has executed this partial release the day and year first above written.

VERMONT HOUSING FINANCE
AGENCY

Maya...
Witness

Sh...
Witness

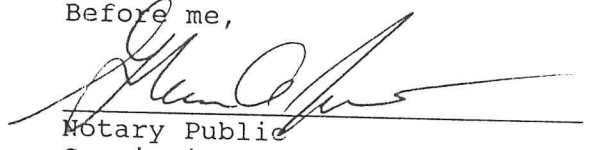
By: Cell S 49

Its Authorized Agent

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

Personally appeared before me at Burlington this
15th day of May, 1990 in said County,
Allen S. Hart, duly authorized agent of VERMONT
HOUSING FINANCE AGENCY and acknowledged the foregoing
Partial Release as and for his/her free act and deed and the
free act and deed of VERMONT HOUSING FINANCE AGENCY.

Before me,



Notary Public

Commission Expires: 2/10/91

#11/593

(4)
CITY CLERK'S OFFICE
Received 7-7 1990 at 3:04 p.
and recorded in Vol. 419 on Page
of Burlington Land Records.
Attest: J. E. Rader, City Clerk

PARTIAL RELEASE

THIS PARTIAL RELEASE is made the 20th day of June, 1990, between South Meadow Housing Associates (the "Mortgagor") and City of Burlington (the "City").

WHEREAS, the City is the holder of a junior mortgage dated the 21st day of November, 1986, made by Mortgagor to City and recorded at Volume 351 at Page 621 of the City of Burlington Land Records and as amended, dated February 13, 1987, and recorded in Volume 358 at Page 718 of said Land Records, (the "Mortgage") covering certain lands and tenements, of which the lands hereinafter described are part; and

WHEREAS, the City has agreed to give up and surrender an easement in the lands hereinafter described unto the Mortgagor, and to hold and retain the residue of the mortgaged lands as security for the money remaining due on said mortgage;

NOW, THEREFORE, the City pursuant to said agreement and in consideration of \$1.00, lawful money of the United States of America, paid by the Mortgagor, does grant, release, and quit-claim unto the Mortgagor, an easement over certain land and premises as follows:

Being Parcel #97C consisting of 0.50 acres, more or less, land and rights therein, as shown on Pages 46B and 46C of the plans of Highway Project Burlington MEGC M 5000(1) as filed on the 22nd day of September, 1989, in the office of the Clerk of the City of Burlington.

In connection with above parcel the following easements and/or rights are conveyed:

An easement to construct and maintain a chain link fence left of and between approximate survey stations 14+70 and 22+50 of the revised Bike Path centerline of said Highway Project.

A temporary easement during the period of construction to extend highway slopes and embankments in an area of 0.19 acres, more or less, as shown on Pages 46B and 46C of the plans of said Highway Project, as filed on the 22nd day of September, 1989, in the office of the Clerk of the City of Burlington.

The slopes and embankments may be extended at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of highway construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff and other objectionable materials, structures, growth and any other thing of whatever kind of nature from said slope areas.

Easements to install and maintain culverts at or near and left of approximate survey stations 15+87, 17+10, 18+16, 19+60, and 22+38 of the revised Bike Path centerline of said Highway Project.

Being a portion of the lands and premises conveyed to South Meadow Housing Associates by Warranty Deed of the South Meadow Partnership, dated November 21, 1986, and recorded in Volume 345 at Page 645 of the Land Records of the City of Burlington.

TOGETHER WITH all right, title and interest of the City, in and to the same, with the intent that the easement hereby released may be discharged from said mortgage, and that the rest of the lands in said mortgage specified may remain mortgaged to the City as heretofore;

TO HAVE AND TO HOLD the easement hereby released and quitclaimed to the Mortgagor, and to the heirs, successors, and assigns of the Mortgagor forever, discharged of all lien and claim under and by virtue of said mortgage aforesaid.

IN WITNESS WHEREOF, the City has executed this partial release the day and year first above written.

CITY OF BURLINGTON

Linda Blanchard
Witness

Jay M. Lawes
Witness

X By:

[Signature]
Duly Authorized Agent and
Mayor

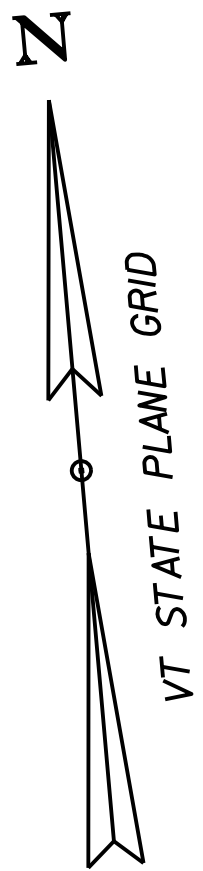
649.51 GEOTEXTILE FOR SILT FENCE
STA SP 13+60.0 - STA SP 14+42.0 LT (29 SY)
STA SP 13+93.0 - STA SP 14+53.0 RT (18 SY)
STA SP 14+34.0 - STA SP 14+60.0 LT (10 SY)
STA SP 14+47.0 - STA SP 14+69.0 RT (8 SY)
STA SP 14+55.0 - STA SP 14+94.0 RT (11 SY)
STA SP 14+87.0 - STA SP 15+04.0 RT (10 SY)
STA SP 15+05.0 - STA SP 15+27.0 RT (8 SY)
STA SP 15+12.0 - STA SP 15+31.0 RT (7 SY)
STA SP 15+38.0 - STA SP 16+30.0 LT (26 SY)
STA SP 16+22.0 - STA SP 16+44.0 LT (7 SY)
STA SP 16+25.0 - STA SP 16+49.0 LT (6 SY)
STA SP 16+25.0 - STA SP 17+06.0 LT (20 SY)

649.515 GEOTEXTILE FOR SILT FENCE, WOVEN WIRE REINFORCED
STA SP 15+19.0 - STA SP 16+45.0 RT (46 SY)
STA SP 15+24.0 - STA SP 15+42.0 RT (8 SY)
STA SP 15+30.0 - STA SP 15+47.0 RT (8 SY)
STA SP 15+37.0 - STA SP 16+13.0 RT (33 SY)
STA SP 15+65.0 - STA SP 15+89.0 RT (11 SY)
STA SP 15+88.0 - STA SP 16+15.0 RT (18 SY)
STA SP 16+10.0 - STA SP 16+37.0 RT (13 SY)
STA SP 16+24.0 - STA SP 16+49.0 RT (12 SY)
STA SP 16+40.0 - STA SP 16+66.0 RT (13 SY)
STA SP 16+53.0 - STA SP 16+77.0 RT (11 SY)
STA SP 16+65.0 - STA SP 16+92.0 RT (11 SY)
STA SP 16+78.0 - STA SP 17+16.0 RT (14 SY)
STA SP 17+08.0 - STA SP 17+29.0 RT (8 SY)
STA SP 17+26.0 - STA SP 17+59.0 RT (11 SY)
STA SP 17+49.0 - STA SP 18+02.0 RT (17 SY)
STA SP 18+18.0 - STA SP 18+73.0 RT (17 SY)
STA SP 18+64.0 - STA SP 18+75.0 RT (3 SY)

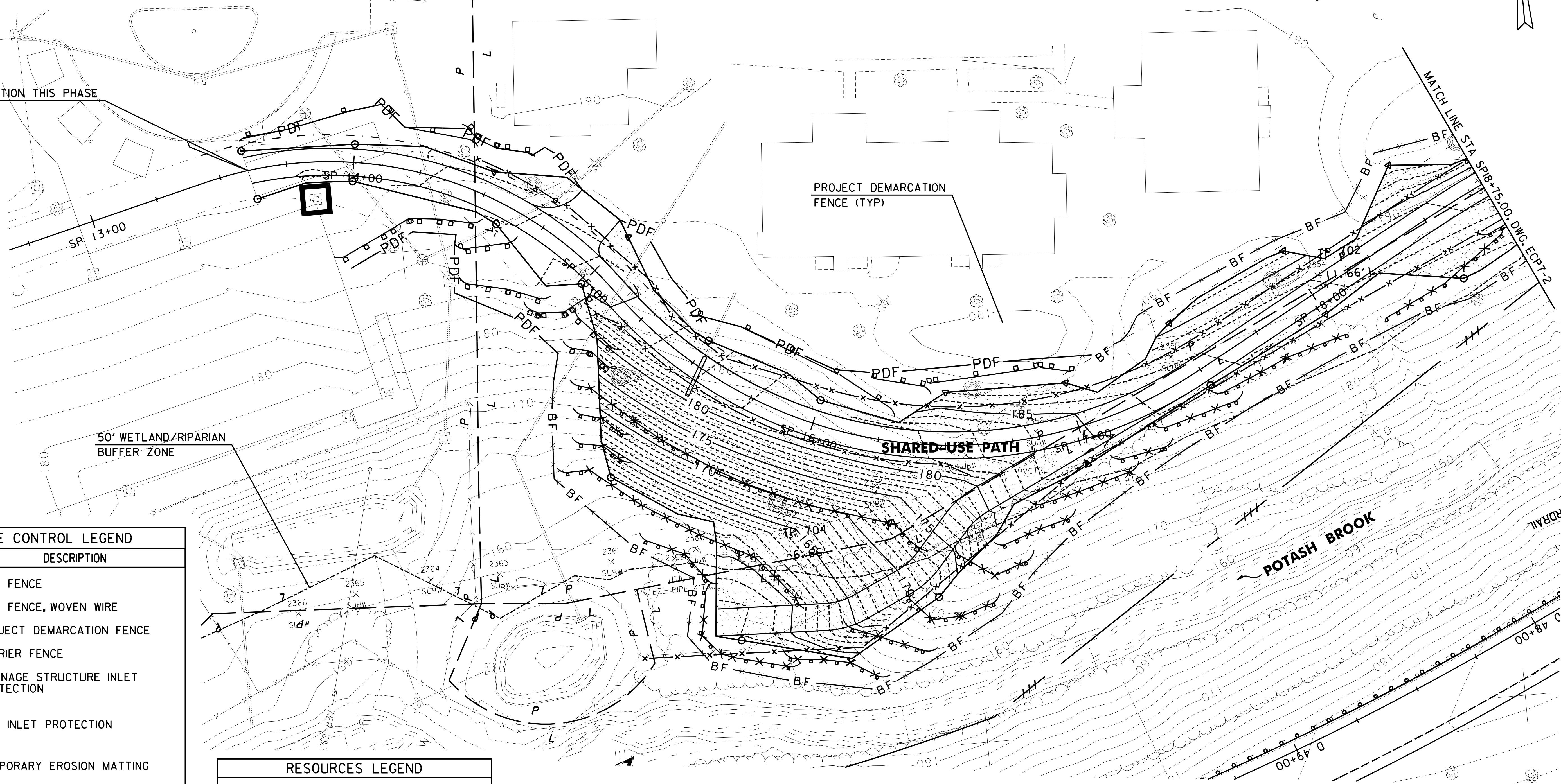
653.20 TEMPORARY EROSION MATTING
STA SP 13+61.0 - STA SP 14+79.0 LT (97 SY)
STA SP 14+94.0 - STA SP 18+75.0 LT (690 SY)
STA SP 15+01.0 - STA SP 17+44.0 RT (1285 SY)
STA SP 17+87.0 - STA SP 18+75.0 RT (113 SY)

653.50 BARRIER FENCE
STA SP 15+19.0 - STA SP 18+75.0 RT (494 LF)
STA SP 17+06.0 - STA SP 18+75.0 LT (179 LF)

653.55 PROJECT DEMARCATION FENCE
STA SP 13+61.0 - STA SP 17+00.0 LT (350 LF)
STA SP 14+02.0 - STA SP 15+19.0 RT (119 LF)

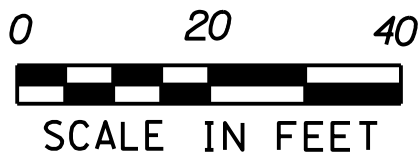


LIMITS OF CONSTRUCTION THIS PHASE
STA SP 13+61.0



RESOURCE CONTROL LEGEND	
SYMBOL	DESCRIPTION
	SILT FENCE
	SILT FENCE, WOVEN WIRE
	PROJECT DEMARCATION FENCE
	BARRIER FENCE
	DRAINAGE STRUCTURE INLET PROTECTION
	PIPE INLET PROTECTION
	TEMPORARY EROSION MATTING
	CHECK DAM
	CONSTRUCTION ENTRANCE
	PERIMETER DIKE OR SWALE

RESOURCES LEGEND	
	SOILS BOUNDARY
	WETLANDS
	50' RIPARIAN/WETLAND BUFFER ZONE
	SOIL MAP UNIT SYMBOL (SEE DWG. S-1 FOR DETAILS)



CHA

PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078bdrec8.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D. GOZALKOWSKI	DRAWN BY: J. HEALD
DESIGNED BY: J. SCUDDER	CHECKED BY: J. SHIELDS
EPSC PLAN DETAIL PHASE 7 SHEET 1 (ECP7-I) SHEET 333 OF 735	

649.515 GEOTEXTILE FOR SILT FENCE, WOVEN WIRE REINFORCED

STA SP 18+75.0 - STA SP 18+99.0 RT (8 SY)
STA SP 18+87.0 - STA SP 19+31.0 RT (13 SY)
STA SP 19+23.0 - STA SP 19+70.0 RT (15 SY)
STA SP 19+62.0 - STA SP 19+97.0 RT (11 SY)
STA SP 19+85.0 - STA SP 20+19.0 RT (11 SY)
STA SP 20+09.0 - STA SP 20+63.0 RT (18 SY)
STA SP 20+46.0 - STA SP 21+07.0 LT (20 SY)
STA SP 20+56.0 - STA SP 21+84.0 RT (42 SY)
STA SP 21+01.0 - STA SP 21+33.0 LT (10 SY)
STA SP 21+27.0 - STA SP 21+77.0 LT (16 SY)
STA SP 21+73.0 - STA SP 24+28.0 RT (72 SY)
STA SP 21+79.0 - STA SP 21+96.0 RT (6 SY)
STA SP 21+89.0 - STA SP 22+05.0 RT (6 SY)
STA SP 21+99.0 - STA SP 22+11.0 RT (4 SY)
STA SP 22+06.0 - STA SP 24+06.0 RT (51 SY)
STA SP 22+12.0 - STA SP 22+67.0 RT (15 SY)
STA SP 22+50.0 - STA SP 22+61.0 LT (5 SY)
STA SP 22+59.0 - STA SP 23+04.0 RT (11 SY)
STA SP 23+49.0 - STA SP 23+73.0 RT (6 SY)
STA SP 23+67.0 - STA SP 23+88.0 RT (7 SY)
STA SP 23+77.0 - STA SP 23+97.0 RT (6 SY)
STA SP 23+86.0 - STA SP 24+06.0 RT (6 SY)
STA SP 23+93.0 - STA SP 24+14.0 RT (7 SY)
STA SP 23+98.0 - STA SP 24+18.0 RT (7 SY)
STA SP 24+02.0 - STA SP 24+22.0 RT (6 SY)
STA SP 24+12.0 - STA SP 24+32.0 RT (7 SY)
STA SP 24+19.0 - STA SP 24+41.0 RT (7 SY)
STA SP 24+35.0 - STA SP 24+54.0 RT (6 SY)
STA SP 24+56.0 - STA SP 24+83.0 RT (10 SY)

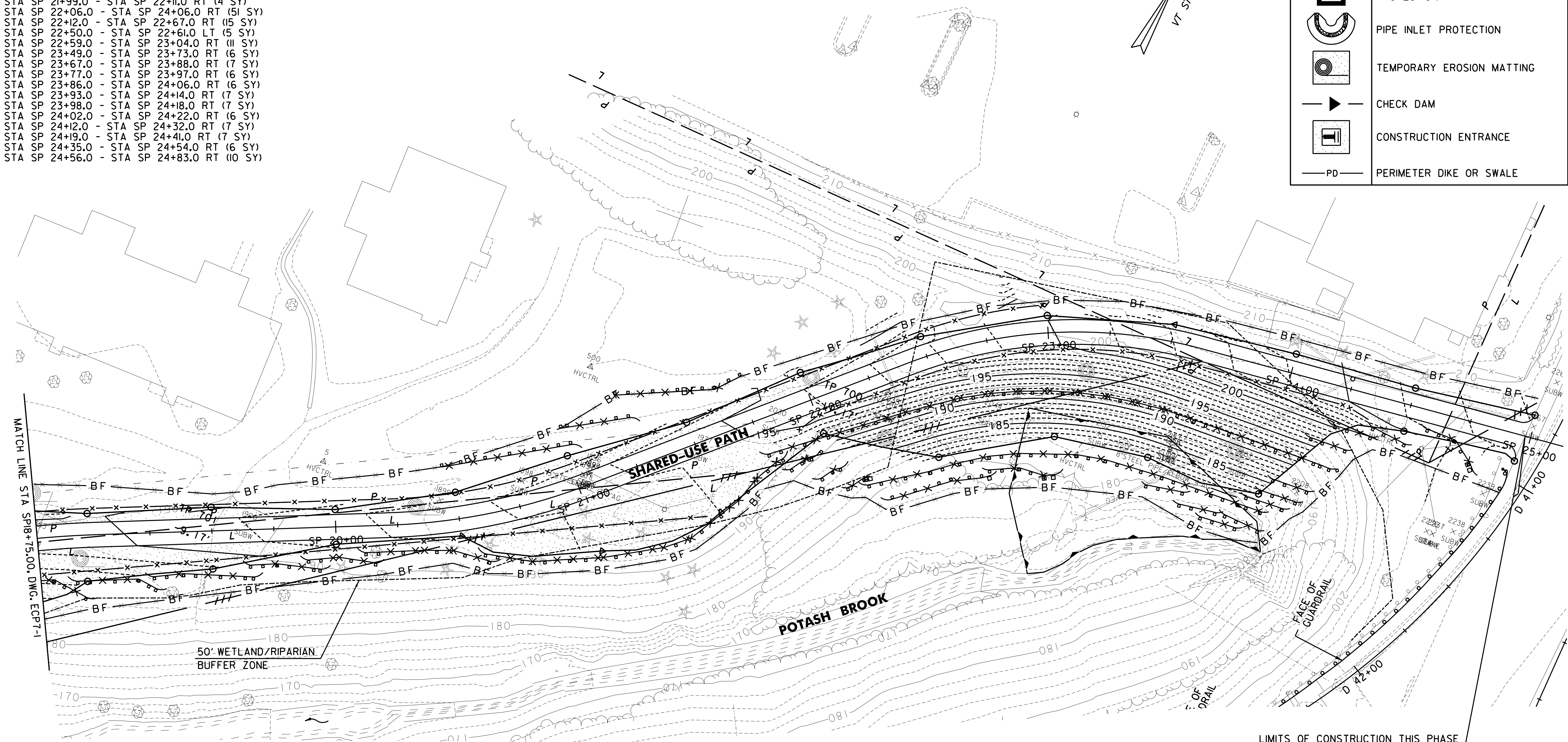
653.20 TEMPORARY EROSION MATTING

STA SP 18+75.0 - STA SP 19+88.0 RT (78 SY)
STA SP 18+75.0 - STA SP 24+99.0 LT (771 SY)
STA SP 21+75.0 - STA SP 24+50.0 RT (1127 SY)

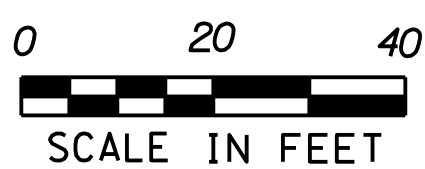
653.50 BARRIER FENCE

STA SP 18+75.0 - STA SP 24+91.0 LT (633 LF)
STA SP 18+75.0 - STA SP 24+94.0 RT (627 LF)

RESOURCE CONTROL LEGEND	
SYMBOL	DESCRIPTION
	SILT FENCE
	SILT FENCE, WOVEN WIRE
	PROJECT DEMARCATION FENCE
	BARRIER FENCE
	DRAINAGE STRUCTURE INLET PROTECTION
	PIPE INLET PROTECTION
	TEMPORARY EROSION MATTING
	CHECK DAM
	CONSTRUCTION ENTRANCE
	PERIMETER DIKE OR SWALE



RESOURCES LEGEND	
	SOILS BOUNDARY
	WETLANDS
	50' RIPARIAN/WETLAND BUFFER ZONE
	SOIL MAP UNIT SYMBOL (SEE DWG. S-1 FOR DETAILS)



SCALE IN FEET
CHA

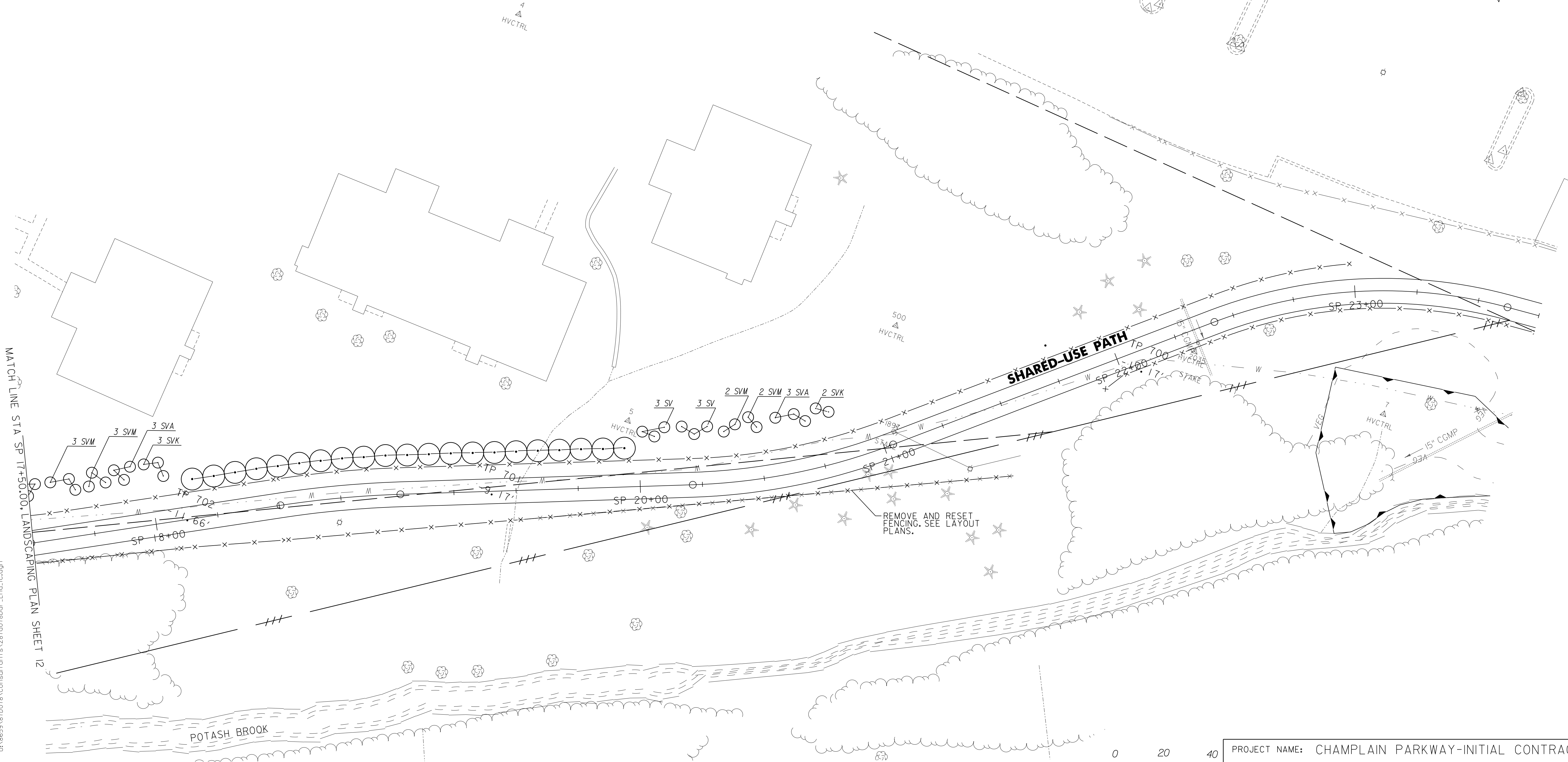
PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078bdrec8.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D. GOZALKOWSKI	DRAWN BY: J. HEALD
DESIGNED BY: J. SCUDDER	CHECKED BY: J. SHIELDS
EPSC PLAN DETAIL PHASE 7 SHEET 2 (ECP7-2) SHEET 334 OF 735	

FILE NAME: I:\USERS\JG\70078\Consult\z87d078bdrec8.dgn
DATE: 12/4/2023
USER: JG

QTY.	PART.	NON/ PART.	SYM.	BOTANICAL NAME	COMMON NAME	SIZE	NOTES
39	39	0	T0	Thuja occidentalis 'Nigra'	Dark American Arborvitae	6' - 7' Hgt.	B & B, 8' O.C.
6	6	0	SV	Syringa Vulgaris	Common Lilac - Light Purple	5' - 6' Hgt.	B & B, 5'-6' O.C.
10	10	0	SVM	Syringa Vulgaris 'monge'	Common Lilac - Dark Purple	5' - 6' Hgt.	B & B, 5'-6' O.C.
6	6	0	SVA	Syringa Vulgaris 'alba'	Common Lilac - White Variety	5' - 6' Hgt.	B & B, 5'-6' O.C.
5	5	0	SVK	Syringa Vulgaris 'krasavitsa mosky'	Common Lilac - Light Pink	5' - 6' Hgt.	B & B, 5'-6' O.C.

MATCH LINE STA SP 17+50.00, LANDSCAPING PLAN SHEET 12

12/4/2023 9:12:40 AM UN:B659\87D078\Consultant\z87d078bdr_Lnd.ic.dgn

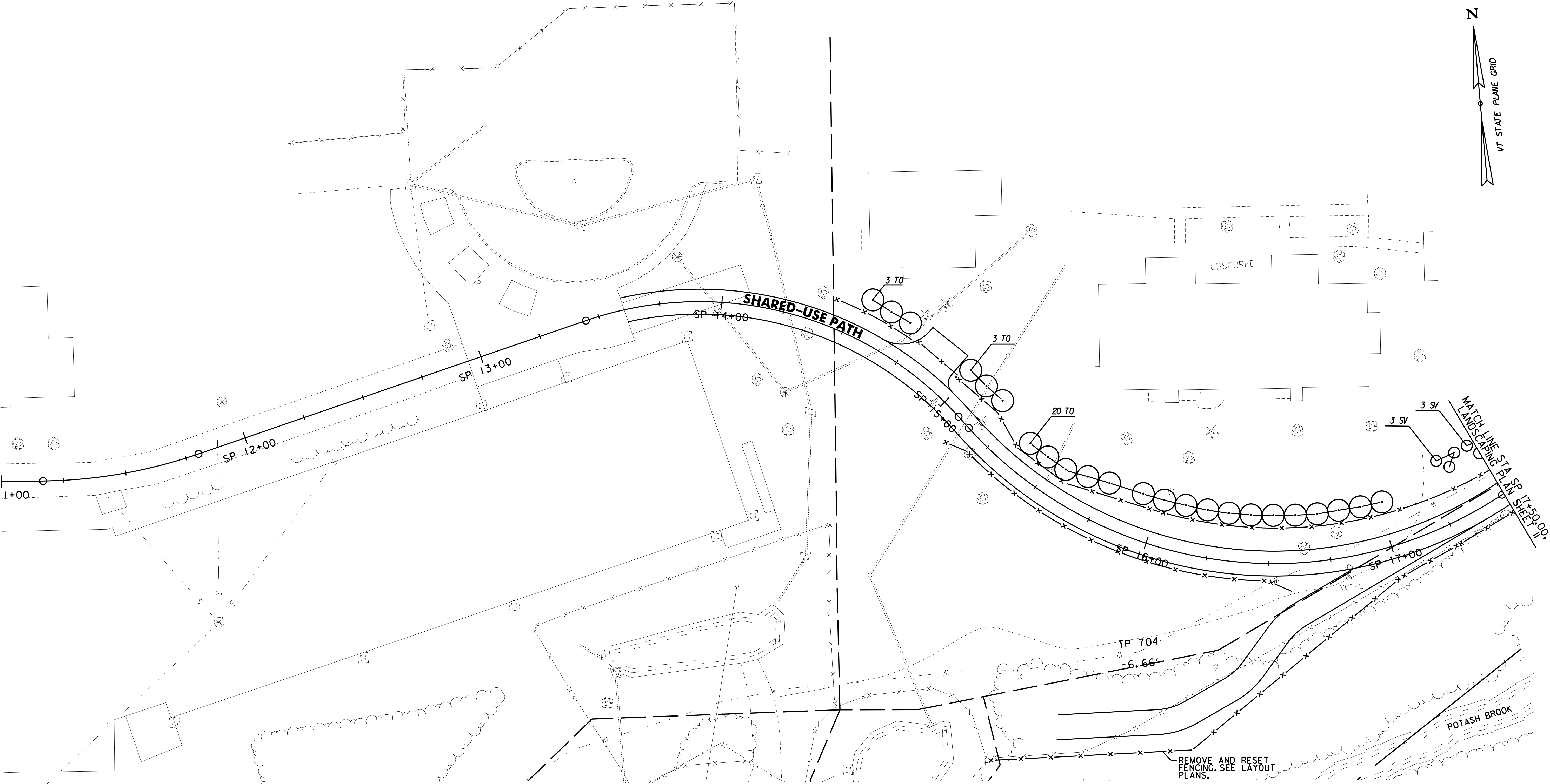


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SCALE IN FEET



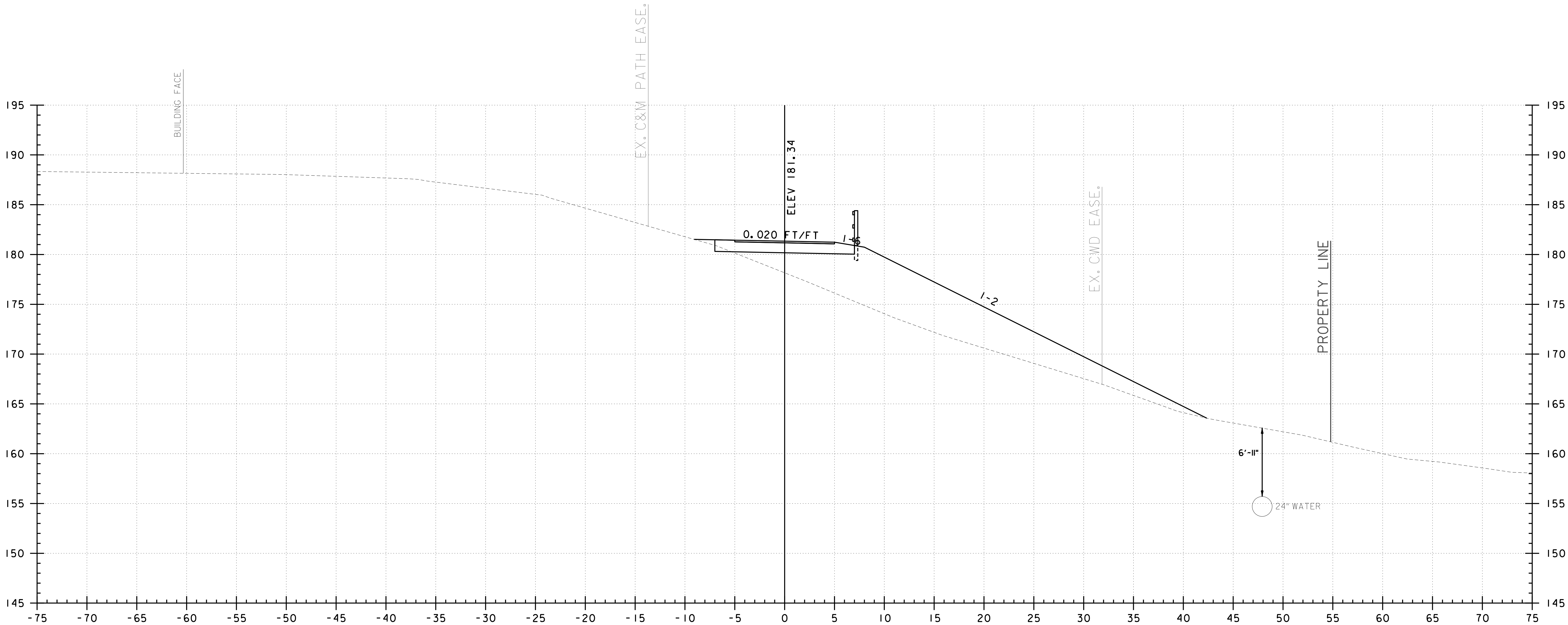
PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	PLOT DATE: 12/4/2023
PROJECT NUMBER:MEGC - M5000(I)	DRAWN BY: P.ARMATA
FILE NAME: z87d078bdr_Lnd.ic.dgn	CHECKED BY: J.MYERS
PROJECT LEADER: J.MYERS	SHEET \$S*\$ OF \$T*\$
DESIGNED BY: M.CROWLEY	
LANDSCAPING PLAN SHEET II (LA-II)	

QTY.	PART.	NON/ PART.	SYM.	BOTANICAL NAME	COMMON NAME	SIZE	NOTES
29	29	0	T0	Thuja occidentalis 'Nigra'	Dark American Arborvitae	6' - 7' Hgt.	B & B, 8' O.C.
6	6	0	SV	Syringa Vulgaris	Common Lilac - Light Purple	5' - 6' Hgt.	B & B, 5'-6' O.C.

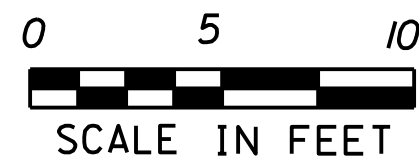


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078bdr_Lnd.ic.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: J.MYERS	DRAWN BY: P.ARMATA
DESIGNED BY: M.CROWLEY	CHECKED BY: J.MYERS
LANDSCAPING PLAN SHEET 12 (LA-12)	SHEET \$\$\$ OF \$T*\$\$

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: 5375

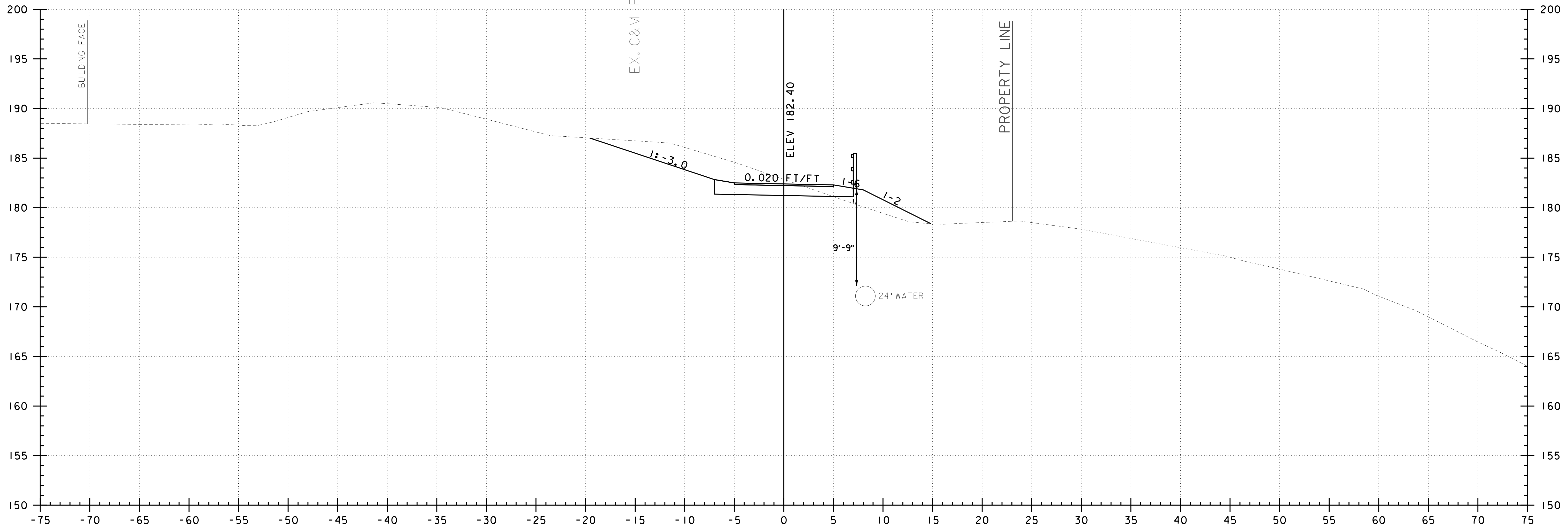


SP 16+00

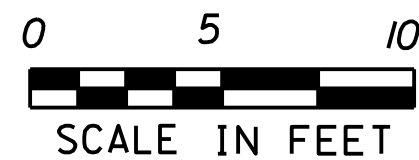


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\1870078\Consultants\z87d078a.dgn
DATE: 12/7/2023
USER: j3375

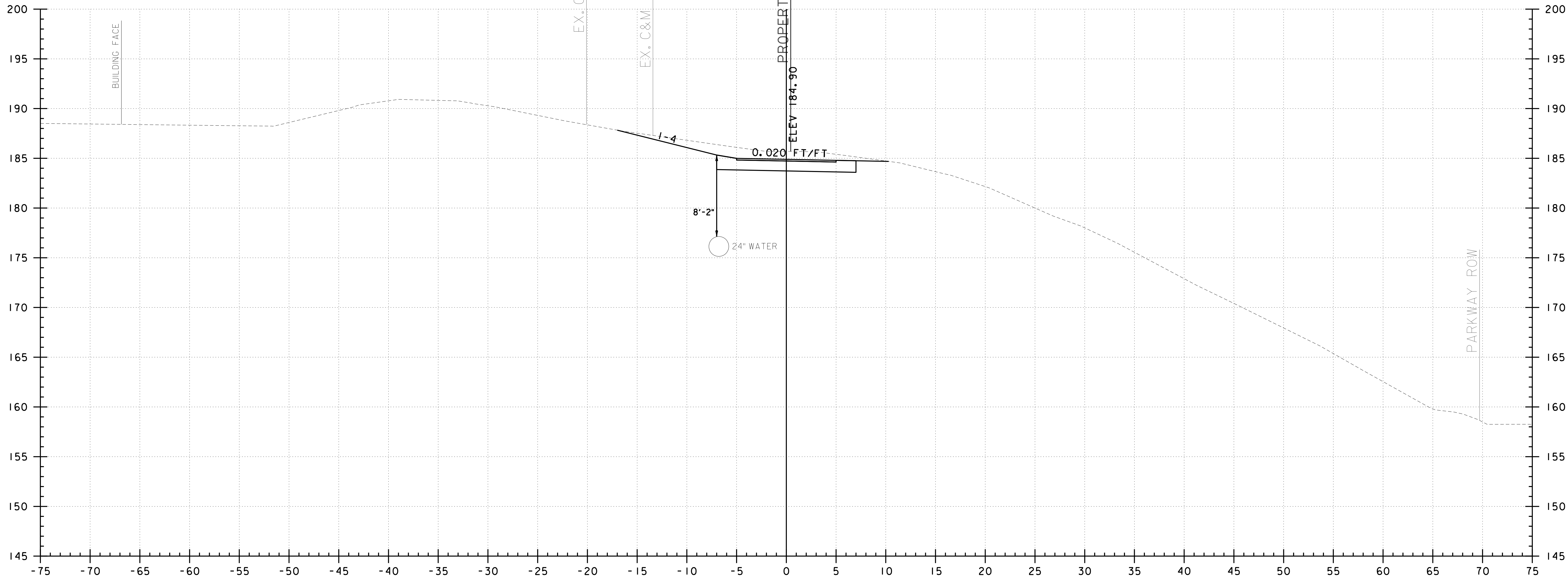


SP 16+50

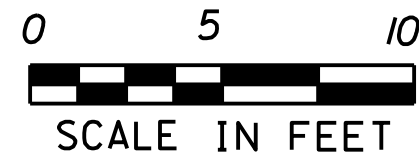


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\170078\Consultants\170078.dgn
DATE: 12/7/2023
USER: 13375

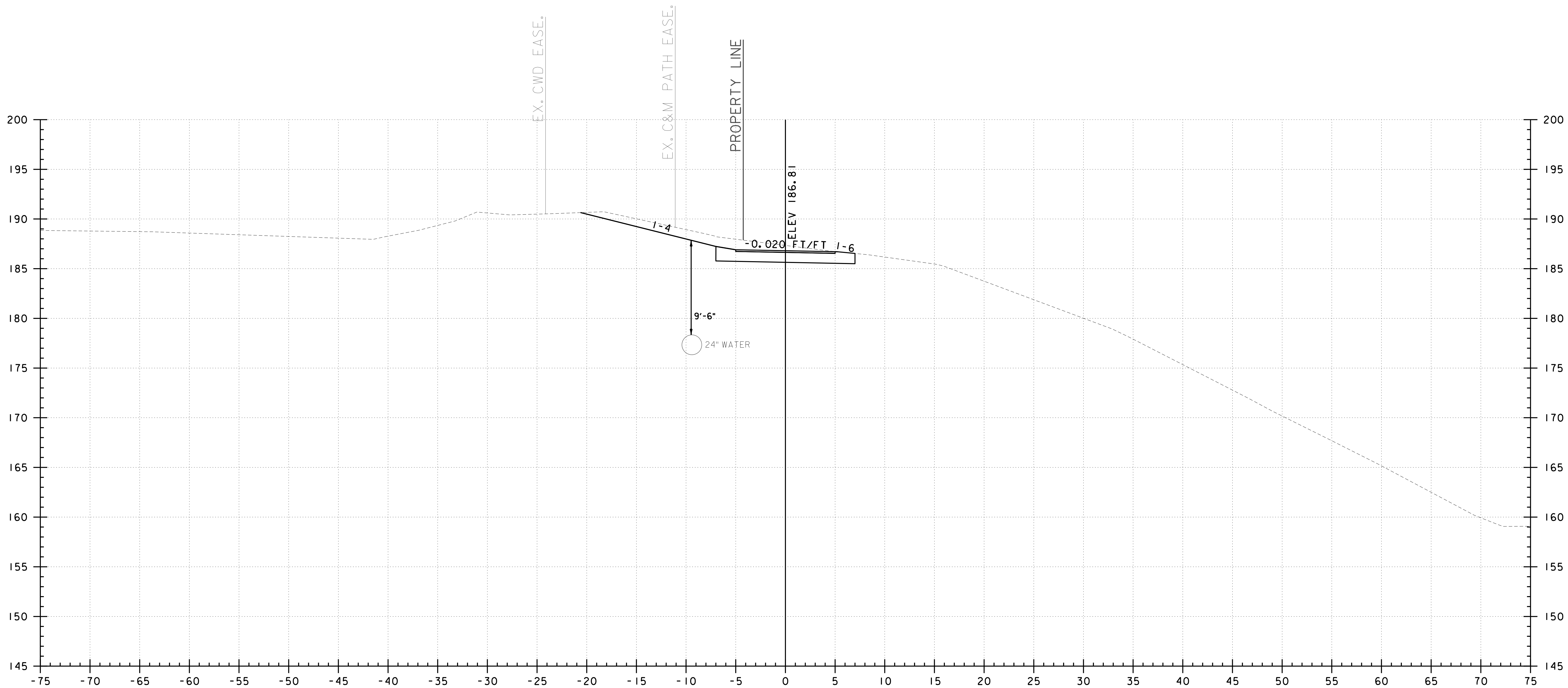


SP 17+00

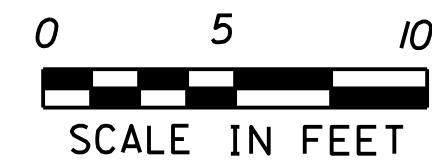


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\170078\Consultants\170078.dgn
DATE: 12/7/2023
USER: 13375

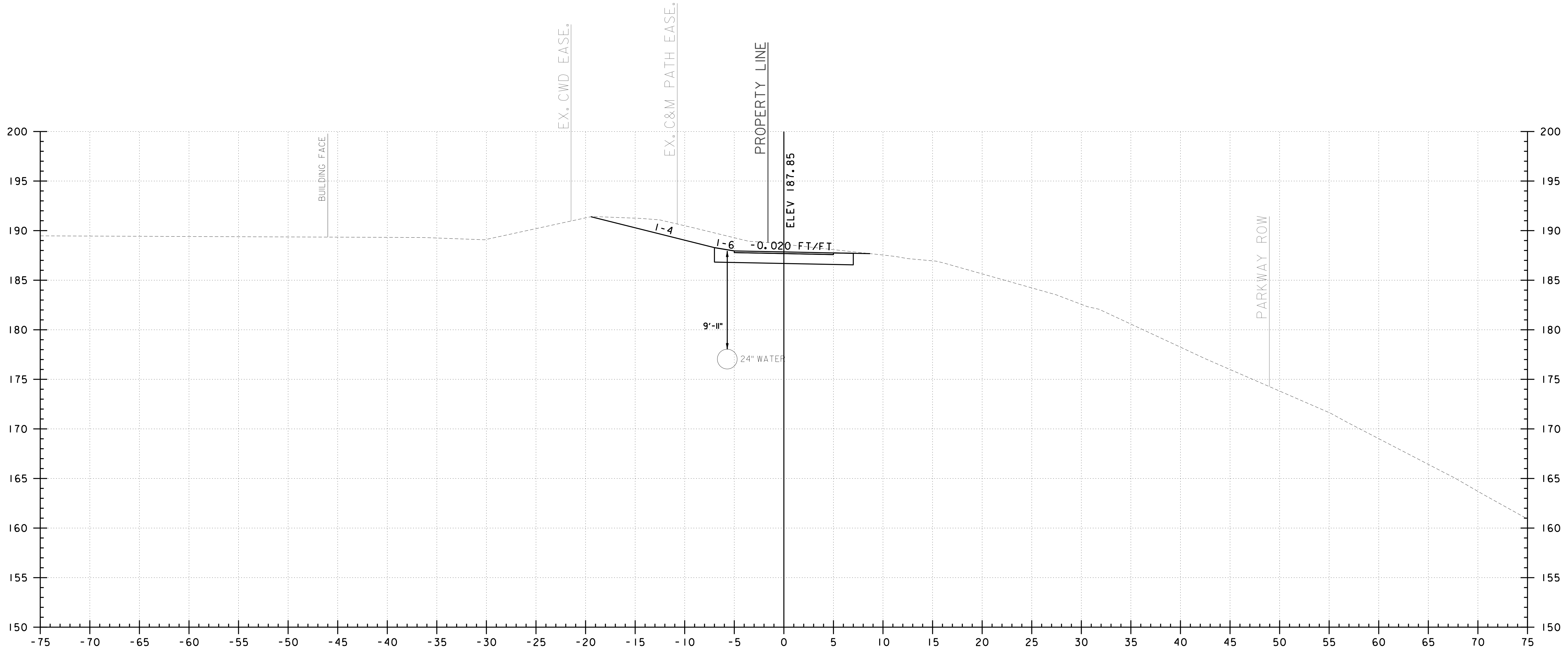


SP 17+50

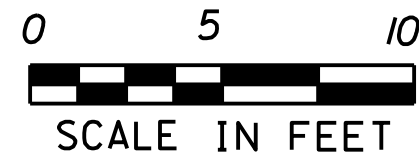


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\1870078\Consultants\187d078a.dgn
DATE: 12/7/2023
USER: J3375

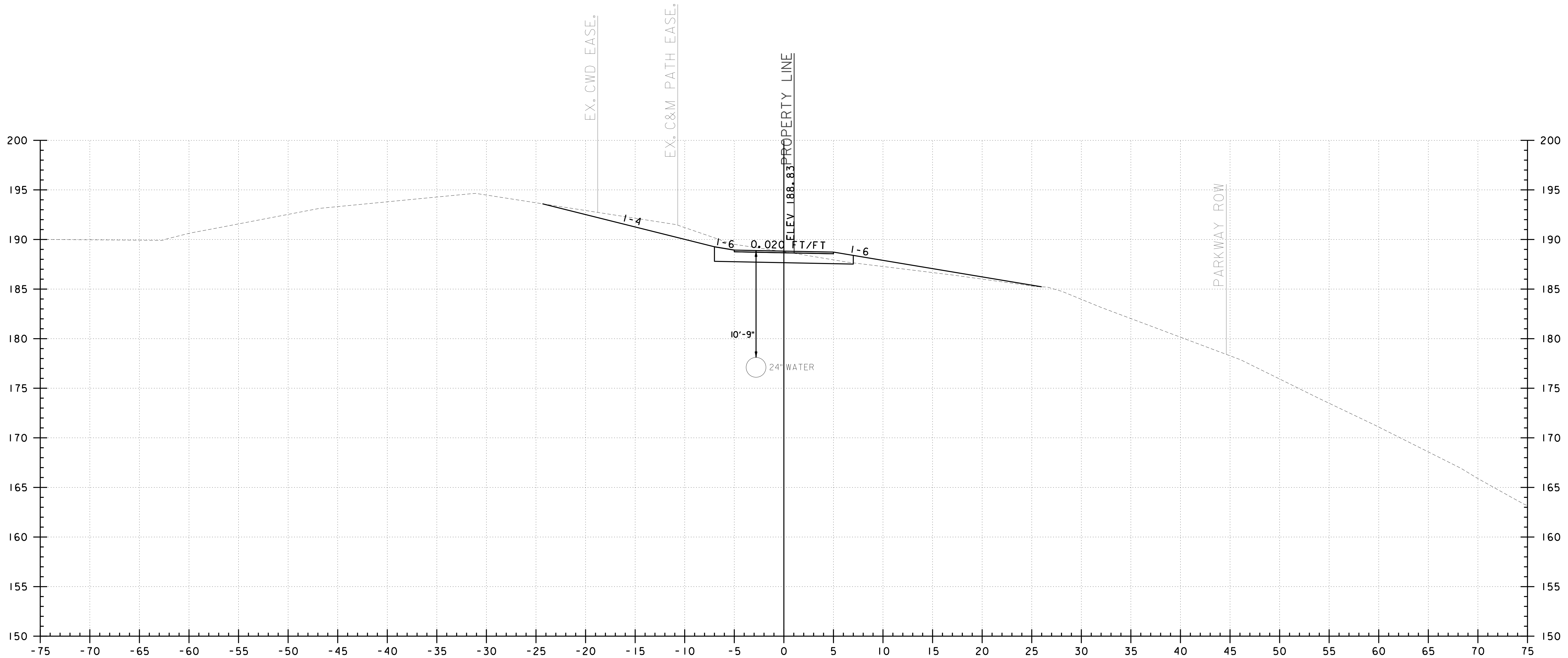


SP 18+00

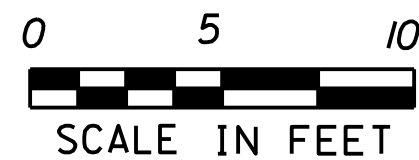


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-1	SHEET XX OF 735

FILE NAME: I:\0655\1870078\Consultants\187d078a.dgn
DATE: 12/7/2023
USER: 13375

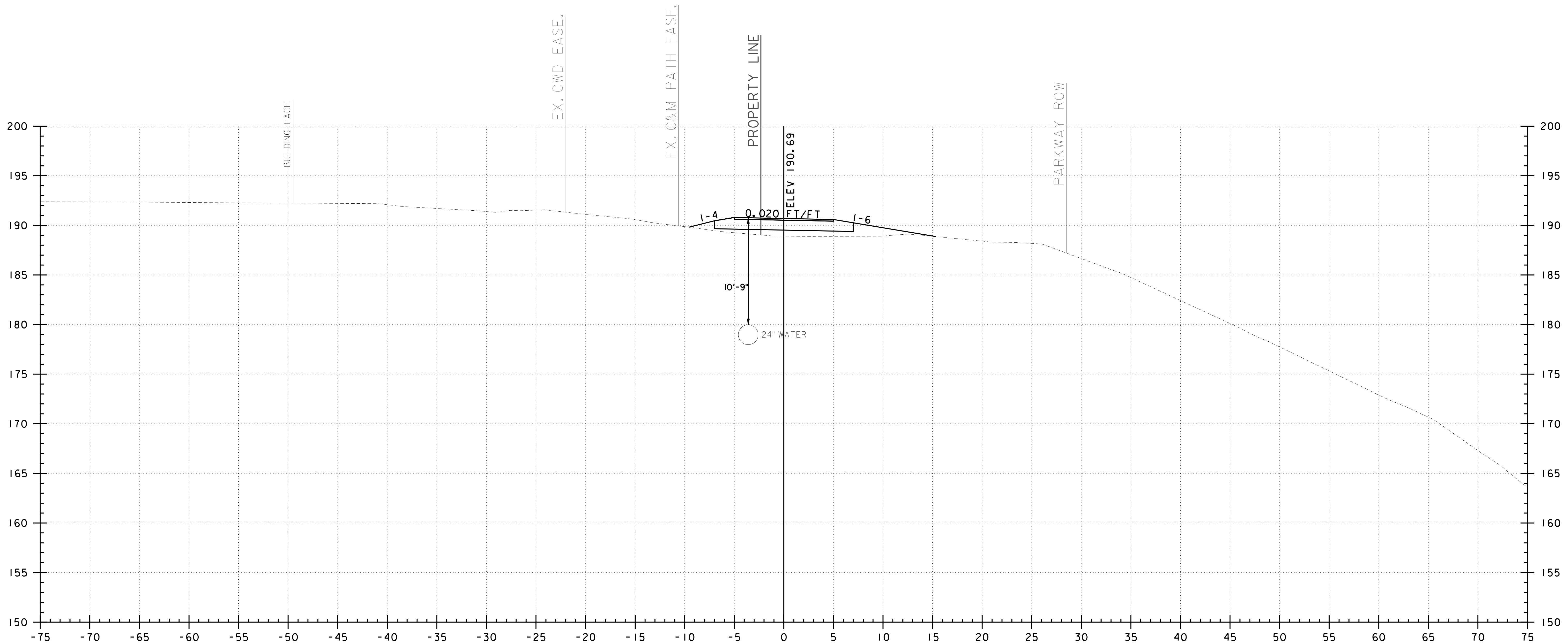


SP 18+50

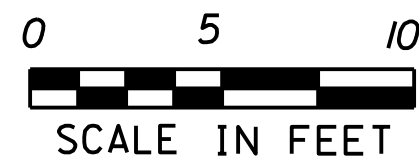


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-1	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: j3375

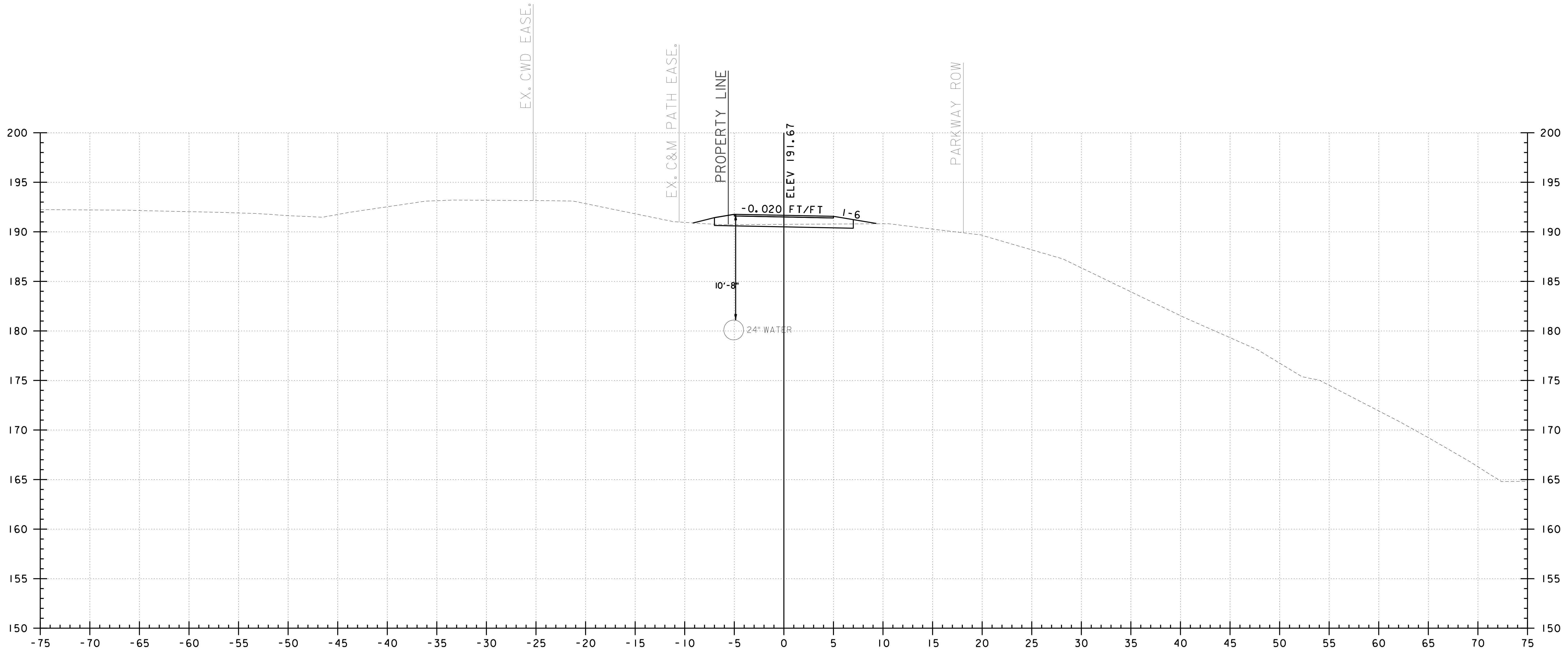


SP 19+50

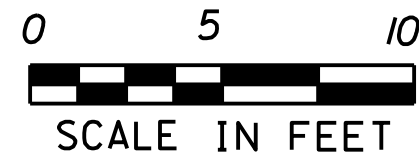


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: 5375

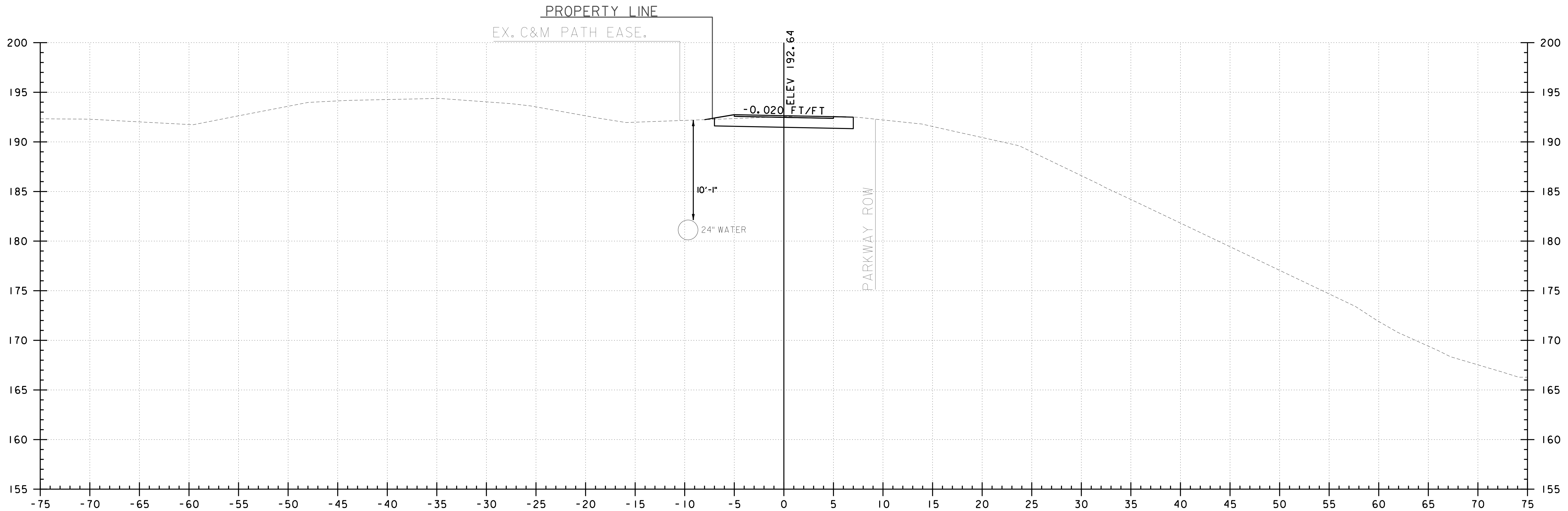


SP 20+00

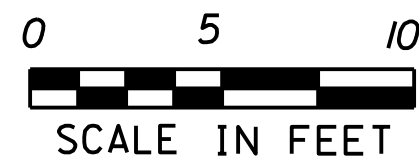


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: J3375

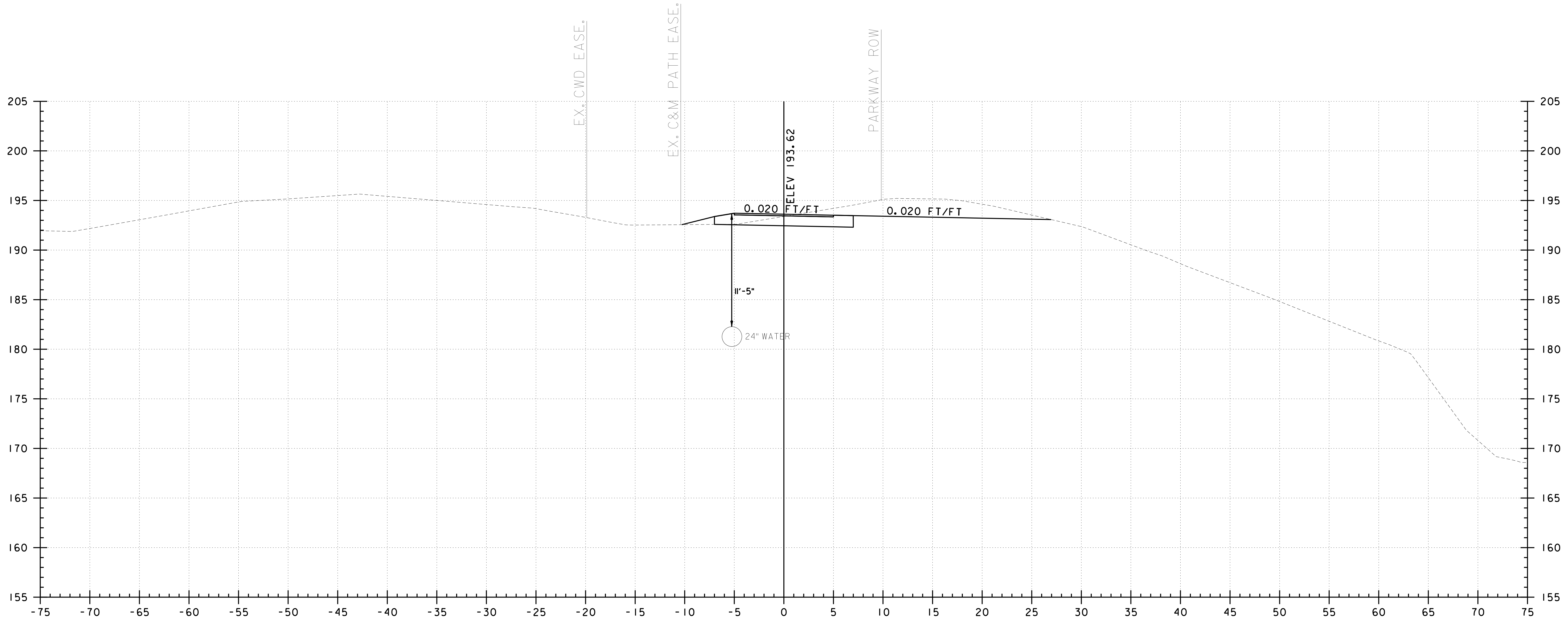


SP 20+50

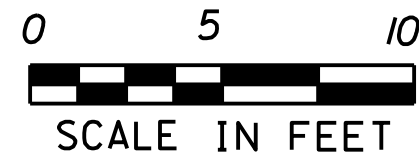


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: J3375

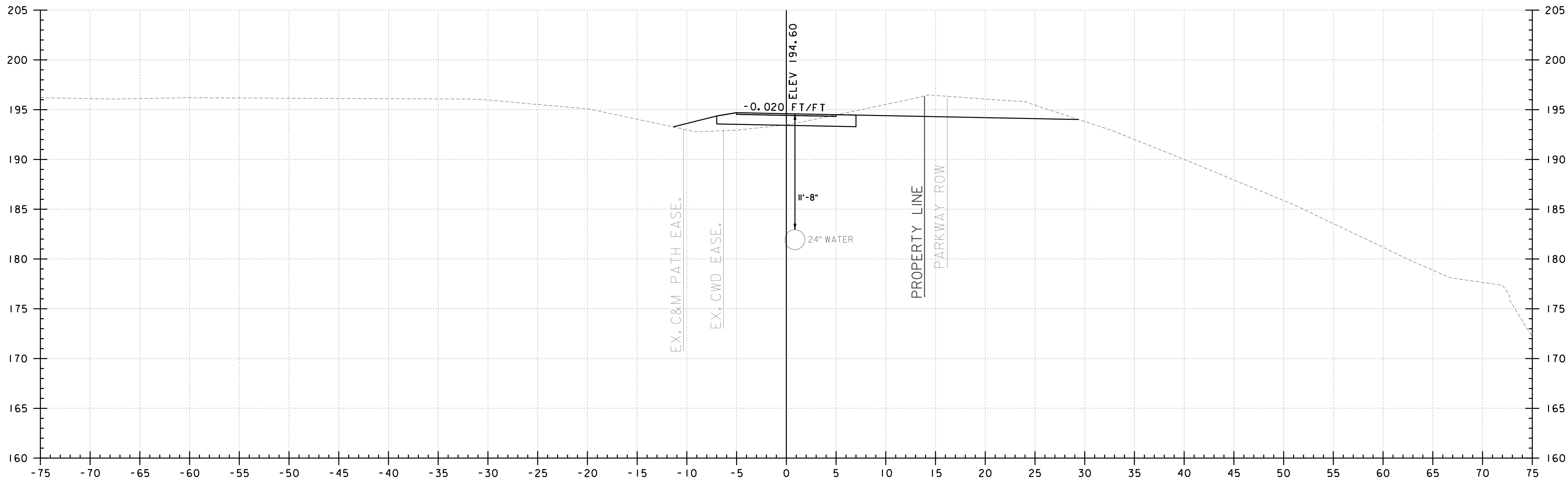


SP 21+00

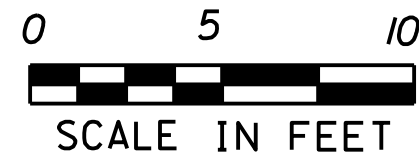


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: 5375

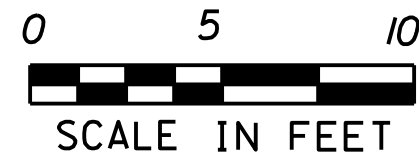
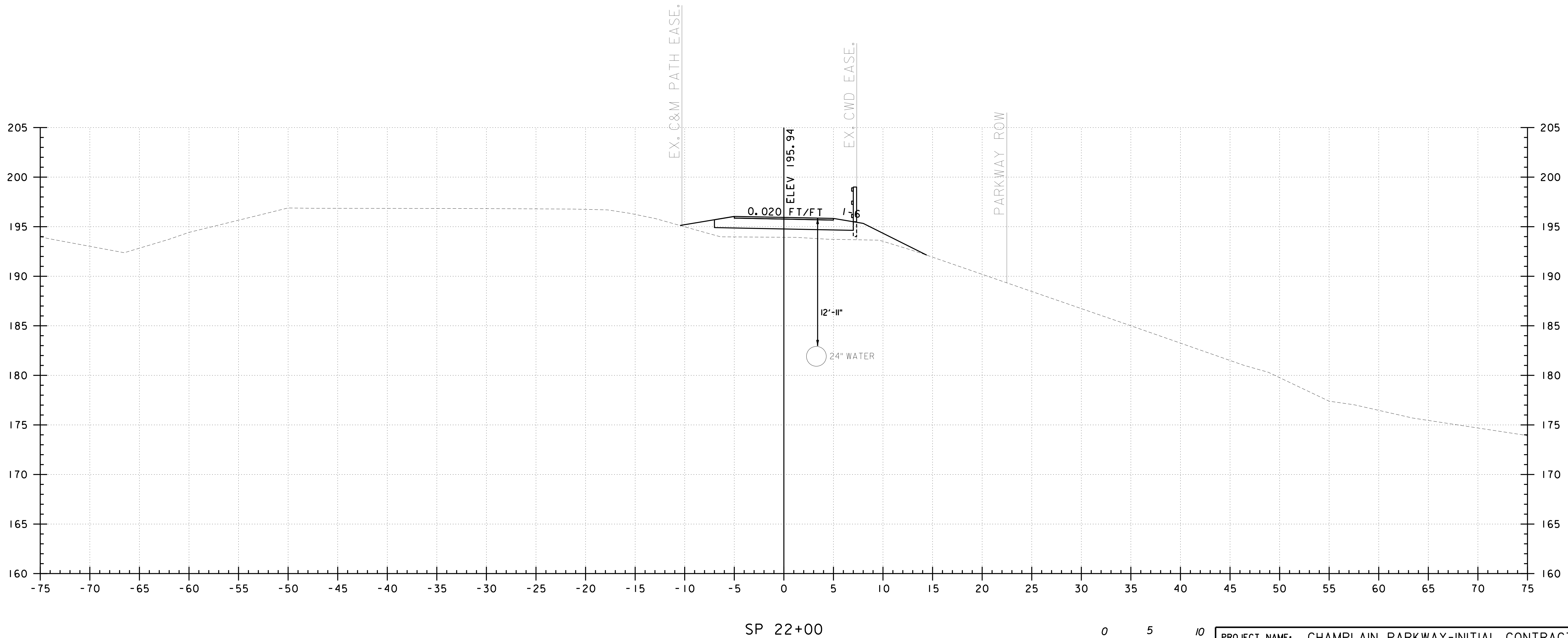


SP 21+50



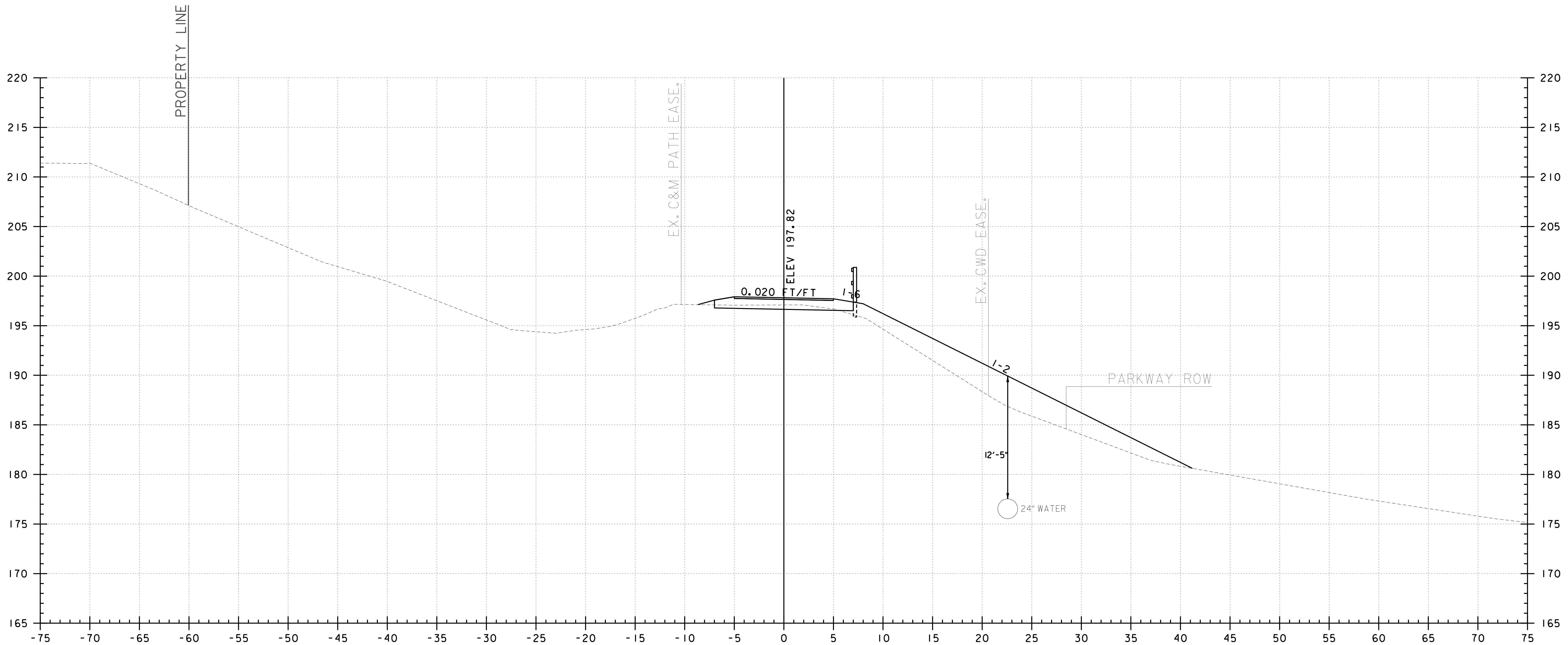
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PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: j3375

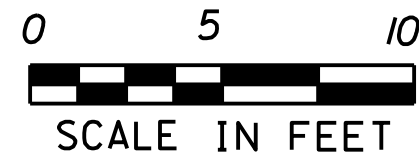


PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: 13375

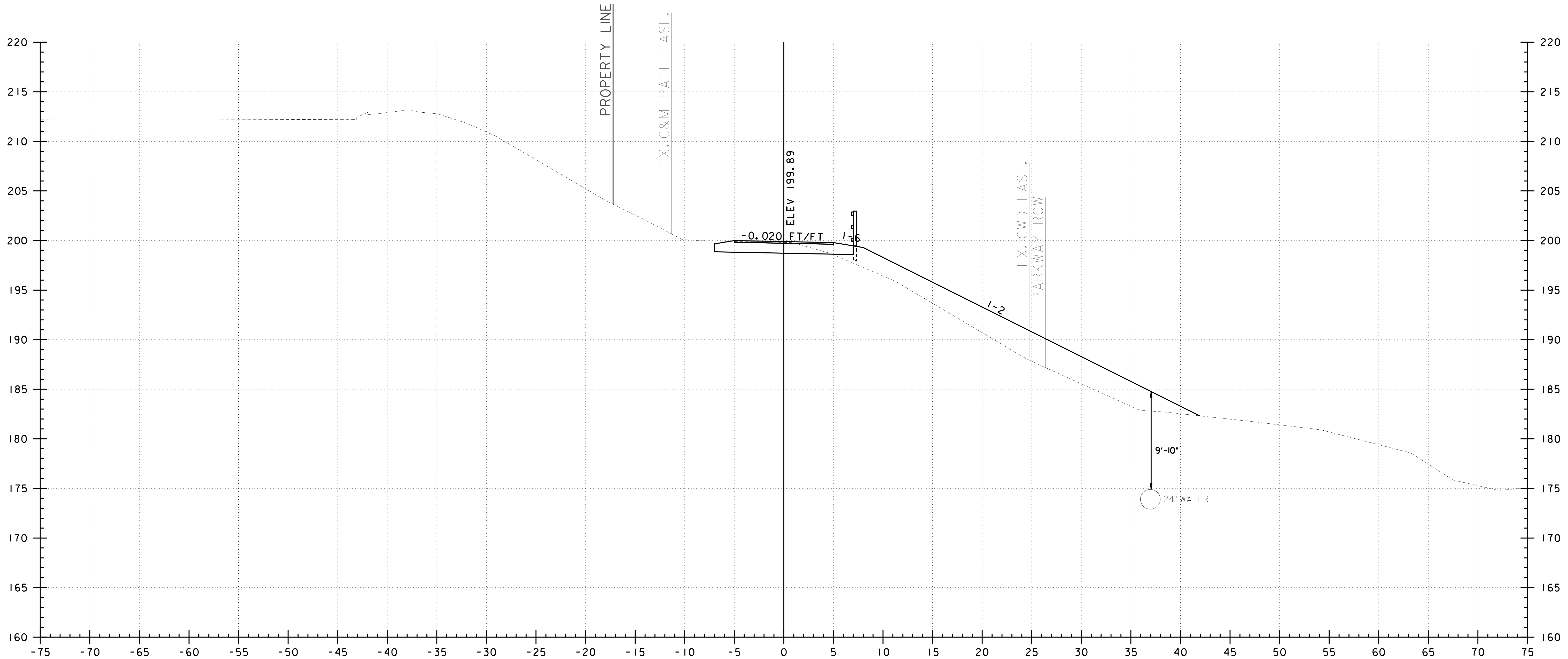


SP 22+50



PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/4/2023
USER: j3375



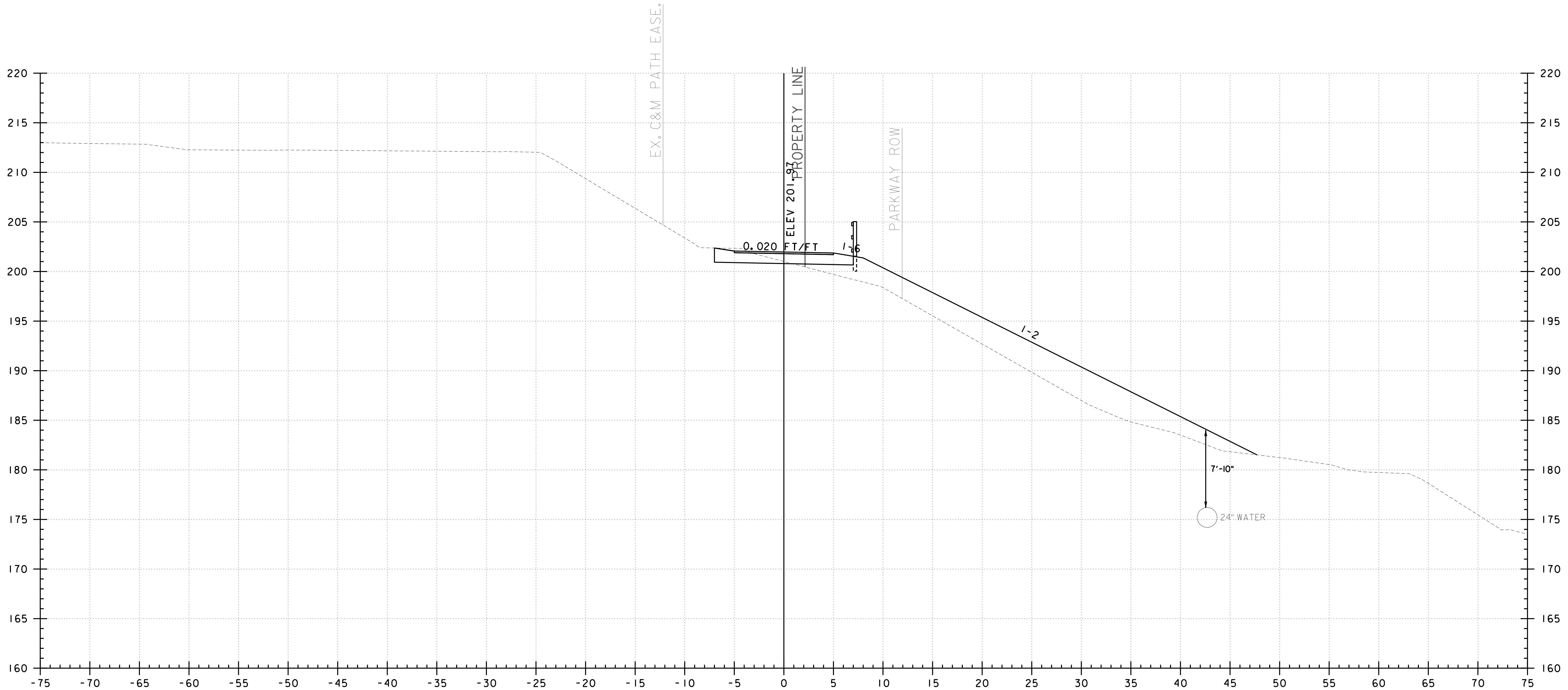
SP 23+00

0 5 10
SCALE IN FEET

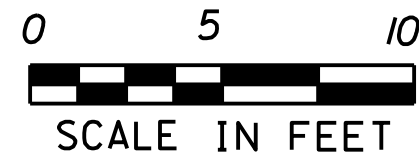
CHA

PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

FILE NAME: I:\0655\870078\Consultants\87d078a.dgn
DATE: 12/7/2023
USER: 5375



SP 23+50



CHA

PROJECT NAME: CHAMPLAIN PARKWAY-INITIAL CONTRACT	
PROJECT NUMBER: MEGC - M5000(I)	
FILE NAME: z87d078xs.dgn	PLOT DATE: 12/4/2023
PROJECT LEADER: D.E.G.	DRAWN BY: W.G.P
DESIGNED BY: X.X.X	CHECKED BY: D.E.G.
XX-I	SHEET XX OF 735

Know all Men by these Presents

That THE BAIRD CENTER FOR CHILDREN AND FAMILIES, a Vermont non-profit corporation with a principal place of business in

of Burlington in the County of Chittenden
and State of Vermont Grantor, in the consideration of
-----ten (10) and more----- Dollars
paid to its full satisfaction by

CHAMPLAIN WATER DISTRICT, a municipal corporation organized and existing under the laws of the State of Vermont, with a principal

office in South Burlington in the County of Chittenden
and State of Vermont Grantee, by these presents, do
freely Give, Grant, Sell, Convey And Confirm unto the said Grantee
CHAMPLAIN WATER DISTRICT

and its successors
certain piece of land in Burlington and assigns forever, a
County of Chittenden in the
follows, viz: and State of Vermont, described as

Being a right of way for a water transmission line, as laid out and depicted upon a plan of land entitled: "Utility easement, Property of Baird Children's Center, Burlington, Vermont", prepared by Champlain Water District, dated July 1983 and recorded in Book IV, Page 17 in the Land Records of the City of Burlington.

Included herewith is the right to lay, maintain, repair and replace water transmission lines within the 20 foot wide permanent right of way as shown upon said plan. Also included herewith is a ten (10) foot wide construction right of way as laid out on said plan, and to be used only during the original construction of the water transmission line within the permanent right of way. The grantee, its successors and assigns, by the acceptance of this deed, covenants and agrees that it will return the above described permanent and temporary right of way to as near as possible their original condition following the construction, and any subsequent repair of said water transmission line.

Said right of way is over those lands and premises conveyed to the Home for Destitute Children (now The Baird Center for Children and Families) by Administrator's Deed of Cyrus M. Spaulding both individually and as administrator of the Estate of Hiram N. Ballard, dated December 29, 1883, and recorded in Book 19, Page 367 of said Land Records.

To said deed, plan of land and the records thereof, and to all deeds and records therein referred to, reference is hereby made in aid of this description.

To Have and to Hold all said granted premises, with all the privileges and appurtenances thereof, to the said Grantee CHAMPLAIN WATER DISTRICT,

its successors ~~heirs~~ and assigns, to their own use and behoof forever;
And the said Grantor THE BAIRD CENTER FOR CHILDREN AND FAMILIES

successors and assigns ~~covenantors and covenantees~~ for itself and its ~~heirs~~,
~~covenantors and covenantees~~, do covenant with the said Grantee

CHAMPLAIN WATER DISTRICT, its successors and assigns

~~heirs and assigns~~, that until the en sealing of these presents it is the sole owner of the premises, and have good right and title to convey the same in manner aforesaid, that they are Free From Every Encumbrance: except as aforesaid; and it

hereby engages to Warrant And Defend the same against all lawful claims whatever, except as above stated.

In Witness Whereof, I hereunto set my hand and seal
this 9TH day of February A. D. 19 84

In Presence of

THE BAIRD CENTER FOR CHILDREN AND FAMILIES
By Dorothea S. Hanna
Duly Authorized Agent

[Handwritten signatures: R. H. Waller, Anna E. Thomas]

State Of Vermont, } ss. At Burlington this
County of Chittenden } 9TH day of February A. D. 19 84

Dorothea S. Hanna, Duly Authorized Agent for The
Baird Center for Children and Families

personally appeared, and acknowledged this instrument, by
sealed and subscribed, to be free act and deed, and
the free act and deed of The Baird Center for Children and Families.

Before me *[Signature]*
Notary Public

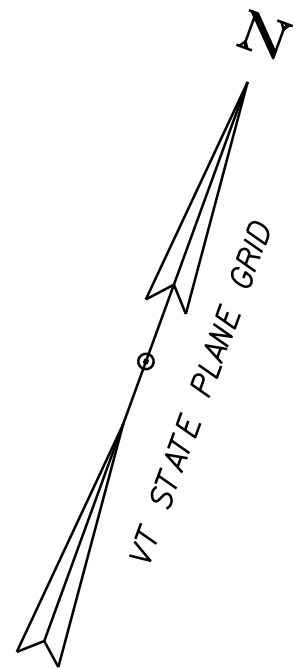
Received for record 3/19/84 at 1:55 P.M.
attest: J. E. Rader
City Clerk

618.15 BITUMINOUS CONCRETE SIDEWALK
BURLINGTON:
STA SP 17+50.0 - STA SP 23+75.0 (77.6 TON)

620.50 REMOVING AND RESETING FENCE
BURLINGTON:
STA SP 17+50.0 - STA SP 21+45.0 RT (395.0 LF)

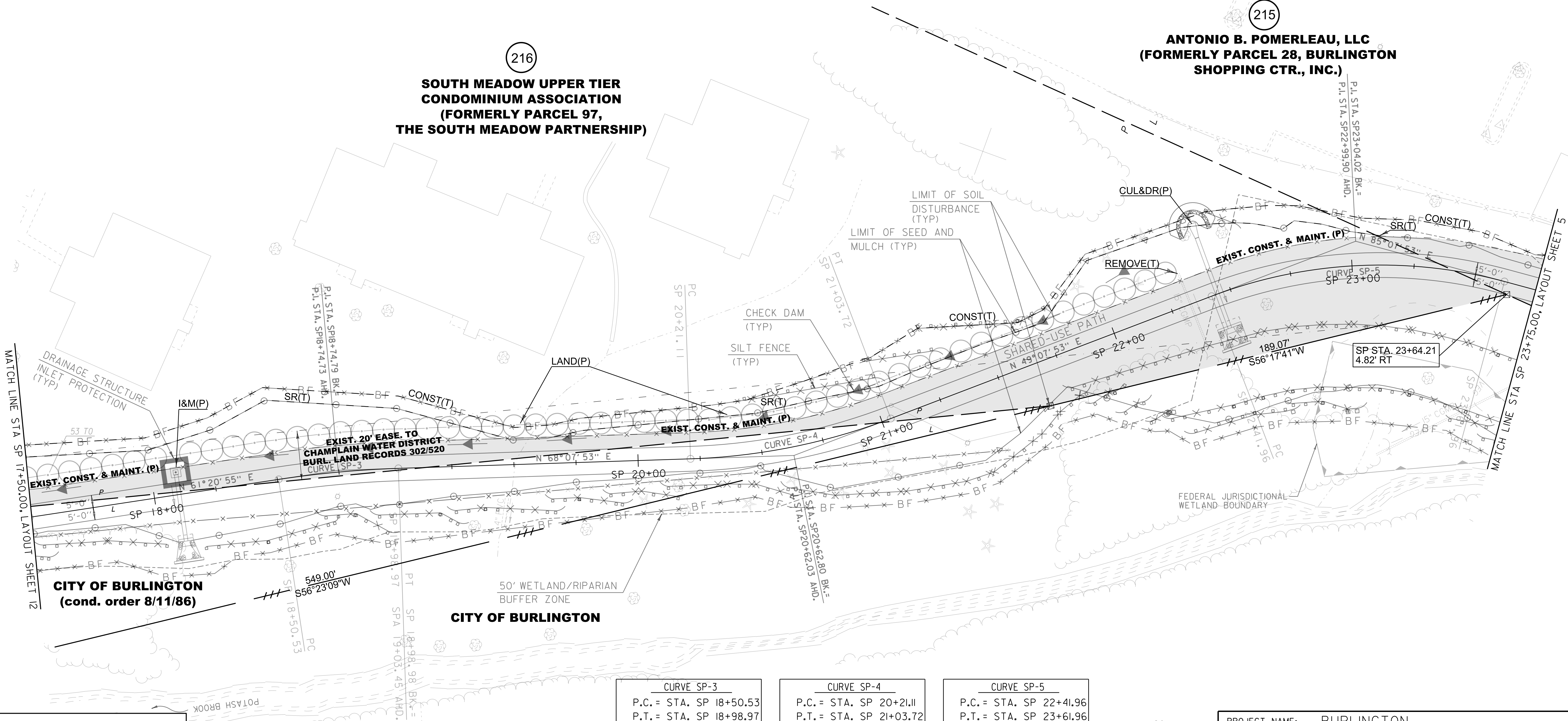
620.12 CHAIN LINK FENCE, 6 FT
BURLINGTON:
STA SP 17+50.0 - STA SP 23+00.0 LT (550.0 FT)

649.11 GEOTEXTILE FOR ROADBED SEPARATOR
BURLINGTON:
STA SP 17+50.0 - STA SP 23+75.0 LT/RT (972.2 SY)



(216)
**SOUTH MEADOW UPPER TIER
CONDOMINIUM ASSOCIATION
(FORMERLY PARCEL 97,
THE SOUTH MEADOW PARTNERSHIP)**

(215)
**ANTONIO B. POMERLEAU, LLC
(FORMERLY PARCEL 28, BURLINGTON
SHOPPING CTR., INC.)**



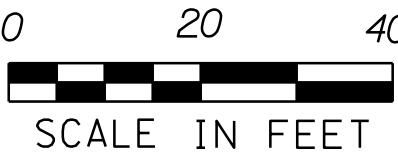
LINES SHOWN ON THIS PLAN AS EXISTING
PROPERTY LINES P/L ARE BELIEVED TO
BE ACCURATE BUT SHOULD NOT BE RELIED
UPON FOR PURPOSES UNRELATED TO THE
CITY OF BURLINGTON'S ACQUISITION OF
LAND AND RIGHTS FOR THIS PROJECT.

**FOR R.O.W.
USE ONLY**

CURVE SP-3
P.C. = STA. SP 18+50.53
P.T. = STA. SP 18+98.97
Δ = 06° 46' 54" RT
R = 409.26'
T = 24.25'
L = 48.44'
E = 0.72
Emax = N/A

CURVE SP-4
P.C. = STA. SP 20+21.11
P.T. = STA. SP 21+03.72
Δ = 19° 00' 00" LT
R = 249.11'
T = 41.69'
L = 82.61'
E = 3.46
Emax = N/A

CURVE SP-5
P.C. = STA. SP 22+41.96
P.T. = STA. SP 23+61.96
Δ = 36° 00' 00" RT
R = 190.99'
T = 62.06'
L = 120.00'
E = 9.83
Emax = N/A



PROJECT NAME: BURLINGTON
PROJECT NUMBER: MEGC M 5000(I)

FILE NAME: r87d078lay11.dgn
PROJECT LEADER: T. BOHL
DESIGNED BY: CHA
R.O.W. LAYOUT SHEET 11 OF 39

PLOT DATE: 09-MAR-2018
DRAWN BY: A. PROULX
CHECKED BY: T. POLK
SHEET 22 OF 78

618.15 BITUMINOUS CONCRETE SIDEWALK
BURLINGTON:
STA SP 13+60.53 - STA SP 17+50.0 (48.1 TON)

620.50 REMOVING AND RESETTNG FENCE
BURLINGTON:
STA SP 17+00.0 - STA SP 17+50.0 RT (52.7 LF)

620.55 REMOVAL OF EXISTING FENCE
BURLINGTON:
STA SP 15+79.5 - STA SP 17+00.0 RT (191.0 LF)

620.21 BRACING ASSEMBLY FOR CHAIN LINK FENCE, 6 FT
BURLINGTON:
STA SP 15+17.0 LT (1 EA)
STA SP 15+34.0 LT (1 EA)
STA SP 15+59.0 LT (1 EA)
STA SP 16+30.0 RT (1 EA)
STA SP 17+00.0 RT (1 EA)
STA SP 17+10.0 LT (1 EA)
STA SP 17+20.0 LT (1 EA)

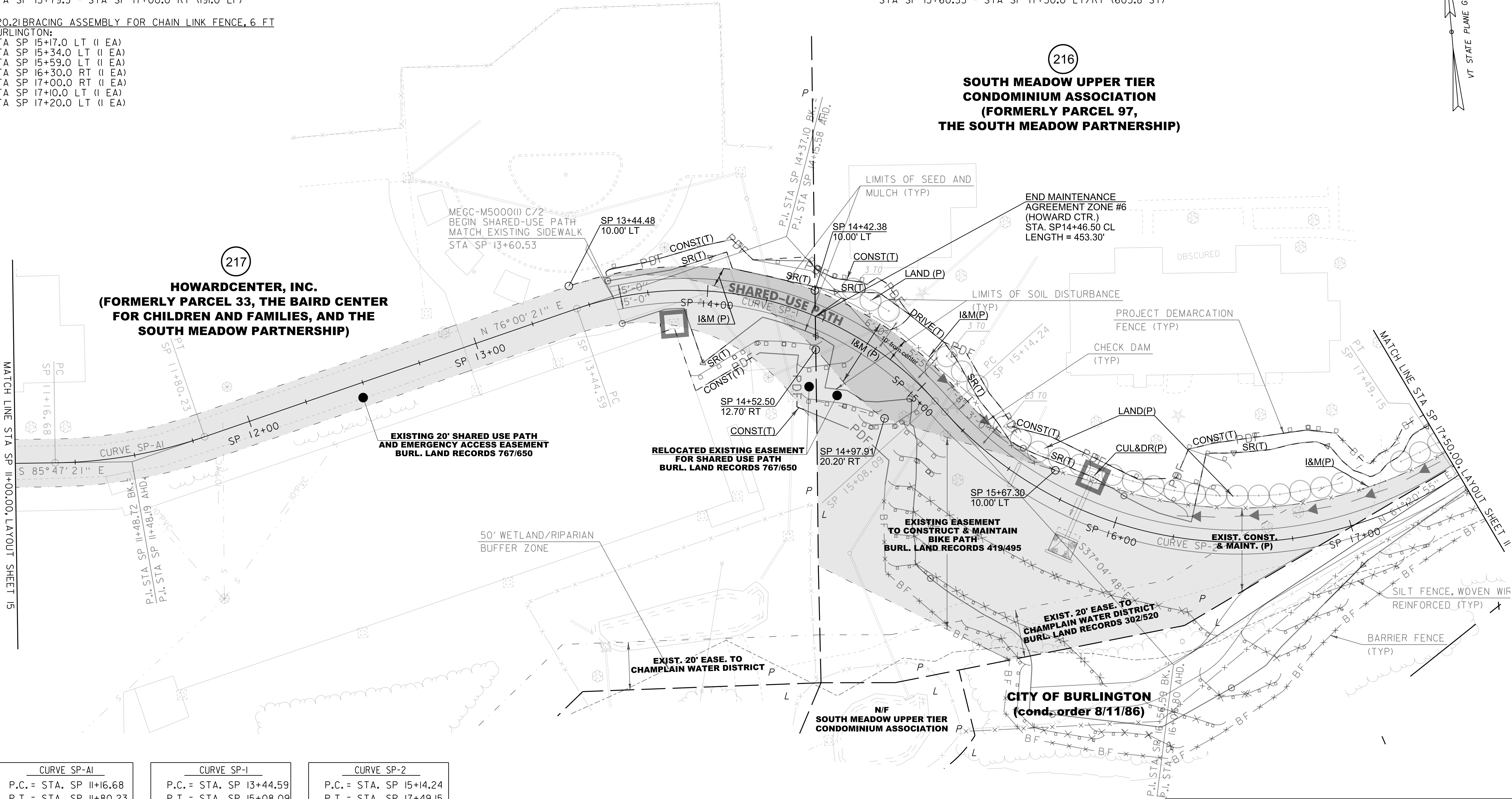
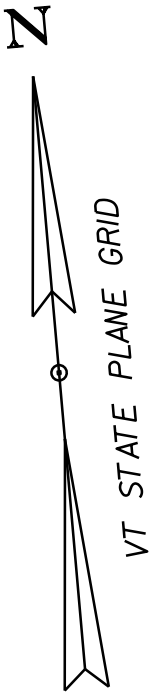
620.12 CHAIN LINK FENCE, 6 FT
BURLINGTON:
STA SP 15+79.5 - STA SP 17+00.0 RT (191.0 LF)
STA SP 14+97.5 - STA SP 17+10.0 LT (212.5 LF)
STA SP 17+20.0 - STA SP 17+50.0 LT (30.0 LF)

620.16 GATE FOR CHAIN LINK FENCE, 6 FT
BURLINGTON:
STA SP 17+10.0 - STA SP 17+20.0 LT (10.0 LF)

900.640 SPECIAL PROVISIONS (SCREENING FENCE, 6 FT.)
BURLINGTON:
STA SP 14+42.0 - STA SP 14+75.5 LT (40.0 LF)

900.640 SPECIAL PROVISIONS (SLIDING GATE FOR CHAIN LINK FENCE, 6 FT.)
BURLINGTON:
STA SP 14+86.5 LT (22.0 LF)

649.11 GEOTEXTILE FOR ROADBED SEPARATOR
BURLINGTON:
STA SP 13+60.53 - STA SP 17+50.0 LT/RT (605.8 SY)



CURVE SP-A1
P.C. = STA. SP 11+16.68
P.T. = STA. SP 11+80.23
Δ = 18°12'18" LT
R = 200.00'
T = 32.04'
L = 63.55'
E = 2.55
e _{max} = N/A

CURVE SP-1
P.C. = STA. SP 13+44.59
P.T. = STA. SP 15+08.09
Δ = 66°54'51" RT
R = 140.00'
T = 92.51'
L = 163.50'
E = 27.81
e _{max} = N/A

CURVE SP-2
P.C. = STA. SP 15+14.24
P.T. = STA. SP 17+49.15
Δ = 81°34'13" LT
R = 165.00'
T = 142.35'
L = 234.91'
E = 52.92
e _{max} = N/A

LINES SHOWN ON THIS PLAN AS EXISTING
PROPERTY LINES P/L ARE BELIEVED TO
BE ACCURATE BUT SHOULD NOT BE RELIED
UPON FOR PURPOSES UNRELATED TO THE
CITY OF BURLINGTON'S ACQUISITION OF LAND
AND RIGHTS FOR THIS PROJECT.

FOR R.O.W.
USE ONLY



PROJECT NAME: BURLINGTON	PLOT DATE: 09-MAR-2018
PROJECT NUMBER: MEGC M 5000(1)	DRAWN BY: A. PROULX
FILE NAME: r87d078lay12.dgn	CHECKED BY: T. POLK
PROJECT LEADER: T. BOHL	SHEET 23 OF 78
DESIGNED BY: CHA	
R.O.W. LAYOUT SHEET 12 OF 39	

Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Norman Baldwin

Title/Subject: Champlain Parkway-City of Burlington and Champlain Water District MOA

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	Concurrent	

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	4/2/2024	Click or tap here to enter text.
Mayor's Office informed and approved memo	N/A	Click or tap to enter a date.	Click or tap here to enter text.
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.	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	4/2/2024	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/2/2024	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	MOA
Additional Materials, if necessary	Yes	5 reference documents
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Yes	BOF



**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: Laura Wheelock, PE, Senior Public Works Engineer
Madeline Suender, Public Works Engineer

DATE: April 9, 2024 (BOF); April 15, 2024 (CC)

CC: Chapin Spencer, Director of Public Works
Norman Baldwin, PE, Division Director - Technical Services/City Engineer

RE: Colchester/Riverside/Barrett/Mill Intersection Finance and Maintenance
Agreement Acceptance: Burlington STP 5000(29)

Request:

The Department of Public Works ("DPW") is requesting Board of Finance and City Council approval for the City to enter into a Finance and Maintenance Agreement with the State of Vermont for reconstruction of the Colchester Ave, Riverside Ave, Barrett St, and Mill St intersection (Burlington STP 5000(29)).

Background

This proposed project will be a generational reinvestment into an improved, coordinated network that serves as a vital regional connection between Burlington and Winooski. This project is advancing in coordination with the Winooski Bridge RAISE Grant to allow for optimization between design and construction. The Bridge alignment and facility allocation will directly impact the Intersection layout and design. The 95 year old Bridge is nearing the end of its service life and is in need of timely repair for its next 100 year design. The intersection improvements will provide a safer intersection that enhances mobility and access for all users while ensuring efficient operation. The design will simplify the intersection while creating a gateway for those entering the City from the north along US Routes 2/7.

A scoping study was completed by the Chittenden County Regional Planning Commission and the City of Burlington in 2019 to evaluate alternatives for improvements at the intersection complex. The final report can be found here: [2019 Scoping Study](#). After recommendation from the City Council's Transportation, Energy & Utilities Committee (TEUC), on March 25, 2019, City Council voted unanimously to approve the preferred alternative.

Colchester/Riverside/Barrett/Mill Intersection

In March of 2021, DPW submitted 7 projects for consideration to seek state and federal funding support to design and construct through the Vermont Project Selection and Prioritization (VPSP2), their mechanism to identify, prioritize, and select state transportation capital improvement projects

on the federal aid system. VPSP2 is a system that aims to develop a performance-based, data driven project selection & prioritization framework that maximizes the “transportation value” delivered to Vermont taxpayers. This helps to maximize the way transportation funding is used in Vermont. Of those, VTrans selected the Colchester/Barrett/Riverside Intersection Realignment under the safety program in late 2022 shortly after the adjacent bridge received its grant funding notice. The project is funded through VTrans Highway Safety Division, which will fund the project 100% for all participating costs.

On May 15, 2023 the City Council voted to reaffirm this preferred alternative by allowing the DPW Director to execute a letter of support for the Colchester Avenue/Riverside Avenue/Barrett Street/Mill Street – Burlington STP 5000 (29) Intersection Project from the Vermont Agency of Transportation (VTrans). This approval brought the project into the State’s budget for funding.

Work on the project started in early 2023 with VTrans management of the project and municipal participation. DPW seeks approval to enter into an agreement (Attachment 1) with VTrans to allow them to continue to perform the design and construction work, and a commitment to cover any future non-participating costs encountered during construction. DPW estimates future need for local funds of approximately \$505,000 to cover contaminated soil disposal and 1% for public art.

Table 1 below shows the forecast of grant fund spending by fiscal year for the City’s cash flow planning.

Table 1. RAISE Grant Funds Forecast by Fiscal Year

FM0477 STP_5000(29)			Design			Construction		
Colchester Barrett Riverside Intersection Realignment		Total Revenue	FY24	FY25	FY26	FY27	FY28	FY29
N/W Account Code:								
	PUBLIC ART %	\$ 5,000.00			\$ 5,000.00			
	NON PARTICIPATING COSTS - Estimate	\$ 500,000.00				\$ 500,000.00		
843-19-700.4875_130	Vtrans Grant Federal	\$ 227,040.00	\$ 42,040.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00
	total	\$ 732,040.00	\$ 42,040.00	\$ 37,000.00	\$ 42,000.00	\$ 537,000.00	\$ 37,000.00	\$ 37,000.00
N/W Account Code:	Line Item	Total Expense	FY24	FY25	FY26	FY27	FY28	FY29
	Public Art	\$ 5,000.00	\$ -	\$ -	\$ 5,000.00	\$ -	\$ -	\$ -
	NON Participated Costs (Soils)	\$ 500,000.00				\$ 500,000.00		
843-19-700.9500_100	DPW Staff Time	\$ 205,000.00	\$ 20,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00
843-19-700.9500_100	BED MOU	\$ 22,040.00	\$ 22,040.00					
		\$ 732,040.00	\$ 42,040.00	\$ 37,000.00	\$ 42,000.00	\$ 537,000.00	\$ 37,000.00	\$ 37,000.00

Both the bridge and intersection projects are being constructed as Design-Build projects to allow their schedules to advance and satisfy the funding deadlines within the RAISE grant. Staff anticipates returning to the TEUC and City Council in late spring 2024 for review and approval of the final design concept. Any proposal to change the line and grade will require City Council approval. Other milestones for the project are:

Permitting	1/1/2025
Advertise for Construction Contractor Team	1/1/2026
Select Contractor Team	6/1/2026 (Return to TEUC/CC)
Final Design	3/1/2027
Start Construction	6/1/2027
Substantial Completion	9/30/2029
Project Complete	6/30/2030

A map of these project areas is included in Attachment 3.

Attachments

1. FM0477: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington STP 5000(29)
2. Draft Budget Amendment
3. Map of Overall Projects

Motions

Actions for Board of Finance:

1. To approve and recommend that the City Council authorize the Director of Public Works to execute the FM0477: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington STP 5000(29) from the Vermont Agency of Transportation for design and construction of the Colchester/Riverside/Barrett/Mill Intersection with a VTrans commitment to cover 100% of eligible project costs.
2. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachment 2.

Actions for City Council:

1. To authorize the Director of Public Works to execute the FM0477: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington STP 5000(29) from the Vermont Agency of Transportation for design and construction of the Colchester/Riverside/Barrett/Mill Intersection with a VTrans commitment to cover 100% of eligible project costs.
2. To authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachment 2.

Attachment 1. FM0477: Standard Finance and Maintenance Agreement for
Federal-Aid Projects, Burlington STP 5000(29)

STANDARD FINANCE AND MAINTENANCE AGREEMENT FOR FEDERAL-AID PROJECTS

**THIS STANDARD AGREEMENT AND INCLUDED REVISIONS
IS MADE BETWEEN
STATE OF VERMONT
AND
CITY OF BURLINGTON
FOR
BURLINGTON STP 5000(29)**

Contract Number: FM0477

THIS AGREEMENT is made by and between the State of Vermont, acting through its Agency of Transportation, with its principal office located at Barre City Place, 219 North Main Street, Barre, Vermont (the "STATE") and the City of Burlington, with its principal office located at 149 Church Street, Burlington, VT (the "MUNICIPALITY").

WITNESSETH:

WHEREAS, the STATE proposes to submit to the Federal Highway Administration, United States Department of Transportation, federal-aid project(s) known as BURLINGTON STP 5000(29) (the "Project"), which will provide improvements at the location(s) described as follows:

Project Location: **At the intersection of Colchester Ave., Riverside Ave., Barrett Street, and Mill Street.**

Work ("the Work") to be performed under this Project includes: **Reconfiguration of the signalized intersection, relocation of buried utilities, new signage, street lighting and traffic signal equipment. New pavement and pavement markings, curbing and landscaping are also included;** and

WHEREAS, the MUNICIPALITY desires the improvements as described above; and

WHEREAS, the MUNICIPALITY further desires that the STATE act, insofar as necessary, for the MUNICIPALITY in the preparation of plans and the construction of the Project;

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter set forth, the parties hereto agree as follows:

1. Allocation of Funds to Project. That all costs of the Project, except those which are non-participating, shall be paid with one hundred percent (100.00%) Federal funds and zero percent (0.00%) State funds and zero percent (0.00%) Municipality funds (FEDERAL: 100.00%; STATE: 0.00%; MUNICIPALITY: 0.00%). For purposes of this Agreement:

- a. "Participating Project Cost" means items which the STATE and the Federal Highway Administration find necessary to accomplish the purpose of the Project and for which they will participate in funding and are deemed eligible under applicable laws and the regulations of the Federal Highway Administration.

- b. "Non-participating Project Cost" means items which the STATE and the Federal Highway Administration find unnecessary to accomplish the purpose of the Project and are deemed not eligible under applicable laws and the regulations of the Federal Highway Administration.

The MUNICIPALITY will reimburse the STATE for one hundred percent (100%) of all non-participating Project costs and for zero percent (0.00%) of total participating Project costs, inclusive of preliminary engineering, right-of-way, utility costs where applicable, and the participating final construction costs. The MUNICIPALITY acknowledges that underruns or overruns in item quantities during construction, as well as change orders during construction, may increase or decrease quantities, thereby causing the total cost of construction to differ from the amount of the accepted bid.

The MUNICIPALITY will pay the STATE on the basis of monthly progress billings received from the STATE, with billing itemized as needed between participating and non-participating costs as specified above.

The MUNICIPALITY shall pay 0% of participating cost liability for any incidental damages, that may occur due to participating project items, to abutting or adjacent property owners or occupants due to the improvement, widening or relocation of right-of-way.

The MUNICIPALITY shall pay 100% of non-participating cost liability for any incidental damages that may occur due to non-participating project items, to abutting or adjacent property owners or occupants due to the improvement, widening or relocation of right-of-way.

The MUNICIPALITY will pay 100% of additional costs resulting from MUNICIPALITY requests for change orders, design changes, or supplemental agreement where such requests are made after contract award. Examples of such changes include but are not limited to upgrading crosswalks to inlaid colored pavement, night work limitations, etc.

2. Maintenance of Project. If construction of the Project is temporarily suspended for the winter season, the MUNICIPALITY will provide winter maintenance of roadways within the Project area, all in conformance with the provisions of the applicable edition of the Vermont Agency of Transportation's *Standard Specifications for Construction*, until construction operations resume in the spring.

Following completion of the project, the MUNICIPALITY shall be responsible for the maintenance of **permanent signs, street lights, traffic signals, pavement markings, sidewalks and bike paths** in a manner satisfactory to the STATE. In this regard, the MUNICIPALITY acknowledges that its attention has been directed to the provisions of 19 V.S.A. Sections 304 (duties of selectboards) and 310 (highways, bridges and trails).

3. Technical and Other Support from State. The STATE will provide the necessary engineering support to design and construct the Project, keep all accounting records, and make all payments to contractors hired by the STATE for the Project.

4. Project Plans; Conformance to Applicable State and Federal Laws, Regulations and Construction Standards. The Project will be constructed as the STATE, in cooperation with the Federal Highway Administration (FHWA), may determine and as detailed in the Project plans. Construction of the Project will conform to applicable FHWA rules and regulations and to the applicable edition of the Vermont

Agency of Transportation's *Standard Specifications for Construction*, as well as special provisions that may be included in the Project's contract agreement.

5. Permits; Compliance with Permit Conditions. The MUNICIPALITY authorizes the STATE to obtain permits in the name of the MUNICIPALITY, as applicable. The MUNICIPALITY will adhere to all permit conditions. The MUNICIPALITY will obtain any permits required for non-participating components of the project.

6. State/Municipal Cooperation. The Project will be constructed pursuant to a contract under the supervision of the STATE or its duly authorized representative. The STATE and MUNICIPALITY will cooperate to advance the Project. The STATE will submit design plans and cost estimates to the MUNICIPALITY as the Project reaches the stage of **Base Technical Concept**. The Project will not advance to the next step until the MUNICIPALITY has given its written approval to the **Base Technical Concept**, which will not be unreasonably withheld.

7. Environmental Contamination. The Parties agree to abide by current regulatory guidance regarding the discovery of any environmental contaminants including, but not limited to, identification of other contributing parties who may potentially share liability for the conditions encountered in the Project area.

The STATE will provide the necessary engineering support for the identification, assessment, coordination, and construction oversight related to environmental contamination within the Project area. The STATE will coordinate with the MUNICIPALITY, the Federal Highway Administration (FHWA), and regulatory agencies to assess the likely degree of contamination and, where required, implement the necessary sampling/testing to adequately characterize environmental contamination with the Project area and determine the scope of mitigation, treatment, and disposal measures needed.

- a. Federal-aid participation in cleanup and/or disposal costs associated with environmental contamination is determined by FHWA on a project-by-project basis. If cleanup and/or disposal of environmental contamination is required within the Project area, the STATE will request that FHWA approve federal-aid participation in cleanup and/or disposal costs associated with the environmental contamination. Responsibilities for costs associated with environmental contamination that are deemed not eligible for federal-aid participation by FHWA shall be as follows:

Within the Municipal right-of way, Municipally-owned property, and lands or rights within the Municipality's Boundary that are acquired for the Project outside of existing highway rights of way, the cost of cleanup, disposal, and long-term monitoring/maintenance associated with environmental contamination in existence prior to construction of that portion of the Project shall be non-participating. Accordingly, among the parties to this Agreement any costs associated therewith shall be the sole responsibility of the MUNICIPALITY. However, the MUNICIPALITY retains the right to seek cost recovery from persons who are not parties to this Agreement.

- b. Within the STATE right-of way, the cost of cleanup, disposal, and long-term monitoring/maintenance associated with environmental contamination in existence prior to construction of that portion of the Project shall be the responsibility of the STATE. Accordingly, any costs associated therewith shall be the sole responsibility of the STATE.

8. Use of Municipal Facilities. During the period of construction of the Project, the MUNICIPALITY will grant the STATE and/or the STATE's authorized representative the following:

- a. Temporary use for Project purposes of lands within the limits of MUNICIPALITY'S highways, as well as other lands owned by the MUNICIPALITY that are identified as needed for the project; the STATE shall coordinate with the MUNICIPALITY before using any lands owned by the MUNICIPALITY outside of the Project area;
- b. Use of municipal highways for trucking and hauling, as may be required without payment of any permit or other user fee to the MUNICIPALITY; and
- c. Authority to sign the Project construction site as necessary to provide information and warning to the public.

9. Use of Right-of-Way. The MUNICIPALITY will not permit, now or hereafter, any installation of utilities or other work within the rights-of-way now controlled or acquired in connection with the Project until the MUNICIPALITY'S legislative body has approved in accordance with City Charter Article 19 Section 48(40), detailed plans showing the proposed work and issued a permit, all in accordance with 19 V.S.A. Section 1111. Before issuing a permit, the MUNICIPALITY will review any proposed utility installation for conformance with the current Utility Accommodation Plan of the Vermont Agency of Transportation.

Except for utilities authorized by law to occupy highway rights-of-way, the MUNICIPALITY will not sell, lease or permit any non-highway use or encroachments on the rights-of-way to be controlled and/or acquired in connection with the Project without first obtaining the written permission of the STATE.

10. Acquisition of Additional Right-of-Way. Should construction of the Project require the acquisition of lands or rights outside existing highway rights of way, the STATE will assist the MUNICIPALITY as needed in acquiring such lands or rights.

11. Relocation of Privately-Owned Utilities. The STATE will perform liaison and negotiation with utility companies, as necessary to relocate all privately-owned utilities that are in conflict with the Project. The MUNICIPALITY will cooperate with the STATE and utility companies in the timely relocation of privately-owned utility facilities that are in conflict with the Project.

12. Relocation of Municipal Utilities. The MUNICIPALITY will cooperate with the STATE and take such steps as may be necessary to accomplish the timely relocation of all utility facilities owned by the MUNICIPALITY that are in conflict with the Project. Any approved cost sharing shall occur as provided in a separate Utility Agreement to be entered into between the MUNICIPALITY and STATE.

13. Traffic Control; Detours. During construction of the Project, the MUNICIPALITY will render such assistance as the STATE may request in the maintenance of traffic. If the Project route is closed to through traffic, the State or its contractor, with the cooperation of the MUNICIPALITY, will be responsible for selecting, signing, and maintaining a detour route, which shall be accomplished in conformance with 23 V.S.A. Section 1025 and the applicable edition of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices (MUTCD)*.

14. Maintenance of Traffic Control Devices and Street Lights. All new, permanent signs (including parking regulatory signs), and devices including but not limited to street lights, traffic signals, and pavement markings shown on the Project plans within the MUNICIPAL right-of-way will be maintained in place by the MUNICIPALITY at no cost to the STATE, including cost to provide electrical power, all in conformance

with 23 V.S.A. Section 1025 and the applicable edition of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices (MUTCD)*. Once constructed, any changes made to the parking and/or traffic control by the MUNICIPALITY shall be in accordance with the current MUTCD and applicable MUNICIPAL, STATE, and Federal Highway Administration standards. No changes shall be made that impact the allocation of space for bicycles, pedestrians, and/or vehicles within the Project limits without the prior written approval from the STATE and Federal Highway Administration.

15. Cancellation or Default by State. If, due to the failure of the STATE, the Project is not constructed, then all costs incurred shall be borne in full by the STATE.

16. Cancellation or Default by Municipality. If at any time prior to award of a construction contract, the MUNICIPALITY no longer desires to proceed with the Project, then the MUNICIPALITY may request cancellation subject to the following conditions:

- a. If the MUNICIPALITY does not approve the Base Technical Concept, the Project will be canceled, and the STATE shall reimburse the MUNICIPALITY for one hundred percent (100%) of all costs incurred by the MUNICIPALITY.
- b. Should the project be canceled by the MUNICIPALITY or otherwise not advance to construction because of any act or omission of the MUNICIPALITY, including not exercising its eminent domain powers, then the MUNICIPALITY will reimburse the STATE in full for one hundred percent (100%) of all costs incurred to date for the Project.

17. Cancellation of Project Because of Circumstances Beyond Either Party's Control. If, due to circumstances beyond the control of the STATE or the MUNICIPALITY, the Project is not constructed, then all costs incurred shall be shared as specified in Section 1 above.

18. Municipally-Incurred Engineering Expenses; Invoices; Payment. Is hereby incorporated with the following:

The STATE will reimburse the MUNICIPALITY for all engineering and design-related expenses incurred by the MUNICIPALITY for the Project. Other municipal staff activities that are eligible for reimbursement are: acting as the MUNICIPALITY'S spokesperson for the project; acting as a liaison between the STATE and city councils, commissions, permitting personnel; attending all Project meetings or public presentations; and disseminating project information to the public and performing public outreach activities.

The MUNICIPALITY will submit eligible municipally-incurred engineering actual costs within an itemized invoice to the STATE. The STATE will reimburse the MUNICIPALITY for eligible costs on the basis of monthly progress billings received from the MUNICIPALITY.

19. Livable Wages. The STATE shall include the **Livable Wage, Union Deterrence, and Outsourcing City of Burlington Ordinances** in the contract documents together with the applicable certifications. The MUNICIPALITY shall assume the financial responsibility thereto and shall be responsible for all administration of compliance with, the aforelisted ordinances. The MUNICIPALITY shall not seek to terminate the contract on the basis of any enforcement action of these ordinances during the performance of the contract.

20. Interpretation of Agreement. If an ambiguity or question of intent arises with respect to any provision of this Agreement, the Agreement will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of authorship of any

of the provisions of this Agreement.

21. Section Headings. The section headings contained in this Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.

22. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

23. Attachments. The following attachment(s) are incorporated to and made a part of this Agreement:

Attachment C: Standard State Provisions for Contracts and Grants

Attachment D: Other Agreement Provisions

Attachment E: Additional ROW Provisions

MUNICIPALITY Certificate of Coverage/Insurance

24. Order of Precedence. Any ambiguity, conflict or inconsistency in the Agreement Documents shall be resolved according to the following order of precedence:

- 1) Attachment D
- 2) Attachment C
- 3) Attachment E
- 4) Standard Agreement

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS FINANCE AND MAINTENANCE AGREEMENT.

By the **STATE OF VERMONT AGENCY OF TRANSPORTATION:**

Date: _____

Signature: _____
Secretary of Transportation and Duly Authorized Agent

Name: _____

By the **MUNICIPALITY:**

Date: _____

Signature: _____
Duly Authorized Agent

Name: _____

Title: _____

REVISED DECEMBER 7, 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 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: 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.iii 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 AGREEMENT PROVISIONS

Attachment D is made a part of this Agreement for the purpose of adding agreement-specific provisions not included in the Standard Finance and Maintenance Agreement, or for incorporating revisions to the Standard Finance and Maintenance Agreement and/or other included Attachments.

The following Provisions are hereby incorporated into this Agreement;

27. Project Use of Municipally Owned Land. In accordance with 19 V.S.A. Section 309a(d), the fair market value of any land outside existing highway rights-of-way that is donated by the MUNICIPALITY and used in the project shall be credited to the MUNICIPALITY's share of the project costs subject to the provisions of 23 U.S.C. Section 323 with respect to a federal-aid project.

28. Marketing Consent. In accordance with Attachment C, the STATE provides consent for the MUNICIPALITY to refer to the STATE in any publicity materials, information pamphlets, press releases, research reports, advertising, or marketing materials or similar communications to third parties that are directly associated with the Project.

29. Vermont Public Records Act. The parties acknowledge and agree that this Agreement, any and all information shared by the parties in connection with this Agreement, and any obligations of a party to maintain the confidentiality of information are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. Section 315 *et seq.* Each party will promptly notify the other party of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential Data so that the other party may seek an appropriate protective order.

ADDITIONAL ROW PROVISIONS**1. Acquisition of Additional Right-of-Way.**

- a. **TECHNICAL ASSISTANCE FROM STATE.** This project may require the temporary or permanent acquisition of lands or rights outside existing highway rights of way. The STATE will assist the MUNICIPALITY in acquiring such lands or rights in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, 84 Stat. 1894, as amended, and the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. No. 100-17, 101 Stat. 246-256, as amended, provided that the lands or rights can be acquired by agreement at fair market value, and with the understanding that if condemnation is necessary the MUNICIPALITY must be the condemning authority, as hereinafter provided.
- b. **RECORD KEEPING AND REPORTS.** In accordance with 49 CFR § 24.9 (Recordkeeping and Reports) the MUNICIPALITY will maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment.
- c. **ACQUISITION IN NAME OF MUNICIPALITY.** The STATE will perform right of way work for the Project and, as agent for the MUNICIPALITY, will assist the MUNICIPALITY with negotiating purchase of lands or rights required for the Project. Title to all lands or rights acquired for the Project shall vest in the MUNICIPALITY immediately upon acquisition.
- d. **USE OF MUNICIPAL EMINENT DOMAIN POWERS.** If any of the lands or rights needed for the Project cannot be acquired by negotiation, it is agreed and understood that the MUNICIPALITY will exercise its eminent domain powers. In such cases, the STATE will notify the MUNICIPALITY of the need for condemnation. Within 30 days upon receipt of notice from the STATE, the MUNICIPALITY will commence the condemnation process via direct communication by approved MUNICIPAL legal representation (see parts e and f below), in consultation with VTrans' legal counsel.

The MUNICIPALITY agrees to make every reasonable effort to condemn at the fair market value price, as determined by the STATE's reviewing appraiser, but may condemn at a price which exceeds the approved fair market value price if facts set forth at a hearing warrant a higher award. The STATE reserves the right to approve or disapprove the portion of such an award that is in excess of the fair market value determined by the STATE's reviewing appraiser. If the MUNICIPALITY makes an award higher than the fair market value price determined by the STATE's reviewing appraiser without the prior written approval of the STATE, the MUNICIPALITY may be required to bear the entire cost of the excess amount over the STATE's approved fair market value price.

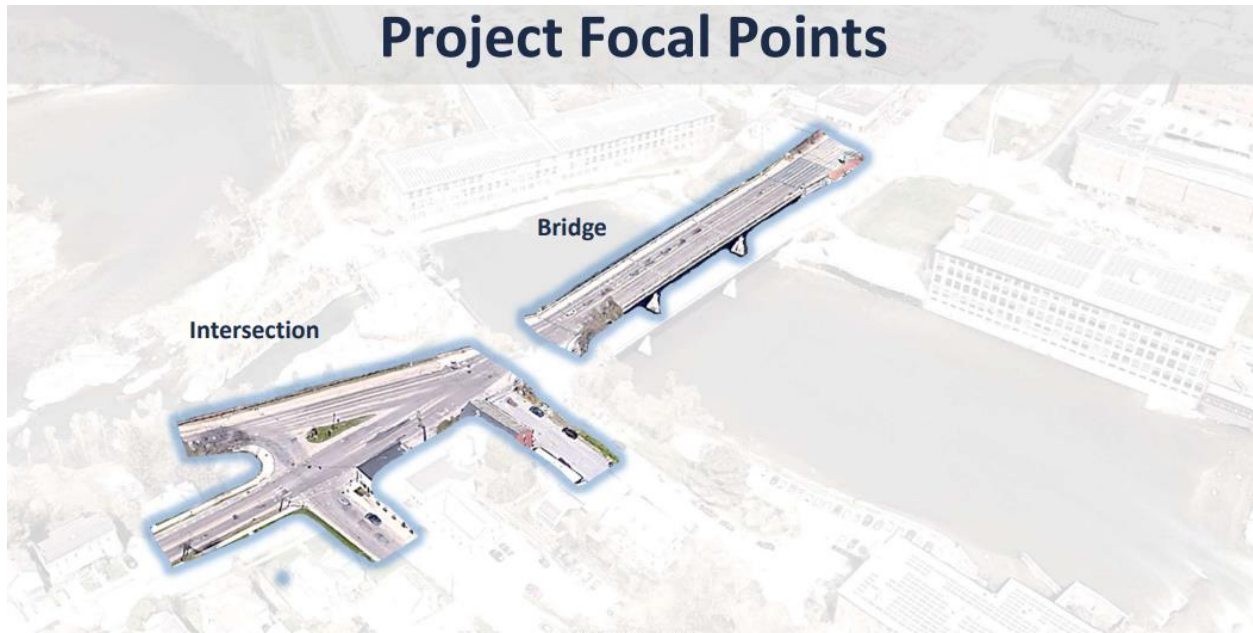
- e. **USE OF PRIVATE LEGAL COUNSEL.** Before authorizing any private lawyer or law firm to begin any legal work involving condemnation of lands or rights needed for the Project, the MUNICIPALITY shall enter into a contract for legal services with the lawyer or law firm. The contract must be approved by the STATE and the Federal Highway Administration and, to ensure the maximum participation of federal-aid funds, shall include the following:

- i. A recital of the qualifications and experience of the lawyer or law firm in areas of property law.
 - ii. A requirement that all legal work must be performed in accordance with Vermont laws and 23 CFR § 710.305 (Acquisition) and 49 CFR Part 24 (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs).
 - iii. The estimated cost of legal services on a lump sum or hourly rate, including a breakdown that specifies salaries, costs of materials and any other direct or indirect costs. No legal work shall be commenced which will exceed the lump sum estimate without first obtaining the approval of the STATE and the Federal Highway Administration. Failure to obtain such approval may result in the MUNICIPALITY's bearing the entire cost of such excess.
- f. **USE OF STAFF COUNSEL.** The MUNICIPALITY may choose to be represented by a lawyer who is a municipal official or employee. However, in such event compliance with 23 CFR § 710.203 (Funding and Reimbursement) by the MUNICIPALITY is a prerequisite to reimbursement of otherwise eligible legal expenses.
- g. **APPROVAL OF LEGAL REPRESENTATION IN OTHER PROJECT-RELATED MATTERS.** The MUNICIPALITY may be denied reimbursement for costs of legal representation for Project-related matters other than preparation for and trial of condemnation cases unless it has secured the prior approval of the STATE and the Federal Highway Administration. Matters in this category include, but are not limited to, Act 250 and other environmental permitting, defense of claims by abutting property owners, and defense of contractor claims.
- h. **REIMBURSEMENT OF APPROVED LEGAL COSTS.** Legal costs incurred by the MUNICIPALITY that are eligible for federal participation shall be included in the right of way costs of the Project. Reimbursement to the MUNICIPALITY of its shares of these costs by the STATE, upon receipt of properly itemized invoices, shall be in accordance with the cost distribution as hereinafter set forth. Payment for these legal costs shall be in accordance with the cost principles established by 48 CFR Chapter 1 Parts 1-18 of the Federal Acquisition Regulations and/or Federal Highway Administration policies. The MUNICIPALITY must comply with these federal cost principles to assure maximization of federal participation in these costs.
- i. **NOTIFICATION AS TO COURT APPEALS.** At the expiration of the period during which an affected party can seek judicial review of condemnation awards made by the MUNICIPALITY, the MUNICIPALITY shall send written notification to the STATE either setting forth the names of the appealing landowners or attesting to the fact that no appeals have been taken.
- j. **WARRANTY AS TO ADEQUACY OF MUNICIPAL RIGHTS OF WAY.** The MUNICIPALITY agrees to defend, save harmless and indemnify the STATE, its officers, agents and employees, from all suits, actions or claims for damages sustained by abutting or adjacent property owners or occupants because of the inadequacy of the rights of way furnished the Project by the MUNICIPALITY.

Attachment 2. Draft Budget Amendment

Department: DPW **Requested by:** Laura Wheelock/Maddy Suender **Date:** DRAFT

Attachment 3: Project Area Map



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Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Madeline Suender
Colchester/Riverside/Barrett/Mill Intersection Finance and Maintenance Agreement
 Title/Subject: Acceptance: Burlington STP 5000(29)

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	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	4/1/2024	Chapin Spencer
Mayor's Office informed and approved memo	N/A	N/A	N/A
Board/Commission, if required	N/A	N/A	N/A
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/2/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/2/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/2/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	N/A	N/A
CIO, if an IT-related investment/purchase	N/A	N/A	N/A

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Memo - BOF CC Colchester Intersection
Contract Attached, if applicable?	Yes	Memo Attachment 1: FM0477
Additional Materials, if necessary	Yes	Memo Attachment 2/3: Budget Amendment/Map
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Yes	BOF



**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: Laura Wheelock, PE, Senior Public Works Engineer
Madeline Suender, Public Works Engineer

DATE: April 9, 2024 (BOF); April 15, 2024 (CC)

CC: Chapin Spencer, Director of Public Works
Norman Baldwin, PE, Division Director - Technical Services/City Engineer

RE: Burlington - Winooski Bridge Finance and Maintenance Agreement Acceptance
BF RAIZE(2) – FM0449

Request:

The Department of Public Works ("DPW") is requesting Board of Finance and City Council approval for the City to enter into a Finance and Maintenance Agreement with the State of Vermont for Replacement of the Burlington-Winooski Bridge over the Winooski River (Bridge 150). The project utilizes the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant that was accepted for reconstruction of the Winooski Bridge in 2022 and additional state and federal structures funding for the balance of the project.

Background

This proposed project will be a generational reinvestment into an improved, coordinated transportation network that serves as a vital regional connection between Burlington and Winooski. This project is advancing in coordination with the Colchester/Riverside/Barrett/Mill Intersection Realignment to allow for optimization between design and construction. The Bridge alignment and facility allocation will directly impact the Intersection layout and design. The 95 year old Bridge is nearing the end of its service life and is in need of timely repair for its next 100 year design.

A scoping study was completed by the Chittenden County Regional Planning Commission and the cities of Burlington and Winooski in 2019 to evaluate alternatives for improvements to the bridge connecting the two cities. The final report can be found here: <https://studiesandreports.ccrpcvt.org/wp-content/uploads/2019/07/FINAL-Winooski-River-Bridge-Scoping-Study.pdf>

After recommendation from the City Council's Transportation, Energy & Utilities Committee (TEUC) on March 25, 2019, the Burlington City Council voted to approve the preferred alternatives and move the project forward with the State of Vermont.

Burlington - Winooski Bridge RAISE Grant

The City of Burlington DPW, The City of Winooski, and Vermont Agency of Transportation (VTrans) pursued funding the replacement of the Burlington-Winooski Bridge in April of 2022. The grant application for approximate \$25M of funds was since accepted and awarded by VTrans. The total cost of the project is conceptually estimated to be \$60-\$75 million. Recognizing that the project costs for replacement of the bridge would be larger than just this grant, VTrans sought to appropriate funds from their bridge replacement program to complete the gap in funding. The funding split for this project is 80% Federal, 10% State, 5% Burlington, and 5% Winooski through the RAISE Grant. The funding split minimized the costs to Burlington where under other circumstances we would have been responsible for 50% of the replacement costs shared with the City of Winooski. Burlington will be responsible for the 5% local match, anticipated contaminated soils in Burlington that are non-participating, and 1% towards the local art ordinance based on the local share costs.

Since the project has federal grant money, VTrans is obligated to improve safety, address pedestrian/bicycle accommodations, complement the natural and cultural environment, and provide an aesthetically appealing bridge. DPW seeks approval to enter into an agreement (Attachment 1) with VTrans to allow them to continue to perform the design and construction work, and a commitment to cover any future non-participating costs encountered during construction.

Table 1 below shows the forecast of grant fund spending by fiscal year for the City's cash flow planning.

Table 1. RAISE Grant Funds Forecast by Fiscal Year

Winooski Bridge Replacement	Total Revenue	Design				Construction		
		FY23	FY24	FY25	FY26	FY27	FY28	FY29
		1%	1%	5%	5%	35%	40%	13%
Local Match 5% of total funding (split with winooski)	\$3,655,000	\$ 25,000.00	\$ 50,000.00	\$ 182,750.00	\$ 182,750.00	\$ 1,279,250.00	\$ 1,462,000.00	\$ 473,250.00
PUBLIC ART %	\$ 41,550.00				\$ 41,550.00			
NON PARTICIPATING COSTS (estimate)	\$ 500,000.00					\$ 500,000.00		
Vtrans Grant Federal	\$ 177,600.00		\$ 29,600.00	\$ 29,600.00	\$ 29,600.00	\$ 29,600.00	\$ 29,600.00	\$ 29,600.00
Vtrans Grant State	\$ 22,200.00		\$ 3,700.00	\$ 3,700.00	\$ 3,700.00	\$ 3,700.00	\$ 3,700.00	\$ 3,700.00
Vtrans Other (Winooski)	\$ 11,100.00		\$ 1,850.00	\$ 1,850.00	\$ 1,850.00	\$ 1,850.00	\$ 1,850.00	\$ 1,850.00
Total	\$ 4,407,450.00	\$ 25,000.00	\$ 85,150.00	\$ 217,900.00	\$ 259,450.00	\$ 1,814,400.00	\$ 1,497,150.00	\$ 508,400.00

Line Item	Total Expense	FY23	FY24	FY25	FY26	FY27	FY28	FY29
Design Consultant/Contractor/DPW	\$ 3,643,900.00	\$ 25,000.00	\$ 48,150.00	\$ 180,900.00	\$ 180,900.00	\$ 1,277,400.00	\$ 1,460,150.00	\$ 471,400.00
Public Art	\$ 41,550.00	\$ -	\$ -	\$ -	\$ 41,550.00	\$ -	\$ -	\$ -
NON Participated Costs (Soils)	\$ 500,000.00					\$ 500,000.00		
DPW Staff Time	\$ 204,929.00		\$ 19,929.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00	\$ 37,000.00
BED Design - MOU	\$ 17,071.00		\$ 17,071.00					
	\$ 4,407,450.00	\$ 25,000.00	\$ 85,150.00	\$ 217,900.00	\$ 259,450.00	\$ 1,814,400.00	\$ 1,497,150.00	\$ 508,400.00

A map of these project areas is included in Attachment 3.

Both the bridge and intersection projects are being constructed as Design-Build projects to allow their schedules to advance and satisfy the funding deadlines within the RAISE grant. Staff anticipates returning to the TEUC and City Council in late spring 2024 for review and approval of the final design concept. Other milestones for the project are:

Permitting	1/1/2025
Advertise for Construction Contractor Team	1/1/2026
Select Contractor Team	6/1/2026 (Return to TEUC/CC)
Final Design	3/1/2027
Start Construction	6/1/2027
Substantial Completion	9/30/2029
Project Complete	6/30/2030

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Attachments

1. FM0449: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington-Winooski BF RAIZ(2)
2. Draft Budget Amendment
3. Map of Overall Projects

Motions

Actions for Board of Finance:

1. To approve and recommend that the City Council authorize the Director of Public Works to execute the FM0449: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington-Winooski BF RAIZ(2) from the Vermont Agency of Transportation for design and construction of the Winooski Bridge with the funding split for this project being 80% Federal, 10% State, 5% Burlington, and 5% Winooski.
2. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachment 2.

Actions for City Council:

1. To authorize the Director of Public Works to execute the FM0449: Standard Finance and Maintenance Agreement for Federal-Aid Projects, Burlington-Winooski BF RAIZ(2) from the Vermont Agency of Transportation for design and construction of the Winooski Bridge with the funding split for this project being 80% Federal, 10% State, 5% Burlington, and 5% Winooski.
2. To authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachment 2.

Attachment 1. FM0449: Standard Finance and Maintenance Agreement for
Federal-Aid Projects, Burlington-Winooski BF RAIZ(2)

STANDARD FINANCE AND MAINTENANCE AGREEMENT FOR FEDERAL-AID PROJECTS

**THIS STANDARD AGREEMENT AND INCLUDED REVISIONS
IS MADE BETWEEN
STATE OF VERMONT
AND
CITY OF BURLINGTON
FOR
BURLINGTON-WINOOSKI BF RAIZ(2)**

Contract Number: FM0449

THIS AGREEMENT is made by and between the State of Vermont, acting through its Agency of Transportation, with its principal office located at Barre City Place, 219 North Main Street, Barre, Vermont (the "STATE") and the City of Burlington, with its principal office located at 149 Church Street, Burlington, VT (the "MUNICIPALITY").

W I T N E S S E T H:

WHEREAS, the STATE proposes to submit to the Federal Highway Administration, United States Department of Transportation, federal-aid design-build project(s) known as BURLINGTON-WINOOSKI BF RAIZ(2) (the "Project"), which will provide improvements at the location(s) described as follows:

Project Location: BRIDGE 150 ON US 7 OVER THE WINOOSKI RIVER IN THE CITY OF BURLINGTON (TH 3) AND THE CITY OF WINOOSKI (TH 1), APPROXIMATELY 0.17 MILES SOUTH OF THE INTERSECTION OF US 7 (TH 1) AND VT 15 (TH 2) IN THE CITY OF WINOOSKI.

Work ("the Work") to be performed under this Project includes: REPLACEMENT OF THE EXISTING BRIDGE WITH RELATED APPROACH ROADWAY AND CHANNEL WORK; and

WHEREAS, the MUNICIPALITY desires the improvements as described above; and

WHEREAS, the MUNICIPALITY further desires that the STATE act, insofar as necessary, for the MUNICIPALITY in the preparation of plans and the construction of the Project;

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter set forth, the parties hereto agree as follows:

- 1. Allocation of Funds to Project.** That all costs of the Project, except those which are non-participating, shall be paid with eighty percent (80.00%) Federal funds and ten percent (10.00%) State funds and five percent (5.00%) Municipality funds (FEDERAL: 80.00%; STATE: 10.00%; **EACH MUNICIPALITY: 5.00%). City of Burlington – 5%, City of Winooski – 5%.** For purposes of this Agreement:
 - a. "Participating Project Cost" means items which the STATE and the Federal Highway Administration find necessary to accomplish the purpose of the Project and for which they will participate in funding and are deemed eligible under applicable laws and the regulations of the Federal Highway Administration.
 - b. "Non-participating Project Cost" means items which the STATE and the Federal Highway Administration find unnecessary to accomplish the purpose of the Project and are deemed not eligible under applicable laws and the regulations of the Federal Highway Administration.

The MUNICIPALITY will reimburse the STATE for one hundred percent (100%) of all non-participating Project costs.

costs within the MUNICIPALITY'S boundary and for five percent (5.00%) of total participating Project costs, inclusive of preliminary engineering, right-of-way, utility costs where applicable, and the participating final construction costs. The MUNICIPALITY acknowledges that underruns or overruns in item quantities during construction, as well as change orders during construction, may increase or decrease quantities, thereby causing the total cost of construction to differ from the amount of the accepted bid.

The MUNICIPALITY will pay the STATE on the basis of monthly progress billings received from the STATE, with billing itemized as needed between participating and non-participating costs as specified above.

The MUNICIPALITY shall pay 0% of participating cost liability for any incidental damages, that may occur due to participating project items, to abutting or adjacent property owners or occupants due to the improvement, widening or relocation of right-of-way.

The MUNICIPALITY shall pay 100% of non-participating cost liability for any incidental damages that may occur due to non-participating project items, to abutting or adjacent property owners or occupants due to the improvement, widening or relocation of right-of-way.

The MUNICIPALITY will pay 100% of additional costs resulting from MUNICIPALITY requests for change orders, design changes, or supplemental agreement where such requests are made after contract award. Examples of such changes include but are not limited to upgrading crosswalks to inlaid colored pavement, night work limitations, etc.

2. Maintenance of Project. If construction of the Project is temporarily suspended for the winter season, the MUNICIPALITY will provide winter maintenance of the MUNICIPALITY'S roadways within the Project area, all in conformance with the provisions of the applicable edition of the Vermont Agency of Transportation's *Standard Specifications for Construction*, until construction operations resume in the spring.

Following completion of the project, the MUNICIPALITY shall be responsible for the maintenance of **the bridge and related roadway within the MUNICIPALITY'S boundary** in a manner satisfactory to the STATE. In this regard, the MUNICIPALITY acknowledges that its attention has been directed to the provisions of 19 V.S.A. Sections 304 (duties of selectboards) and 310 (highways, bridges and trails).

3. Technical and Other Support from State. The STATE will provide the necessary engineering support to design and construct the Project, keep all accounting records, and make all payments to contractors hired by the STATE for the Project.

4. Project Plans; Conformance to Applicable State and Federal Laws, Regulations and Construction Standards. The Project will be constructed as the STATE, in cooperation with the Federal Highway Administration (FHWA), may determine and as detailed in the Project plans. Construction of the Project will conform to applicable FHWA rules and regulations and to the applicable edition of the Vermont Agency of Transportation's *Standard Specifications for Construction*, as well as special provisions that may be included in the Project's contract agreement.

5. Permits; Compliance with Permit Conditions. The MUNICIPALITY authorizes the STATE to obtain permits in the name of the MUNICIPALITY, as applicable. The MUNICIPALITY will adhere to all permit conditions. The MUNICIPALITY will obtain any permits required for non-participating components of the project.

6. State/Municipal Cooperation. The Project will be constructed pursuant to a contract under the supervision of the STATE or its duly authorized representative. The STATE and MUNICIPALITY will cooperate to advance the Project. The STATE will submit design plans and cost estimates to the MUNICIPALITY as the Project reaches the stages of Base Technical Concept Plans. The Project will not advance to the next step until the MUNICIPALITY has given its written approval to the Base Technical Concept Plans, which will not be unreasonably withheld.

7. Environmental Contamination. The Parties agree to abide by current regulatory guidance regarding the discovery of any environmental contaminants including, but not limited to, identification of other contributing parties who may potentially share liability for the conditions encountered in the Project area.

The STATE will provide the necessary engineering support for the identification, assessment, coordination, and construction oversight related to environmental contamination within the Project area. The STATE will coordinate with the MUNICIPALITY, the Federal Highway Administration (FHWA), and regulatory agencies to assess the likely degree of contamination and, where required, implement the necessary sampling/testing to adequately characterize environmental contamination with the Project area and determine the scope of mitigation, treatment, and disposal measures needed.

- a. Federal-aid participation in cleanup and/or disposal costs associated with environmental contamination is determined by FHWA on a project-by-project basis. If cleanup and/or disposal of environmental contamination is required within the Project area, the STATE will request that FHWA approve federal-aid participation in cleanup and/or disposal costs associated with the environmental contamination. Responsibilities for costs associated with environmental contamination that are deemed not eligible for federal-aid participation by FHWA shall be as follows:

Within the Municipal right-of way, Municipally-owned property, and lands or rights within the Municipality's Boundary that are acquired for the Project outside of existing highway rights of way, the cost of cleanup, disposal, and long-term monitoring/maintenance associated with environmental contamination in existence prior to construction of that portion of the Project shall be non-participating. Accordingly, among the parties to this Agreement any costs associated therewith shall be the sole responsibility of the MUNICIPALITY. However, the MUNICIPALITY retains the right to seek cost recovery from persons who are not parties to this Agreement.

- b. Within the STATE right-of way, the cost of cleanup, disposal, and long-term monitoring/maintenance associated with environmental contamination in existence prior to construction of that portion of the Project shall be the responsibility of the STATE. Accordingly, any costs associated therewith shall be the sole responsibility of the STATE.

8. Use of Municipal Facilities. During the period of construction of the Project, the MUNICIPALITY will grant the STATE and/or the STATE's authorized representative the following:

- a. Temporary use for Project purposes of lands within the limits of MUNICIPALITY'S highways, as well as other lands owned by the MUNICIPALITY that are identified as needed for the project. The STATE shall coordinate with the MUNICIPALITY before using any lands owned by the MUNICIPALITY outside of the Project area;
- b. Use of municipal highways for trucking and hauling, as may be required without payment of any permit or other user fee to the MUNICIPALITY; and
- c. Authority to sign the Project construction site as necessary to provide information and warning to the public.

9. Use of Right-of-Way. The MUNICIPALITY will not permit, now or hereafter, any installation of utilities or other work within the rights-of-way now controlled or acquired in connection with the Project until the MUNICIPALITY'S legislative body has approved in accordance with City Charter Article 19 Section 48(40), detailed plans showing the proposed work and issued a permit, all in accordance with 19 V.S.A. Section 1111. Before issuing a permit, the MUNICIPALITY will review any proposed utility installation for conformance with the current Utility Accommodation Plan of the Vermont Agency of Transportation.

Except for utilities authorized by law to occupy highway rights-of-way, the MUNICIPALITY will not sell, lease or permit any non-highway use or encroachments on the rights-of-way to be controlled and/or acquired in connection with the Project without first obtaining the written permission of the STATE.

10. Acquisition of Additional Right-of-Way. Should construction of the Project require the acquisition of lands,

or rights outside existing highway rights of way, the STATE will assist the MUNICIPALITY as needed in acquiring such lands or rights.

11. Relocation of Privately-Owned Utilities. The STATE will perform liaison and negotiation with utility companies, as necessary to relocate all privately-owned utilities that are in conflict with the Project. The MUNICIPALITY will cooperate with the STATE and utility companies in the timely relocation of privately-owned utility facilities that are in conflict with the Project.

12. Relocation of Municipal Utilities. The MUNICIPALITY will cooperate with the STATE and take such steps as may be necessary to accomplish the timely relocation of all utility facilities owned by the MUNICIPALITY that are in conflict with the Project. Any approved cost sharing shall occur as provided in a separate Utility Agreement to be entered into between the MUNICIPALITY and STATE.

13. Traffic Control; Detours. During construction of the Project, the MUNICIPALITY will render such assistance as the STATE may request in the maintenance of traffic. If the Project route is closed to through traffic, the State or its contractor, with the cooperation of the MUNICIPALITY, will be responsible for selecting, signing, and maintaining a detour route, which shall be accomplished in conformance with 23 V.S.A. Section 1025 and the applicable edition of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices (MUTCD)*.

14. Maintenance of Traffic Control Devices and Street Lights. All new, permanent signs (including parking regulatory signs), and devices including but not limited to street lights, traffic signals, and pavement markings shown on the Project plans within the MUNICIPAL right-of-way **will be maintained in place by the MUNICIPALITY at no cost to the STATE**, including cost to provide electrical power, all in conformance with 23 V.S.A. Section 1025 and the applicable edition of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices (MUTCD)*. Once constructed, any changes made to the parking and/or traffic control features by the MUNICIPALITY shall be in accordance with the current MUTCD and applicable MUNICIPAL, STATE, and Federal Highway Administration standards. No changes shall be made that impact the allocation of space for bicycles, pedestrians, and/or vehicles within the project limits without the prior written approval from the STATE and the Federal Highway Administration.

15. Cancellation or Default by State. If, due to the failure of the STATE, the Project is not constructed, then all costs incurred shall be borne in full by the STATE.

16. Cancellation or Default by Municipality. If at any time prior to award of a construction contract, the MUNICIPALITY no longer desires to proceed with the Project, then the MUNICIPALITY may request cancellation subject to the following conditions:

- a. If the MUNICIPALITY does not approve the Base Technical Concept Plans, the Project will be canceled, and the STATE shall reimburse the MUNICIPALITY for one hundred percent (100%) of all costs incurred by the MUNICIPALITY.
- b. If Base Technical Concept Plans have been approved by the MUNICIPALITY and the Low Bid exceeds the Base Technical Concept Plans estimate by fifty percent (50%) or more, the MUNICIPALITY may request cancellation of the Project and shall be liable for its proportionate share of all costs incurred to date for the Project, as specified in Section 1 above.
- c. If Base Technical Concept Plans have been approved by the MUNICIPALITY and cost estimates have not increased more than that specified in Section 16(b) above, the MUNICIPALITY may request cancellation of the Project, subject to payment by the MUNICIPALITY to the STATE for one hundred percent (100%) of all costs incurred to date for the Project.
- d. Should the project be canceled by the MUNICIPALITY or otherwise not advance to construction because of any act or omission of the MUNICIPALITY, including not exercising its eminent domain powers, then the MUNICIPALITY will reimburse the STATE in full for one hundred percent (100%) of all costs incurred to date for the Project.

17. Cancellation of Project Because of Circumstances Beyond Either Party's Control. If, due to circumstances beyond the control of the STATE or the MUNICIPALITY, the Project is not constructed, then all costs incurred to date for the Project shall be shared as specified in Section 1 above.

18. Municipally-Incurred Engineering Expenses; Invoices; Payment. The STATE will reimburse the MUNICIPALITY for reasonable engineering and design-related expenses incurred by the MUNICIPALITY for the Project. Other municipal staff activities that are eligible for reimbursement are: acting as the MUNICIPALITY'S spokesperson for the project; acting as a liaison between the STATE and city councils, commissions, permitting personnel; attending all Project meetings or public presentations; and disseminating project information to the public and performing public outreach activities.

The MUNICIPALITY will submit eligible municipally-incurred engineering actual costs within an itemized invoice to the STATE. The STATE will reimburse the MUNICIPALITY for eligible costs on the basis of monthly progress billings received from the MUNICIPALITY.

19. Livable Wages. The STATE shall include the **Livable Wage, Union Deterrence, and Outsourcing City of Burlington Ordinances** in the contract documents together with the applicable certifications. The MUNICIPALITY shall assume the financial responsibility thereto and shall be responsible for all administration of compliance with the aforesaid ordinances. The MUNICIPALITY shall not seek to terminate the contract on the basis of any enforcement action of these ordinances during the performance of the contract.

20. Cancellation by the City of Winooski. Should the CITY OF WINOOSKI request to cancel the project, the STATE will meet with the MUNICIPALITY to discuss options for advancing the project. If the STATE and MUNICIPALITY are not able to reach a solution to advance the project within 6 months from the date the CITY OF WINOOSKI requests to cancel the project, the STATE or the MUNICIPALITY reserve the right to cancel the project as specified in Provision 17 and all costs incurred to date for the Project shall be shared as specified in Section 1 above.

21. Failure to Secure Municipality Funds. If all reasonable efforts have been made to pass a vote authorizing a bond for the necessary municipality funds and these efforts are unsuccessful, either by the MUNICIPALITY or the City of Winooski, this circumstance is considered a circumstance beyond either party's control and will allow the MUNICIPALITY to cancel the project as specified in Provision 17 and all costs incurred to date for the Project shall be shared as specified in Section 1 above.

22. Interpretation of Agreement. If an ambiguity or question of intent arises with respect to any provision of this Agreement, the Agreement will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of authorship of any of the provisions of this Agreement.

23. Section Headings. The section headings contained in this Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.

24. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

25. Attachments. The following attachment(s) are incorporated to and made a part of this Agreement:

Attachment C: Standard State Provisions for Contracts and Grants
Attachment D: Other Agreement Provisions
Attachment E: Additional ROW Provisions
MUNICIPALITY Certificate of Coverage/Insurance

26. Order of Precedence. Any ambiguity, conflict or inconsistency in the Agreement Documents shall be resolved according to the following order of precedence:

- 1) Attachment D
- 2) Attachment C
- 3) Attachment E
- 4) Standard Agreement

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS FINANCE AND MAINTENANCE AGREEMENT.

By the **STATE OF VERMONT AGENCY OF TRANSPORTATION:**

Date: _____

Signature: _____
Secretary of Transportation and Duly Authorized Agent

Name: _____

By the **MUNICIPALITY:**

Date: _____

Signature: _____
Duly Authorized Agent

Name: _____

Title: _____

ATTACHMENT C**STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS****REVISED DECEMBER 7, 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 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: 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.iii 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 AGREEMENT PROVISIONS

Attachment D is made a part of this Agreement for the purpose of adding agreement-specific provisions not included in the Standard Finance and Maintenance Agreement, or for incorporating revisions to the Standard Finance and Maintenance Agreement and/or other included Attachments.

The following Provisions are hereby incorporated into this Agreement;

27. Project Use of Municipally Owned Land. In accordance with 19 V.S.A. Section 309a(d), the fair market value of any land outside existing highway rights-of-way that is donated by the MUNICIPALITY and used in the project shall be credited to the MUNICIPALITY's share of the project costs subject to the provisions of 23 U.S.C. Section 323 with respect to a federal-aid project.

28. Marketing Consent. In accordance with Attachment C, the STATE provides consent for the MUNICIPALITY to refer to the STATE in any publicity materials, information pamphlets, press releases, research reports, advertising, or marketing materials or similar communications to third parties that are directly associated with the Project.

29. Vermont Public Records Act. The parties acknowledge and agree that this Agreement, any and all information shared by the parties in connection with this Agreement, and any obligations of a party to maintain the confidentiality of information are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. Section 315 *et seq.* Each party will promptly notify the other party of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential Data so that the other party may seek an appropriate protective order.

ATTACHMENT E

STANDARD FINANCE AND MAINTENANCE AGREEMENT FOR FEDERAL-AID PROJECTS ADDITIONAL ROW PROVISIONS (FOR USE UNDER ATTACHMENT E FOR APPLICABLE PROJECTS)

1. Acquisition of Additional Right-of-Way.

- a. **TECHNICAL ASSISTANCE FROM STATE.** This project may require the temporary or permanent acquisition of lands or rights outside existing highway rights of way. The STATE will assist the MUNICIPALITY in acquiring such lands or rights in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, 84 Stat. 1894, as amended, and the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. No. 100-17, 101 Stat. 246-256, as amended, provided that the lands or rights can be acquired by agreement at fair market value, and with the understanding that if condemnation is necessary the MUNICIPALITY must be the condemning authority, as hereinafter provided.
- b. **RECORD KEEPING AND REPORTS.** In accordance with 49 CFR § 24.9 (Recordkeeping and Reports) the MUNICIPALITY will maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment.
- c. **ACQUISITION IN NAME OF MUNICIPALITY.** The STATE will perform right of way work for the Project and, as agent for the MUNICIPALITY, will assist the MUNICIPALITY with negotiating purchase of lands or rights required for the Project. Title to all lands or rights acquired for the Project shall vest in the MUNICIPALITY immediately upon acquisition.
- d. **USE OF MUNICIPAL EMINENT DOMAIN POWERS.** If any of the lands or rights needed for the Project cannot be acquired by negotiation, it is agreed and understood that the MUNICIPALITY will exercise its eminent domain powers. In such cases, the STATE will notify the MUNICIPALITY of the need for condemnation. Within 30 days upon receipt of notice from the STATE, the MUNICIPALITY will commence the condemnation process via direct communication by approved MUNICIPAL legal representation (see parts e and f below), in consultation with VTrans' legal counsel.

The MUNICIPALITY agrees to make every reasonable effort to condemn at the fair market value price, as determined by the STATE's reviewing appraiser, but may condemn at a price which exceeds the approved fair market value price if facts set forth at a hearing warrant a higher award. The STATE reserves the right to approve or disapprove the portion of such an award that is in excess of the fair market value determined by the STATE's reviewing appraiser. If the MUNICIPALITY makes an award higher than the fair market value price determined by the STATE's reviewing appraiser without the prior written approval of the STATE, the MUNICIPALITY may be required to bear the entire cost of the excess amount over the STATE's approved fair market value price.

- e. **USE OF PRIVATE LEGAL COUNSEL.** Before authorizing any private lawyer or law firm to begin any legal work involving condemnation of lands or rights needed for the Project, the MUNICIPALITY shall enter into a contract for legal services with the lawyer or law firm. The

contract must be approved by the STATE and the Federal Highway Administration and, to ensure the maximum participation of federal-aid funds, shall include the following:

- i. A recital of the qualifications and experience of the lawyer or law firm in areas of property law.
 - ii. A requirement that all legal work must be performed in accordance with Vermont laws and 23 CFR § 710.305 (Acquisition) and 49 CFR Part 24 (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs).
 - iii. The estimated cost of legal services on a lump sum or hourly rate, including a breakdown that specifies salaries, costs of materials and any other direct or indirect costs. No legal work shall be commenced which will exceed the lump sum estimate without first obtaining the approval of the STATE and the Federal Highway Administration. Failure to obtain such approval may result in the MUNICIPALITY's bearing the entire cost of such excess.
- f. **USE OF STAFF COUNSEL.** The MUNICIPALITY may choose to be represented by a lawyer who is a municipal official or employee. However, in such event compliance with 23 CFR § 710.203 (Funding and Reimbursement) by the MUNICIPALITY is a prerequisite to reimbursement of otherwise eligible legal expenses.
- g. **APPROVAL OF LEGAL REPRESENTATION IN OTHER PROJECT-RELATED MATTERS.** The MUNICIPALITY may be denied reimbursement for costs of legal representation for Project-related matters other than preparation for and trial of condemnation cases unless it has secured the prior approval of the STATE and the Federal Highway Administration. Matters in this category include, but are not limited to, Act 250 and other environmental permitting, defense of claims by abutting property owners, and defense of contractor claims.
- h. **REIMBURSEMENT OF APPROVED LEGAL COSTS.** Legal costs incurred by the MUNICIPALITY that are eligible for federal participation shall be included in the right of way costs of the Project. Reimbursement to the MUNICIPALITY of its shares of these costs by the STATE, upon receipt of properly itemized invoices, shall be in accordance with the cost distribution as hereinafter set forth. Payment for these legal costs shall be in accordance with the cost principles established by 48 CFR Chapter 1 Parts 1-18 of the Federal Acquisition Regulations and/or Federal Highway Administration policies. The MUNICIPALITY must comply with these federal cost principles to assure maximization of federal participation in these costs.
- i. **NOTIFICATION AS TO COURT APPEALS.** At the expiration of the period during which an affected party can seek judicial review of condemnation awards made by the MUNICIPALITY, the MUNICIPALITY shall send written notification to the STATE either setting forth the names of the appealing landowners or attesting to the fact that no appeals have been taken.
- j. **WARRANTY AS TO ADEQUACY OF MUNICIPAL RIGHTS OF WAY.** The MUNICIPALITY agrees to defend, save harmless and indemnify the STATE, its officers, agents and employees, from all suits, actions or claims for damages sustained by abutting or adjacent property owners or occupants because of the inadequacy of the rights of way furnished the Project by the MUNICIPALITY.

Attachment 2. Draft Budget Amendment

CITY OF BURLINGTON, VT
PROJECT BUDGET AMENDMENT REQUEST

Department: DPW **Requested by:** Laura Wheelock/Maddy Suender **Date:** DRAFT

Briefly explain the reason for the amendment:

To allocate funds into the 843 VTRANS Grant - Winooski Bridge in support of the DPW staff time expenses that are eligible for reimbursement as well as BED MOU for lighting design.

Dept. Head Approval (under 10k)

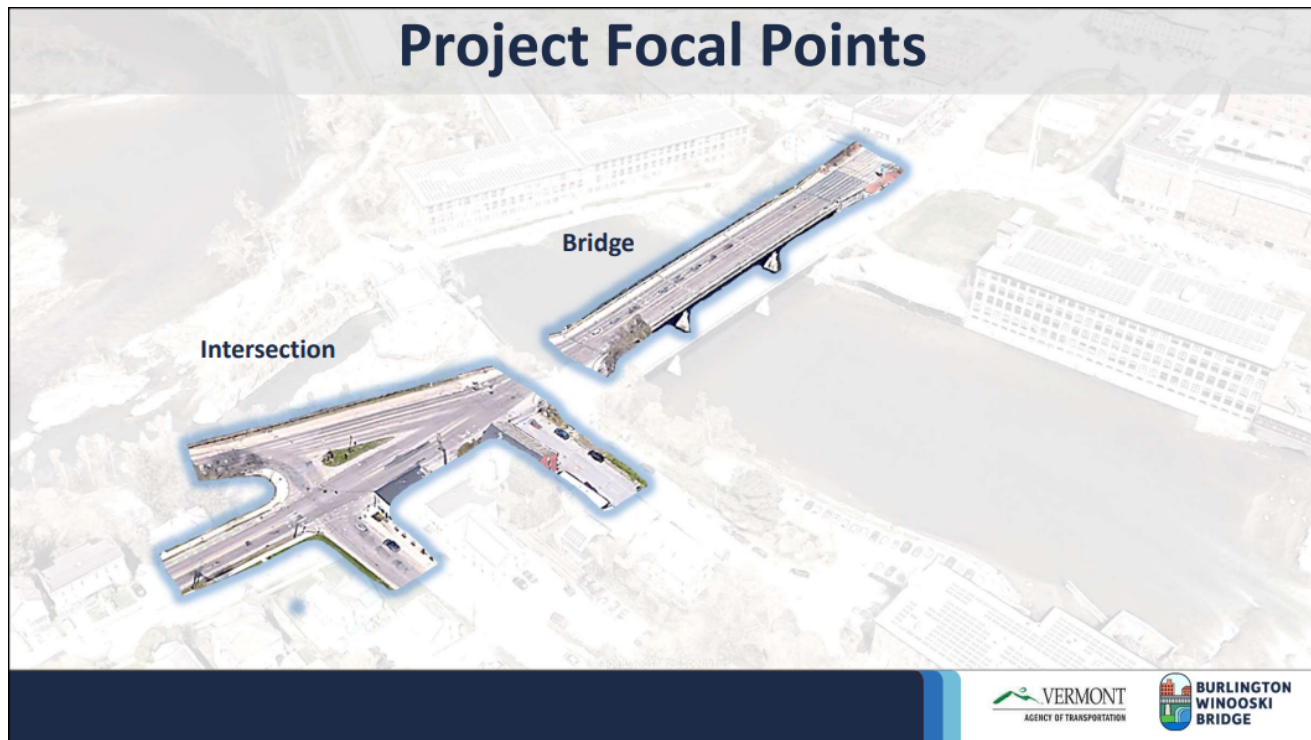
Chief Administrative Officer Date (10k to 24,999)

Mayor Date (25K - 50K)

BUDGET AMENDMENT DETAILS

Org Set	GL Account	Account Name	Project/Sub/Detail Name	Increase/ (Decrease)
843-19-700	4875_130	VTRANS Grants, Public Works, Capital Projects.Grants - Federal Capital Indirect	843 VTRANS Grant - Winooski Bridge -	177,600
843-19-700	4875_135	VTRANS Grants, Public Works, Capital Projects.Grants - State Capital	843 VTRANS Grant - Winooski Bridge -	22,200
843-19-700	4885_100	VTRANS Grants, Public Works, Capital Projects.Local Share - Outside Agencies	843 VTRANS Grant - Winooski Bridge -	11,100
843-19-700	9500_100	VTRANS Grants, Public Works, Capital Projects.Capital Outlay - Construction	843 VTRANS Grant - Winooski Bridge -	222,000

Attachment 3: Project Area Map



An Equal Opportunity Employer

This material is available in alternative formats for persons with disabilities. To request an accommodation, please call 802.863.9094 (voice) or 802.863.0450 (TTY).

Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Madeline Suender
 Burlington - Winooski Bridge Finance and Maintenance Agreement Acceptance: BF
 Title/Subject: RAIZE(2) – FM0449

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	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	4/1/2024	Chapin Spencer
Mayor's Office informed and approved memo	N/A	N/A	N/A
Board/Commission, if required	N/A	N/A	N/A
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/2/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/2/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/2/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	N/A	N/A
CIO, if an IT-related investment/purchase	N/A	N/A	N/A

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Memo - BOF CC RAISE Winooski Bridge
Contract Attached, if applicable?	Yes	Memo Attachment 1: FM0449
Additional Materials, if necessary	Yes	Memo Attachment 2/3: Draft Budget Amendment/Map
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Yes	BOF



MEMORANDUM

TO: Board of Finance / City Council

FROM: Megan Moir and Steve Roy, DPW - Water Resources

DATE: April 9, 2024/ April 15, 2024

CC: Chapin Spencer, DPW Director

RE: Authorization to Execute a Contract with Hallam ICS for Supervisory Control and Data Acquisition (SCADA) System Upgrade at Water Plant

REQUEST:

The Department of Public Works (DPW) and its Water Resources Division (WRD) seeks authorization to execute a contract with Hallam-ICS to complete a Supervisory Control and Data Acquisition (SCADA) upgrade at the Water Plant, for a total not to exceed contract amount of \$110,000, including contingency.

BACKGROUND:

Programmable Logic Controllers, or PLCs, are specialized industrial machines that control automated processes for industry and utilities. In the case of Burlington's water plant, PLCs receive input from operations staff plus data from online equipment to perform many calculations each second to control pump speeds, chemical addition and filtration, as well as provide alarming and much more. They are the hardware end of a SCADA system. The software end includes computers running HMI (Human Machine Interface) software that allow operations staff to communicate with these PLCs. These systems are critically important to supporting plant operations, keeping our water supply safe and meeting the State's drinking water quality standards. Since they need to operate 24/7, SCADA systems require both hardware and software maintenance or replacement before they fail or become obsolete. The Water Plant's SCADA capital investment history to date is as follows:

- In 1995, a SCADA computer with software was installed to monitor and alarm plant processes. This system replaced paper recording charts.
- From 1995 to 2010, four (4) filter room PLCs were installed to replace a single obsolete PLC to control automatic backwashing of filters. The single SCADA computer with HMI software was replaced every five (5) years before failure would occur.
- With the exception of the above filter room PLCs, the water plant's SCADA and PLC system got a full upgrade in 2010 after receiving approval from Board of Finance & City Council. Since that time, we've had to perform minor maintenance or upgrades to HMI computers and software.
- In 2020 two (2) industrial computers were installed with the latest HMI software to drive all of the SCADA screens that operators use constantly to monitor and control our plant.
- In 2021 the Board of Finance and City Council approved an amendment to the 2020 contract with Hallam-ICS to replace the PLC CPUs (Central Processing Units) to start migration to an industry standard PLC brand (Allen-Bradley) and to match Wastewater's SCADA hardware.

Modernizing these PLCs is critical for the safe and reliable operation of Burlington’s sole drinking water treatment plant. That said, these control systems are just one of many systems in the plant – and many of the other systems are also at, or nearing, end of life. The last time the water plant was comprehensively upgraded was in the early 1980s – forty years ago. Staff is initiating a planning and design process that will result in proposed comprehensive plant modernization project to be implemented in the next 2-3 years.

SCADA/PLC REQUEST FOR QUALIFICATIONS

WRD released an updated Request for Qualifications in December 2023 for companies to provide SCADA/PLC Services. This RFQ included a weighted scoring system that included understanding of the scope of work, experience of proposed staff with similar projects, technical qualifications of proposed staff, knowledge of the project area, ability to meet budget/deadlines, and quality of the proposal. Two proposals were received, one from Hallam-ICS in South Burlington, who has provided system integration services to Burlington Water for the last 25+ years and one from Global Data Specialists in Mesa, Arizona. Two Water Resources engineers reviewed these proposals with Hallam-ICS receiving an average score of 95 and Global with an average score of 44 out of a possible 100 points. Staff recommended awarding the contract for this work with Hallam-ICS based on their qualifications.

FINAL SCADA UPGRADE TO ALLEN-BRADLEY

There are two (2) pieces to a complete migration to Allen-Bradley PLCs, with Hallam-ICS providing all material and labor to complete these projects.

Phase A: Replacement of the four filter room PLCs to Allen-Bradley hardware and software.

Phase B: Replacement of 2010 Treatment Plant input/output (I/O) modules with software programming to recognize all the new hardware.

Phase A Material & Labor Estimate: \$60,600 with ~5% contingency

Phase B Material & Labor Estimate: \$49,400 with ~5% contingency

TOTAL w/contingency \$110,000

There are funds available for Phase A in FY 24 with remaining budget (including FY23 carry forward) in 460-19-400-410.9500 Capital Outlay for Water Production. WRD intends to fund Phase B next fiscal year (FY25) pending FY25 Budget approval. The City Standard Contract Conditions include a non-appropriation clause that protects the City in the event of funds not being approved in a future budget year.

MOTIONS:

The Department of Public Works and its Water Resources Division respectfully requests the following actions:

Board of Finance Action:

1. “To approve and recommend that the City Council authorize the Director of the Department of Public Works to award a contract with Hallam-ICS for up to \$110,000 to complete the SCADA upgrade scope at the Water Plant, subject to the final review and approval of the City Attorney’s Office.”

City Council Action:

1. "To authorize the Director of the Department of Public Works to award a contract with Hallam-ICS for up to \$110,000, to complete the SCADA upgrade scope at the Water Plant, subject to the final review and approval of the City Attorney's Office."

Thank you for your consideration of this request.

Board of Finance and City Council Submission Checklist

Department: DPW Submitter: Megan Moir / Steve Roy

Title/Subject: SCADA System Upgrade at Water Plant

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	Concurrent	

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	3/22/2024	Approved with minor edits
Mayor's Office informed and approved memo	No	Click or tap to enter a date.	Click or tap here to enter text.
Board/Commission, if required	No	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		
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/2/24	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/2/24	Approved
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	Attached to BOF & CC listserve
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

Board of Finance and City Council Submission Checklist

Department: DPW Submitter: Megan Moir / Steve Roy

Title/Subject: Rebuild of Three Finished Water Pumps at Water Plant

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	4/15/2024
☐	Concurrent	

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	3/22/2024	Approved with minor edits
Mayor's Office informed and approved memo	No	Click or tap to enter a date.	Click or tap here to enter text.
Board/Commission, if required	No	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			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	4/2/24	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/2/24	Approved
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	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



MEMORANDUM

TO: Board of Finance and City Council

FROM: Megan Moir and Steve Roy, DPW - Water Resources

DATE: April 9, 2024/April 15, 2024

CC: Chapin Spencer, DPW Director

RE: Authorization to Execute a Contract with Corrosion Products & Equipment for the Rebuild of Three Finished Pumps at Water Plant

REQUEST:

The Department of Public Works (DPW) and its Water Resources Division (WRD) seeks authorization to award a contract with Corrosion Products & Equipment (CPE) to rebuild all three (3) of our finished water vertical turbine pumps.

BACKGROUND:

The City of Burlington's Water Treatment Plant (WTP) has three (3) 1982 vintage Fairbanks-Morse five-stage 15H-7000 vertical turbine pumps installed in a clearwell. These pumps, designated as finished pumps F5, F6 & F7, have relatively low runtime hours (17K – 19K) and have not been operated since around 1993. The pumps are coupled to GE 350HP 4160V motors that were maintained and are believed to be in good condition. Once rebuilt, these pumps could be reused for general and emergency finished water pumping operations, adding critical redundancy and resiliency to WTP operations. Currently the WTP relies on the finish water pumps (F1 – F4) in the pump house building just across the alley to the north of the main WTP building to deliver potable water to the City. Currently, if there were a failure in the piping between the main WTP building over to the pump house or leaving the pump house or of there were an incident at pump house, the WTP has no way to supply water to the City. This redundancy and resiliency project will eliminate that particular risk.

In January 2023, pump F5 was craned out of the Water Treatment Plant to determine if the pump was capable of being rebuilt. Peak Motor & Pump in Fairfax, Vermont removed the pump from our premises, disassembled it and determined that pump F5 was capable of being rebuilt. Peak has been compensated for their evaluation of pump F5 to date.

Providing this finish water pump redundancy better ensures the safe, reliable and resilient operation of Burlington's sole drinking water treatment plant. These finish water pumps are just one of many systems in the plant – and many of the other systems are also at, or nearing, end of life. The last time the water plant was comprehensively upgraded was in the early 1980s – forty years ago. Staff is initiating a planning and design process that will result in proposed comprehensive plant modernization project in the next 2-3 years. We fully expect that the rebuilt finish water pumps can be designed around as part of the proposed modernization project so the benefit of this initial work will not be lost when the comprehensive plant upgrade occurs.



Pictures of pump motor and pump getting removed from Water Plant

RFP RELEASE

Due to the anticipated cost of the rehabilitation of all three (3) pumps the WTP, following required City procurement requirements, publicly released a Request for Proposals (RFP) on February 1, 2024 with a due date of February 23, 2024. Our RFP required not only the bid sheet and signed ordinances, but also a client list with similar sized projects. We received proposals from three (3) companies for rebuilding our pumps. The summary of these proposals is as follows:

<u>COMPANY/LOCATION</u>	<u>EXPERIENCE WITH SIMILAR PROJECTS</u>	<u>TOTAL BID PRICE</u>
Peak Motor & Pump (VT)	No, largest vertical turbine pump was 40 HP	\$174,000.00
Farrar (NH)	Yes, mentioned 600 HP pumps for Stratton	\$172,178.05
CPE (MA)	Yes, rebuilt 350 HP and 200 HP pumps locally for Champlain Water District and UVM	\$165,900.00

Water Resources recommends awarding a contract with Corrosion Products & Equipment (CPE) for a Not-to-Exceed price of \$182,500 which includes a 10% contingency. Our RFP's scope of work had to be very specific to receive equal bids and given the age of these pumps other issues may arise when taken completely apart for rebuild. For reference, a brand new pump & motor costs around \$150K each, compared to CPE's average rebuild cost per pump of \$55.3K.

There are funds available (\$62,000) for one pump to be rebuilt in FY24 with remaining budget (including FY23 carryforward) in 460-19-400-410.9500 Capital Outlay for Water Production, including adequate contingency. We intend to fund the other two pumps in FY25 pending FY 25 budget approval. The City Standard Contract Conditions include a non-appropriation clause that protects the City in the event of funds not being approved in a future budget year.

MOTIONS:

The Department of Public Works and its Water Resources Division respectfully requests the following actions:

Board of Finance Action:

1. "To approve and recommend that the City Council authorize the Director of the Department of Public Works to award a contract with Corrosion Products & Equipment for up to \$182,500 to complete the rebuilding of the Water Plant's three (3) Vertical Turbine finished pumps, subject to the final review and approval of the City Attorney's Office."

City Council Action:

1. "To authorize the Director of the Department of Public Works to award a contract with Corrosion Products & Equipment for up to \$182,500, to complete the rebuilding of the Water Plant's three (3) Vertical Turbine finished pumps, subject to the final review and approval of the City Attorney's Office."

Thank you for your consideration of this request.



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: Board of Finance
FROM: Brian Pine, CEDO Director
Samantha Dunn, Assistant Director for Community Works
CC: Katherine Schad, Chief Administrative Officer
DATE: April 2, 2024
RE: Sale of 200 Church St.

This memo provides background and the rationale for the administration's intentions to sell 200 Church St. to Burlington Telecom (aka Champlain Broadband).

While the City generally prefers to retain City its real estate assets, we are providing information about the unique characteristics of this property and the very limited funds available for the City to make capital improvements to other City assets that justify divesting this asset.

The property, which was constructed in 1958, includes 15,000 square feet of office space on three floors. The City acquired the property in 2005 from a local telecom company for the purposes of establishing Burlington Telecom. The City retained ownership in 2014 when the City transferred ownership of Burlington Telecom (BT) to Blue Water Holdings. Since before the 2014 transaction occurred, BT has occupied both the basement and the 2nd floor. The Network Operation Center, which functions as the central hub from which all BT services operate, is in this building.

The City's Human Resources/Payroll Department and CEDO's Community Justice Center (CJC) currently occupy the first floor. The CJC is planning to relocate at the end of 2025 to the ground floor of the new building being developed by Champlain Housing Trust at 176 South Winooski Avenue. The City's intention is to secure suitable replacement space for the HR Department and the Payroll team before the end of 2025 or, as is explained below, BT has offered to negotiate a lease at market rate.

The December 2017 Asset Purchase Agreement (APA) (which dictates the terms of the sale between Blue Water Holdings, the City of Burlington and Burlington Telecom) stipulates the lease terms between the City and BT and it contains an option in favor of BT that is triggered when the third lease period begins on July 1, 2029. This means that BT has the right to unilaterally compel the City to convey the property at any time during the third lease period. It was always envisioned by the City that BT would buy the subject property during the third lease period since the building does not serve the general public and yet it serves such a critical role in the BT network.

In addition to the property being subject to the APA terms, it is important to note the building is in need of major capital investment at this time. While the rubber membrane roof has been patched, it will require complete replacement in the near future. The more pressing matter is that the HVAC system has exceeded its useful life and must be replaced before the upcoming cooling season starts in the coming

weeks. The order of magnitude cost for this upgrade is between \$850,000 and \$1.2 Million. There is no capital reserve account for this specific building so the cost for this work must come from the City's annual capital plan for other priorities like streets, sidewalks and other critical repairs to City buildings.

In light of the above legal and financial conditions, we have negotiated with BT for the sale of the property under these broad terms:

- A purchase price was derived using the averages of two independent appraisals and calculating the Income Capitalization Approach (confidential amount to be shared in expected Council executive session). This is a standard approach with commercial real estate valuation.
- Parties will execute a binding Contract in May 2024 with the sale of the building taking place in early 2025 (confidential draft contract will also be shared in executive session)
- After executing the Contract, BT will immediately undertake the needed upgrades to both the roof and HVAC systems at their cost and under their management
- City departments will remain in the building until 12/31/25 rent-free with the City paying a pro rata share of operating costs. The City currently pays for the operating costs associated with the space used by City staff so this represents no change in how those costs are covered.
- If the City departments are unable to relocate by the end of 2025, BT will extend this offer to 3/31/26, at which time BT has expressed willingness to negotiate a lease at market rate for the space if desired
- City will retain the right to review and approve the project specifications to protect the asset should the sale not reach fruition.
- If the sale does not reach closing due reasons outside of BT's control, the City will reimburse BT for these capital costs. The City will be responsible only for unamortized costs, i.e., the costs will be amortized over the useful life of the improvements, and the City will pay the costs from the date the P&S is terminated through said useful life.
- Once the P&S is executed, BT would only be obligated to pay the pro rata share of their operating costs rather than the rent that they are currently paying to the City. This amount will be determined based upon the City's accounting of operating expenses, but is certain to be less than the current rent in the amount of \$10,356 being paid by BT.

When the binding option that is triggered at the start of the 3rd lease period is taken into consideration with the significant unfunded capital improvements that are needed in the coming months along with the very limited public benefit of owning this property, we are confident that the City's interests are best served by proceeding with the execution of the Contract. Once the Board of Finance has weighed in on the direction proposed in this memo, we intend to request time in executive session at the April 15 Council meeting for a more detailed discussion of the terms of the transaction, and then return for final Council approval on May 6. Moving forward with this transaction in early May is necessary for the required HVAC improvements to be bid and contracted before the cooling season begins.

Board of Finance and City Council Submission ChecklistDepartment: CEDO Submitter: Brian PineTitle/Subject: Update on proposed sale of 200 Church St.

	Approval:	Meeting Date:
☒	Board of Finance	4/9/2024
☒	City Council	5/6/2024
☐	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	4/1/2024	Brian Pine
Mayor's Office informed and approved memo	N/A	Click or tap to enter a date.	Not submitted per CAO guidance
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.	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	4/3/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/2/2024	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	Update memo only
Contract Attached, if applicable?	No	N/A
Additional Materials, if necessary	Yes	N/A
Draft Resolution or Motion?	Yes	No action at this time
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.