Board of Finance

Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall

Please click the link below to join the webinar:
https://zoom.us/j/99593919684
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Webinar ID: 995 9391 9684

****CCTV link: https://www.youtube.com/playlist?list=PLljLFn4BZd2PwCge7lNoKug676jIf_iUA ****

1. Agenda

Subject	**1.1. Motion to amend/adopt agenda**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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

2. Public Forum

Subject	**2.1. Verbal Comments**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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 Public Forum close Public Forum

3. Consent Agenda

Subject	**3.1. Motion to adopt the consent agenda and take the actions indicated**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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 and take the actions indicated

Subject	**3.2. April 15, 2024 Special Board of Finance Meeting Minutes, Draft**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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. BPRW Budget Neutral Amendments - BPRW**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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 budget neutral adjustments as detailed in the attached budget amendment forms, and further authorize the Chief administrative Officer or designee to effect all necessary transfers of funds to carry out such amendments, subject to the final review and approval of the Chief Administrative Officer

Subject	**3.4. Authorization to Execute Easements with UVM Regarding the Redstone Water Storage Tank Site - DPW - Water Resources**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall

Category	3. Consent Agenda
Department	Public Works Department - Water Resources
Type	Action (Consent)
Recommended Action	1. To authorize the City Council to approve and authorize the Mayor to execute an easement to allow the City access to UVM property for the purposes of project staging and to access to its parcel located at 354 South Prospect Street for inspection and maintenance. 2. To authorize the City Council to approve and authorize the Mayor to execute an easement to allow UVM access to its parcels through the City site located at 354 South Prospect Street.

Subject	**3.5. ONE Cleanup/Cleanout Proposal - Ward Two City Councilor Gene Bergman**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Council and Board
Type	Action (Consent)
Recommended Action	to recommend to the City Council that it approve the expenditure of up to $5,000 from City Council Initiative Funds to support the ONE clean-up in May 2024 and to authorize the Chief Administrative Officer to reimburse expenses up to $5,000 for this event accordingly

Subject	**3.6. BED Heat Pump Bill Credit Program and Commercial Demand Response Program - BED**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Burlington Electric Department
Type	Action (Consent)
Recommended Action	The Board of Finance recommends that the City Council approve the General Manager of Burlington Electric Department, or his designee, to file with the Vermont Public Utility Commission a pilot rate to provide a monthly bill credit and/or a pilot rate to customers installing BED approved measurement and control devices on electric heating systems.

4. Deliberative Agenda

Subject	**4.1. Distribution and Collection System Improvements - Consultant Amendment and Contractor Budget Amendment - DPW - Water Resources**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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	1. To approve and recommend that the City Council authorize Chapin Spencer, the Director of Public Works, to execute an amendment in the amount of $196,785.00 for Calendar Year 2024 administration and inspection services, for a total contract value with Dubois and King not to exceed $743,076.00, provided that all these authorizations are contingent on the contract and any amendment thereto having the prior approval of the City Attorney and Chief Administrative Officer. 2. To approve and recommend that the City Council authorize Chapin Spencer, the Director of Public Works, to execute an amendment in the amount of $135,000.00, for a total Distribution and Collections System contract value with Inliner not to exceed $8,136,131.13 provided that all these authorizations are contingent on the contract and any amendment thereto having the prior approval of the City Attorney and Chief Administrative Officer.
Subject	**4.2. Lease Agreement for the Community Justice Center at Post Apartments - CEDO/CJC**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Community & Economic Development Office (CEDO)
Type	Action
Recommended Action	that the Board of Finance approve, and recommend that the City Council approve and authorize the Mayor to execute, the proposed 15-year lease between the City of Burlington and Post Apartments Housing Limited Partnership for office space located at 176 S. Winooski Avenue, to be used to house the Community Justice Center
Subject	**4.3. Potential Sale of 200 Church St - CT/CEDO/I&T**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Community & Economic Development Office (CEDO)
Type	Action
Recommended Action	1. Approve, and recommend that the City Council approve and authorize the Mayor to execute on behalf of the City, the proposed Purchase Option Exercise Agreement and License and Use Agreement with Champlain Broadband, LLC, for the sale and use of 200 Church Street. 2. Authorize, and recommend that the City Council authorize, the Chief Administrative Officer to: establish a separate fund in the Assigned Fund Balance to accept the proceeds of the sale of 200 Church Street; make any expenditures required to carry out the Purchase Option Exercise Agreement and License and Use Agreement; and make all necessary budget transfers in relation thereto

5. FY25 General Fund Budget Update

Subject	**5.1. FY25 General Fund Budget Update**

Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	5. FY25 General Fund Budget Update
Department	Clerk/Treasurer's Office
Type	Discussion Information Presentation

6. Adjournment

Subject	**6.1. Motion to adjourn**
Meeting	April 29, 2024 - Board of Finance Meeting - Monday, April 29, 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
SPECIAL MEETING
BUSHOR CONF. ROOM, FIRST FLOOR, CITY HALL *OR*
REMOTE MEETING WITH CALL-IN NUMBER
BURLINGTON, VERMONT
MINUTES OF MEETING
DRAFT
April 15, 2024

MEMBERS PRESENT:
Ben Traverse
Mark Barlow
Sarah E Carpenter (via Zoom, then in person at 5:26 PM)
Joe Kane (at 5:02 PM)
Emma Mulvaney-Stanak

OTHERS PRESENT:
Katherine Schad
Kerin Durfee
Kyle Blake
Ashley Parker
Joe Turner
Brian Pine
David White
Nathan Lavery

1.0 CALL TO ORDER and AGENDA

1.1 Motion to amend/adopt the agenda
Mayor Mulvaney-Stanak called the Board of Finance meeting to order at 5:01 PM

MOTION by Councilor Barlow, SECOND by City Council President Traverse to adopt the agenda.

VOTING: unanimous; motion carries (Councilor Kane absent for vote).

2.0 PUBLIC FORUM

2.1 Verbal Comments
None.

3.0 CONSENT AGENDA

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

3.2 Approval to Execute Master Lease – C/T – approve and recommend that the City Council authorize Katherine Schad, Chief Administrative Officer, or designee, to execute a Tax-Exempt Lease Purchase with NBT Bank for the amount of $1,092,704 with an annual payment of $177,454 to be paid out of Water Resources, and Recycling Budgets within the approved Fiscal Year 2024 Budgets subject to review by the City Attorney's Office.

MOTION by City Council President Traverse, SECOND by Councilor Kane, to adopt the consent agenda and take the actions indicated for items 3.1-3.2.

VOTING: unanimous; motion carries.

4.0 DELIBERATIVE AGENDA

4.1 Memorandum of Agreement Between Burlington Fire Fighters Association (BFFA) and the City of Burlington regarding Retention Bonus, Article 10.5A of the Collective Bargaining Agreement (FY220FY25) – CAO, HR, and Fire
Chief Administrative Officer Schad began by noting that this is the last outstanding item from union contract negotiations between the City and the Burlington Fire Fighters Association (BFFA). She said that the City and the BFFA worked to flesh out the details of a retention bonus program and the amount of funding for the bonus. She said that this has already been voted on by the BFFA union members.

Councilor Kane asked for more detail about the retention issues that this bonus program would address. HR Director Durfee replied that these address some of the concerns raised by firefighters in Burlington, such as staffing shortages and the changing nature of the firefighters' jobs over time (like the launch of the CRT program). BFFA President Blake shared staffing statistics, noting that in the last 5 years, 44 members have left the force, either to retire or to leave the fire service in general. He said that many of the members of the department have between 20 and 25 years of service and are of retirement age, and that this retention bonus would help to prevent the sudden loss of institutional knowledge. He said that this retention bonus could apply to new hires as well as current staff, and does a better job at recognizing and honoring years of service on the force. He said that the intention was to have the previous Council and Administration vote on this, and acknowledged that the timing is not ideal that this is one of the first things needing consideration by the new Council and Administration, but said that this component of the contract is the result of hard work and collaboration between both negotiating parties.

City Council President Traverse expressed his support for BFFA's membership and their hard work.

Mayor Mulvaney-Stanak said that she had been surprised that this hadn't been resolved by the prior administration, but stressed the importance of honoring the hard work done by both parties and the collective bargaining process. She also emphasized the importance of investing in frontline workers, noting similar bonus programs for DPW staff and the Police Department.

MOTION by Councilor Barlow, SECOND by Councilor Kane, to 1. Approve and recommend that the City Council approve and authorize the Fire Chief to execute on behalf of the City, the propose Memorandum of Agreement; and 2. 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 proposed retention bonuses.

VOTING: unanimous; motion carries.

4.2 FY23 City of Burlington Tax Increment Financing District Annual Reports to the Vermont Economic Progress Council (VEPC) – C/T

Capital Program Director Parker began by noting that this is the Fiscal Year 2023 Tax Increment Financing District annual report, which is a required report under State statute to the Vermont Economic Progress Council (VEPC). She said that every year, the City provides an update on both TIF Districts annually.

4.3 Resolution: Authorization for Refinancing City of Burlington's $18,840,000 General Obligation Waterfront Tax Increment Note, Series 2023 – C/T and CEDO
Director Pine summarized this item, noting that it is routine refinancing of project notes, which are different from tax exempt bonds in that they are typically borrowed for a short period of time due to unknown variables that will determine what the final borrowing amount will be through a bond. He said that notes are typically shorter term in nature and are expected to be rolled over for another short term or taken out with permanent financing. He said that there is a project note for consideration here because the total value of the private improvements that drives the tax increment for the project isn't completely known yet. He noted that the north portion of the project is still evolving and developing, though the south portion is able to be fully scoped in terms of value. He said that until the entire project scope is known, they are unable to determine the total value of the tax revenue and thus unable to determine whether they will have the ability to service any bonds associated with the project yet. He also noted that there are grants coming into the project which could entail an expansion of the scope of the project and result in less borrowing for the City. He said that the City's Amended and Restated Development Agreement (ARDA) requires the City to conduct this refinancing, and that it is necessary interim financing to ensure that the City is doing what it needs to do in order to make the wisest decisions with its long-term commitment. He noted that the $18,840,000 was borrowed and placed in a custodial account and hasn't yet been spent, but has been earning additional revenue that has exceeded the cost of borrowing (also known as positive arbitrage). TIF Consultant White added that under the terms of the ARDA, the CityPlace partners are required to pay any net negative costs associated with this note, so that the City is protected financially. He said that this refinancing gives the City time to be able to roll these costs into a permanent debt arrangement, hopefully within the next year.

Councilor Barlow asked for further details about why the City needed to incur the project note and why it had to implement these temporary measures for its TIF financing. Director Pine replied that the legislature gave every TIF District a deadline to have conducting its borrowing, or it loses the TIF opportunity. He said that the ARDA also compels the City to borrow the funds to finance the public improvements component of this project, while the developer is required to deliver a project that generates the tax revenue to service that financing. He said that in order for the City to comport with this requirement, they had to borrow the funding by the end of June, 2023. He noted that voters approved the use of this funding in 2016 and the City is still operating under that approval.

MOTION by City Council President Traverse, SECOND by Councilor Barlow, to recommend that the City Council approve the attached resolution.

VOTING: unanimous; motion carries.

4.4 Resolution: Authorization for Reimbursement from Public Improvement Bonds for School District Capital Improvements for Integrated Arts Academy – BSD
Burlington School District (BSD) Finance Director Lavery said that in addition to speaking to the public improvement bonds for the Integrated Arts Academy, he would also provide an update on the School District's capital plan process more generally. He began by speaking specifically about the IAA project, noting that work has commenced and will begin in earnest once school is out in June, and the project will consist of improvements such as HVAC work on the building. He said that this reimbursement resolution allows the district to use the proceeds of eventual borrowing to reimburse itself for the costs it is incurring now for the project. He then spoke about the school district's capital plan more broadly, noting that there are three main sources of bond authorization for its capital plan (the standing $2 million per year annual

authorization amount, the $19 million voter-approved authorization from 2017 for general capital investments, and the $165 million voter-approved authorization for the high school and technical school from 2022). He noted that the school district has not fully used the voter-authorized amounts yet, but will have mostly exhausted the $19 million with the IAA project.

City Council President Traverse asked how IAA factored into the initial plan for that $19 million general capital investment bond, and asked whether that was anticipated or whether spending money on that project is taking away from any of the other buildings around the district included in the initial plan for that bond amount. Finance Director Lavery replied that in 2017, BSD conducted a high-level estimate of what different district buildings would require in terms of investment, and noted that the IAA was a significant component of that analysis. He said that the timing of the project at IAA now means that it will result in as little disruption or displacement of students and teachers as possible. He noted that IAA hasn't received any significant investment in a number of years, and that it has the greatest capital needs at this time.

MOTION by City Council President Traverse, SECOND by Councilor Barlow, to recommend that the City Council approve the attached resolution.

VOTING: unanimous; motion carries.

5.0 ADJOURNMENT

5.1 Motion to Adjourn

With no further business and without objection the meeting was adjourned at 5:34 PM.

RScty: AACoonradt

MEMO

Date: **April 29, 2024**
To: **Board of Finance and City Council**
From: **Cindi Wight, Director, Department of Parks, Recreation & Waterfront,**
Re: **BPRW Budget Neutral Amendments**

I. Purpose

The Department of Parks, Recreation and Waterfront (BPRW) seeks approval and authorization to amend the BPRW budget as specified below and in the attached budget amendment forms. These are all budget neutral changes.

II. Conservation Legacy Fund

In July 2023, City Council approved thirty percent of the Conservation Legacy Fund for grants for nature-based climate solution projects. The first round of payments to organizations will happen in FY24 and we need to shift funds to the correct general ledger lines.

Parking and Marina

We budgeted to move parking revenue to a new Waterfront Admin program within the Waterfront division as with parking now all on-line or at kiosks, we can no longer separate them by North Beach and Waterfront Operations as we have in the past. Due to the majority of the year still having the revenue going into past parking lines it is a better practice to do a budget adjustment than journal entries. We will ensure all pay codes go to the correct lines at the start of FY25. We also budgeted for the marina fees to separate commercial from seasonal slips but this amendment keeps them together as we have in the past. In FY25 we can separate them to better represent the funding sources for the marina.

Payroll

When individuals were moved from capital to general fund for BPRW they were placed in the admin budget and we are shifting them to the divisions and programs that represent their areas of focus. It includes moving them into Planning, Park Facilities and Central Facilities. In addition, we inadvertently budgeted for one recreation employee incorrectly and adjusting to the correct line.

Marina Security

CT's office required we split security expenditures from Professional and Consultant Services "Contractual Services" budget line to a new budget line, Professional and Consultant Services "Security Contracts." Marina security costs exceed $50,000 per year and we just executed a new security contract for the 2024 boating season. Though the funding was approved in the FY24 budget "Contractual Services" line, BOF approval is required to transfer more than $50,000 to a different budget line in a single fiscal year.

III. Attachment

20240429 BRPW BA Form

VI. DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To approve and recommend that the City Council approve and authorize the budget neutral adjustments as detailed in the attached budget amendment forms, and further authorize the Chief administrative Officer or designee to effect all necessary transfers of funds to carry out such amendments, subject to the final review and approval of the Chief Administrative Officer.

City Council Motion:

To approve and authorize the budget adjustments as detailed in the attached budget neutral amendment forms, and further authorize the Chief administrative Officer or designee to effect all necessary transfers of funds to carry out such amendments subject to the final review and approval of the Chief Administrative Officer.

CITY OF BURLINGTON, VT
BUDGET AMENDMENT REQUEST FY23

Department: BPRW____ Requested By:__Cindi Wight_____ Date:_4/29/24_______

Dept. Head Approval (under 10k) C. Wight **Date:** 4/21/24

Chief Admin Officer/Designee (up to $25k):______________________ **Date:** ____________

Mayor Approval ($25k-$50k): ______________________ **Date:** ____________

Briefly explain the reason for the amendment:

Correcting parking, marina and conservation legacy fund. Going through BOF/CC process

BUDGET AMENDMENT DETAILS

Net Revenues =	-
Net Expenses =	-
Fund Balance =	-

Org Set		GL Account	Type	Account Name	Increase/(Decrease)
101-23-102-000	.	4295	R	Parking Fees	(608,000)
101-23-102-258	.	4295	R	Parking Fees	550,000
101-23-102-257	.	4295	R	Parking Fees	58,000
101-23-102-258	.	4415_110	R	Boat Rental Slips - Seasonal	(440,000)
101-23-102-258	.	4415_100	R	Boat Rental Slips - Commerc	440,000
833-23-700-703	.	9898	E	Unallocated Restricted	(53,724)
833-23-700-703	.	7390_100	E	Pass Through - Sub Grantee	53,724
101-23-102-258	.	6500-118	E	Professional and Consultant Svs Contractual Services	(16,000)
101-23-102-258	.	6500-103	E	Professional and Consultant Svs Security Contracts	16,000
	.				
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Board of Finance and City Council Submission Checklist

Department: BPRW Submitter: Cindi Wight

Title/Subject: BPRW Budget Amendment

	Approval:	Meeting Date:
☒	Board of Finance	4/29/2024
☒	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	4/18/2024	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/21/2024	Joe Magee
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	4/23/24	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/21/24	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	Yes	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

TO: Board of Finance/City Council

FROM: Steve Roy, Water Resources Risk and Resiliency Engineer

DATE: April 29, 2024/May 6, 2024

CC: Megan Moir, Division Director Water Resources
Chapin Spencer, DPW Director

RE: Authorization to Execute Easements with UVM Regarding the Redstone Water Storage Tank Site

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REQUEST:
The Department of Public Works (DPW) through its Water Resources Division (WRD) seeks authorization for the Mayor to execute mutually beneficial easements with the University of Vermont (UVM) in regards to access of our landlocked site at 354 South Prospect Street for inspection, maintenance and project staging and to allow UVM access across the City parcel for their existing driveway.

BACKGROUND:
The City of Burlington has owned a parcel of land at 354 South Prospect since 1880. The parcel contains the City's first water storage tank at ground level and since 1934, has been the site for our elevated water storage tank, which is an important part of the storage system for water users that are at higher elevations in Burlington. All assets on this site are managed by DPW – Water Resources. Rehabilitation of the elevated water tank ("Redstone Tank") was approved by City Council in 2019 as part of a long term Master Service Contract with Utility Services Group[1] and is finally scheduled for implementation this summer.[2] This work will involve a temporary increase in construction equipment access through UVM's Redstone campus plus the potential for equipment storage on UVM property.

As part of our due diligence for the project, we reviewed our records and contacted UVM and neither party could find easements for the City to access our Redstone tank site through UVM property. Additionally, UVM has a paved driveway that crosses a small portion of the City's property, and an easement could not be located allowing the encroachment. (See site plans.) Lastly, the rehabilitation project will require temporary use of UVM land for project staging.

The attached easements, drafted by our City Attorney and agreed upon by UVM personnel, are attached for review and approval. The easement from UVM to the City would allow the City access across UVM

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[1] https://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=BDYL5C54D870

[2] Work has been delayed for a number of years due to protracted negotiations with the cellular company (AT&T) which holds a lease for cellular antennas mounted on the tank. The original lease (1991) unfortunately did not contain provisions related to the responsibility for relocation of the antennas in the event of tank maintenance. The City has finally reached agreement that AT&T will absorb the cost for temporary relocation of the antennas, with the City agreeing to invest in a corral system which will preclude the need for such relocations in the future.

property to the City's parcel and would allow staging on UVM land subject to an approved staging plan. The easement from the City to UVM authorizes UVM's driveway encroachment onto City land. Both easements include reasonable risk management provisions to protect both parties' interests.

MOTIONS:
DPW respectfully requests the following actions:

Board of Finance Action:

1. To authorize the City Council to approve and authorize the Mayor to execute an easement to allow the City access to UVM property for the purposes of project staging and to access to its parcel located at 354 South Prospect Street for inspection and maintenance.

2. To authorize the City Council to approve and authorize the Mayor to execute an easement to allow UVM access to its parcels through the City site located at 354 South Prospect Street.

City Council Action:

1. To authorize the Mayor to execute an easement allow the City access to UVM property for the purposes of project staging and to access to its parcel located at 354 South Prospect Street for inspection and maintenance.

2. To authorize the Mayor to execute an easement to allow UVM access to its parcels through the City site located at 354 South Prospect Street.

Thank you for your consideration of this request.

EASEMENT DEED
Redstone Campus
University of Vermont and State Agricultural College
to
City of Burlington

This Easement Deed (this "Deed") is entered on ____, 2024 (the "Effective Date") between the University of Vermont and State Agricultural College, a non-profit educational corporation and instrumentality of the State of Vermont ("UVM") and the City of Burlington, a Vermont municipal corporation (the "City"), with respect to the following facts:

A. UVM owns certain parcels of property (the "Property") in the City of Burlington, County of Chittenden, State of Vermont, as follows:

    a. Parcel 4, as described in that certain deed from the University of Vermont to UVM, dated March 29, 1959, and recorded in the Land Records at volume number 149, page 248; and

    b. Parcels 2 and 3, as described in that certain deed from the Mary Fletcher Hospital to UVM, dated as of June 3, 1891, and recorded in the Land Records at volume number 31, page 168, said property having also been described in a prior long-term lease from UVM to Christ Church Presbyterian Church dated July 17, 1978, and recorded in the Land Records at volume number 252, page 460.

B. The City owns a 0.32 acre parcel of property (the "City Parcel") more particularly described in that certain deed from Franklin J. Hendee, dated October 12, 1880, and recorded in the Land Records at volume number 16, page 259. Two municipal water tanks are located at the City Parcel, a ground level brick tank constructed in 1889 now used for storage and the 1934 steel elevated tank still in use. The City Parcel is landlocked and requires access through the Property. Furthermore, construction activities by the City on the City Parcel may occasionally require temporary use of UVM land directly adjacent to the City Parcel.

C. The City Parcel and relevant portions of the Property are depicted on a plat entitled "Boundary Survey, City of Burlington, High Service Reservoir Lot," prepared by Krebs & Lansing Consulting Engineers, Inc., dated January 3, 2023, and recorded in the City's Land Records in Plat 596, Slide D.

D. In consideration of Ten Dollars and No Cents ($10.00), the receipt and sufficiency of which is hereby acknowledged, and for other good and valuable consideration, UVM desires to convey an easement for construction staging upon, and for ingress and egress over, the Property, on terms and conditions set forth herein.

E. Both parties have determined that the giving of this Deed is in the public interest.

NOW, THEREFORE, the parties agree as follows:

1. <u>Recitals.</u> The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Grant of Easement. UVM hereby grants to the City and its successors and assigns, to have and to hold, with all the privileges and appurtenances thereto, a non-exclusive easement over the Property for purposes described in the Recitals. Except in cases of emergency, prior to scheduling construction, maintenance, or repair work upon the City Parcel requiring access to the Property for staging or ingress and egress, the City shall present its plan for staging and access to UVM for its review and approval, which UVM shall not unreasonably withhold, delay, or condition. When reasonably required to ensure the City has access to the City Parcel, UVM shall provide the City with reasonable access over other property owned by UVM adjacent to the Property.

3. Warranty. UVM, for itself and its successors and assigns, does covenant that it is the sole owner of the Property and has good right and title to convey the rights and easements granted and conveyed hereby free of every encumbrance, and it hereby engages to warrant and defend the same against all lawful claims whatsoever.

4. UVM's Use & Modification of the Easement Area. Without the City's written consent, which consent shall be in the City's reasonable discretion, UVM shall not use the Property in any manner or install or remove any fixtures or improvements in or upon the Property, in such manner as would foreclose the City's intended use of the Property under this Deed.

5. The City's Use & Repair of the Property. In case the City's use of the Property causes any damage to the Property, the City shall promptly restore the Property as closely as reasonably practicable to its former condition at its own cost and expense; provided, however, that nothing herein shall require the City to restore the Property following any casualty loss not caused by the City or its agents. All work performed by the City shall be approved in advance by UVM in writing, except in case of emergency, and it shall be done in a good and workmanlike manner in compliance with all permits and approvals covering such work.

6. Indemnification & Insurance. The City shall hold UVM harmless, indemnify, and defend it from and against any claims, including UVM's reasonable attorney's fees, arising from the City's operations under this Agreement, excepting any claim arising from UVM's negligence or willful misconduct. The City shall also ensure that any City contractor using the Property pursuant to this Agreement shall name UVM as an additional insured on any policy of insurance required under the contract.

7. Succession. This Deed shall run with the land for the benefit of the City Parcel.

8. Miscellaneous.

    a. The parties hereto are independent contractors, and neither party is the agent or principal of the other. By entering this Deed, the parties do not intend to create a partnership, joint venture, or similar enterprise.

    b. There are no third-party intended beneficiaries of this Deed.

    c. This Deed shall not be construed against either party.

    d. This Deed contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings relating to the same, whether written, oral, or implied.

e. If any provision of this Deed is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Deed shall continue in force to the extent necessary to effectuate the original intent of the parties as closely as possible.

f. No waiver of any provision of this Deed shall be valid unless in writing, notwithstanding the passage of time, and no waiver shall constitute a continuing waiver of the same or another provision. This Deed may not be amended except in a writing executed by both parties.

g. This Deed shall be construed according to Vermont law, notwithstanding conflicts of law principles, and venue for any dispute arising under this Deed shall be proper in Chittenden County, Vermont, notwithstanding any other law.

h. Neither party shall file any litigation arising from this Deed without first attempting in good faith to resolve the parties' dispute through negotiated settlement or mediation; provided, however, that any applicable statute of limitations shall toll during any period in which the parties are actively and mutually engaged in dispute resolution; and provided further that nothing herein shall prevent either party from seeking emergency relief in appropriate circumstances from a court of competent jurisdiction.

i. In case of any litigation arising from this Deed, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

j. The parties shall perform, execute, or deliver promptly any and all such further acts and documents as may be reasonably required to consummate and continue to effectuate the transactions contemplated hereby.

k. The City accepts the easement hereby conveyed as-is, subject to UVM's warranty of title, above.

l. This Deed and any amendment hereto shall be recorded in the Land Records of the City of Burlington.

m. The signatories of this Deed represent and warrant their authority to bind their respective parties.

[*Signatures on Following Page*]

IN WITNESS WHEREOF, this Deed has been executed as of the Effective Date.

UNIVERSITY OF VERMONT AND STATE AGRICULTURAL COLLEGE

By: ________________________________
Richard H. Cate, Vice President for Finance and Administration

State of Vermont, County of Chittenden. This record was acknowledged before me on _________ (date) by Richard H. Cate, Vice President for Finance and Administration.

Signature of Notary Public: ________________
Stamp or certificate number: ________________
Title of office: ___________________________
My commission expires: ___________________

THE CITY OF BURLINGTON

By: __________________________________
Name: _Emma Mulvaney-Stanak_____________
Title: Mayor of the City of Burlington, Vermont
Address: 149 Church St, Burlington, VT 05401

State of Vermont, County of Chittenden. This record was acknowledged before me on _________ (date) by _____________ as the Mayor of the City of Burlington, Vermont.

Signature of Notary Public: ________________
Stamp or certificate number: ________________
Title of office: ___________________________
My commission expires: ___________________

EASEMENT DEED
Redstone Campus
City of Burlington
to
University of Vermont and State Agricultural College

This Easement Deed (this "Deed") is entered on _______, 2024 (the "Effective Date") between the City of Burlington, a Vermont municipal corporation (the "City") and the University of Vermont and State Agricultural College, a non-profit educational corporation and instrumentality of the State of Vermont ("UVM"), with respect to the following facts:

A. The City owns a 0.32 acre parcel of property (the "Property") more particularly described in that certain deed from Franklin J. Hendee, dated October 12, 1880, and recorded in the Land Records at volume number 16, page 259.

B. UVM owns a parcel of property (the "UVM Parcel") more particularly described in that certain deed from the University of Vermont to UVM, dated March 29, 1959, and recorded in the Land Records at volume number 149, page 248.

C. The Property and relevant portions of the UVM Parcel are depicted on a plat entitled "Boundary Survey, City of Burlington, High Service Reservoir Lot," prepared by Krebs & Lansing Consulting Engineers, Inc., dated Jan 3, 2023, and recorded in the City's Land Records in Plat 596, Slide D.

D. UVM maintains an approximately 22.24-foot paved driveway across the UVM Parcel that encroaches the Property, as shown on the Plat.

E. In consideration of Ten Dollars and No Cents ($10.00), the receipt and sufficiency of which is hereby acknowledged, and for other good and valuable consideration, the City desires to convey an easement for ingress and egress over the Property, on terms and conditions set forth herein.

F. Both parties have determined that the giving of this Deed is in the public interest.

NOW, THEREFORE, the parties agree as follows:

1. <u>Recitals.</u> The foregoing recitals are true and correct and are incorporated herein by this reference.

2. <u>Grant of Easement.</u> The City hereby conveys to UVM a non-exclusive easement in the Property for ingress and egress across the existing paved driveway encroachment shown on the Plat.

3. <u>Warranty.</u> The City, for itself and its successors and assigns, does covenant that it is the sole owner of the Property and has good right and title to convey the rights and easements granted and conveyed hereby free of every encumbrance, and it hereby engages to warrant and defend the same against all lawful claims whatsoever.

4. UVM's Use & Modification of the Easement Area. UVM shall maintain the paved driveway upon the Property in good condition, so as to avoid nuisance or waste. Without the written permission of the City, which the City shall not unreasonably withhold, delay, or condition, UVM shall not: (1) materially alter the paved driveway upon the Property, or (2) expand the encroachment. It is agreed and understood that interference with the City's use or intended future use of the Property shall be a reasonable basis on which deny such permission.

5. Indemnification & Insurance. UVM shall hold the City harmless, indemnify, and defend it from and against any claims, including the City's reasonable attorney's fees, arising from UVM's operations under this Agreement, excepting any claim arising from the City's negligence or willful misconduct. UVM shall also ensure that any UVM contractor using the Property pursuant to this Agreement shall name the City as an additional insured on any policy of insurance required under the contract.

6. Succession. This Deed shall run with the land for the benefit of the UVM Parcel.

7. Miscellaneous.

   a. The parties hereto are independent contractors, and neither party is the agent or principal of the other. By entering this Deed, the parties do not intend to create a partnership, joint venture, or similar enterprise.

   b. There are no third-party intended beneficiaries of this Deed.

   c. This Deed shall not be construed against either party.

   d. This Deed contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings relating to the same, whether written, oral, or implied.

   e. If any provision of this Deed is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Deed shall continue in force to the extent necessary to effectuate the original intent of the parties as closely as possible.

   f. No waiver of any provision of this Deed shall be valid unless in writing, notwithstanding the passage of time, and no waiver shall constitute a continuing waiver of the same or another provision. This Deed may not be amended except in a writing executed by both parties.

   g. This Deed shall be construed according to Vermont law, notwithstanding conflicts of law principles, and venue for any dispute arising under this Deed shall be proper in Chittenden County, Vermont, notwithstanding any other law.

   h. Neither party shall file any litigation arising from this Deed without first attempting in good faith to resolve the parties' dispute through negotiated settlement or mediation; provided, however, that any applicable statute of limitations shall toll during any period in which the parties are actively and mutually engaged in dispute resolution; and provided further that nothing herein shall prevent either party from seeking emergency relief in appropriate circumstances from a court of competent jurisdiction.

i. In case of any litigation arising from this Deed, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

j. The parties shall perform, execute, or deliver promptly any and all such further acts and documents as may be reasonably required to consummate and continue to effectuate the transactions contemplated hereby.

k. UVM accepts the easement hereby conveyed as-is, subject to the City's warranty of title, above.

l. This Deed and any amendment hereto shall be recorded in the Land Records of the City of Burlington.

m. The signatories of this Deed represent and warrant their authority to bind their respective parties.

[*Signatures on Following Page*]

IN WITNESS WHEREOF, this Deed has been executed as of the Effective Date.

UNIVERSITY OF VERMONT
AND STATE AGRICULTURAL
COLLEGE

By: ________________________________
Richard H. Cate, Vice President for Finance
and Administration

State of Vermont, County of Chittenden. This record was acknowledged before me on _________ (date) by Richard H. Cate, Vice President for Finance and Administration.

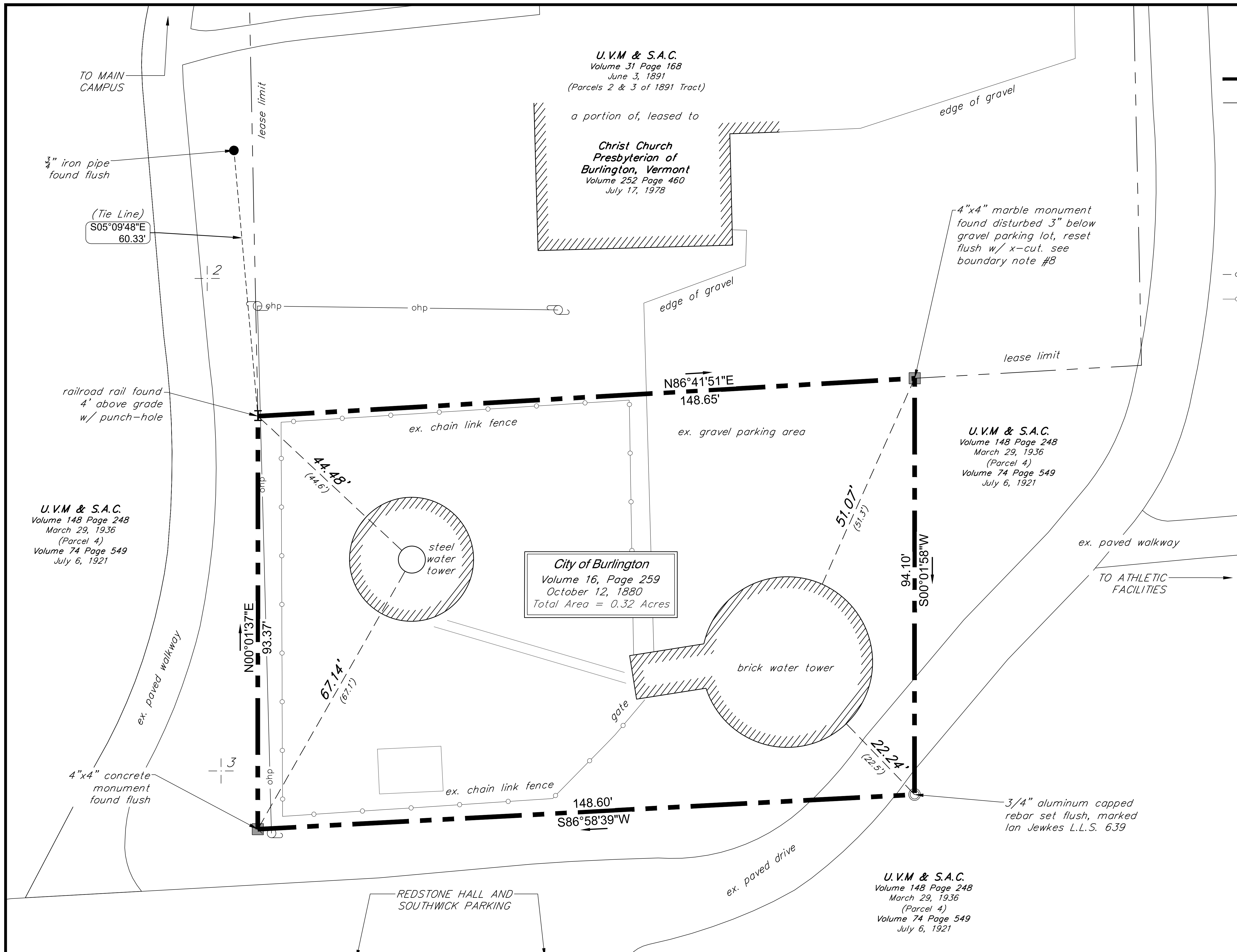
Signature of Notary Public: ________________
Stamp or certificate number: ________________
Title of office: ___________________________
My commission expires: ___________________

THE CITY OF BURLINGTON

By: __________________________________
Name: _Emma Mulvaney-Stanak_____________
Title: Mayor of the City of Burlington, Vermont
Address: 149 Church St, Burlington, VT 05401

State of Vermont, County of Chittenden. This record was acknowledged before me on _________ (date) by _____________ as the Mayor of the City of Burlington, Vermont.

Signature of Notary Public: ________________
Stamp or certificate number: ________________
Title of office: ___________________________
My commission expires: ___________________



Legend

- Property line
- Approximate property line/lease line
- (51.3') Tie-Line distances as depicted on map reference #1
- ⅝" rebar set (marked L.L.S. #639)
- Railroad rail with punch-hole found
- Iron pipe rebar or pin found
- Concrete or Stone monument found
- Survey control point
- Existing power pole / overhead line
- Existing chain link fence

Vermont State Plane Grid North (NAD83)

Location Map
1" = 2000 Feet

KREBS & LANSING
CONSULTING ENGINEERS
164 Main Street, Suite 201
Colchester, Vermont 05446
P: (802) 878-0375
www.krebsandlansing.com

Certification

This survey is based on physical evidence found in the field and information abstracted from deeds and other pertinent records and this survey is consistent with that evidence. This plat conforms to 27 V.S.A. section 1403.

STATE OF VERMONT
IAN A. JEWKES
No. 639
LICENSED LAND SURVEYOR

Ian A. Jewkes, L.L.S. #639

0' 20' 40' 60
0" 1" 2" 3"
STANDARD GRAPHIC SCALE (1" = 20')

BOUNDARY SURVEY

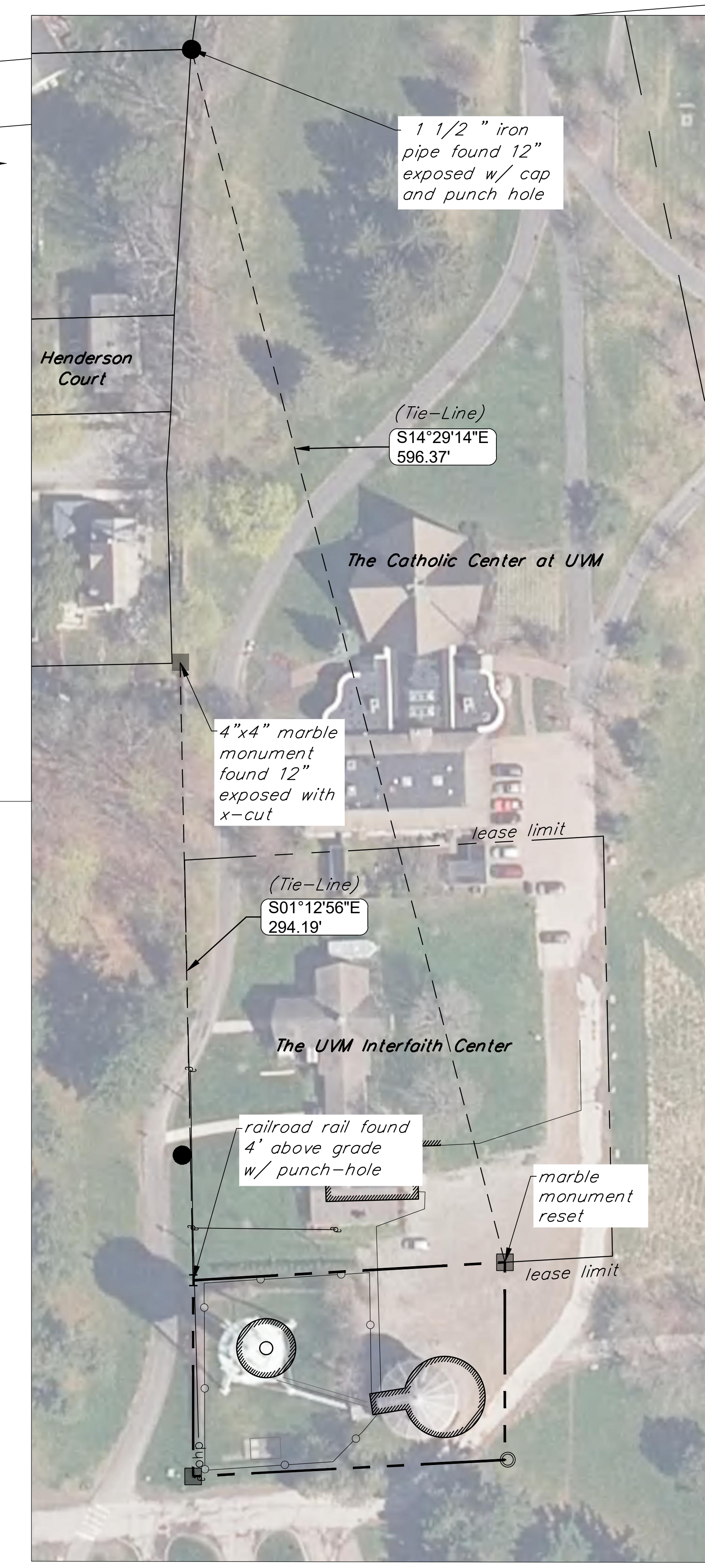
CITY OF BURLINGTON

HIGH SERVICE RESERVOIR LOT

REV. NO.	REVISIONS/COMMENTS	DATE

Drawing Title:
Boundary Survey

DATE of Issue: 01/03/2023
Drawn by: BLW Checked by: IAJ
Project No.: 24124 Scale: 1" = 20'
Drawing No.: B-1 Rev No.:



Overview
Scale 1"=70'

Boundary Notes

1. The descriptions controlling the locations of the boundaries of the land surveyed and the physical evidence located and existing on the ground were compared and analyzed to provide boundary locations that are most indicative of the original intent of the deeds and in harmony with existing monumentation. Where conflicts between physical evidence and written evidence are substantial, deeds and/or documents should be or will be executed to eliminate any color of title or conflict.
2. This plat of survey depicts boundary location of the lands under the title of the City of Burlington and also the limits, where known, of easements, licenses and/or other servitudes and rights that may encumber or benefit the surveyed premises.
3. Monuments have been set in and on the ground where shown on the plat of survey where, in the opinion of the surveyor, it was necessary to perpetuate a corner not otherwise monumented.
4. Any boundary line location, based on deeds or documents recorded in the public records by which title or rights were conveyed to the City of Burlington, or title or rights in lands of the City of Burlington were otherwise delineated, is subject to accuracy and legality of those deeds or documents. Where those deeds or documents are improperly executed as a matter of law or contain errors or omissions in fact, or contain or are based upon erroneous conclusions of law, then the depicted boundary locations may not be valid.
5. The boundary line locations shown are also subject to accuracy and legality or lack of authority of any grantor or grantee who professed the right or ability to convey, receive or condemn property or rights in the surveyed property.
6. The location and depiction of boundary lines other than those of the City of Burlington are not warranted and all boundary lines depicted are subject to the accuracy and completeness of the public record.
7. This plat of survey is for the sole use of the City of Burlington. Use by other property owners, private or municipal, is specifically unauthorized.
8. Map reference #1, a "Boundary Sketch" as well map reference #7 notes that corners of the above lot were marked with railroad rails. It is opined that over the years the rails, except for one, were replaced with other monuments. The position of the marble monument found disturbed under the gravel surface at the northeast corner of the property was corrected and reset using the geometry and stable monumentation as depicted on map reference #3.
9. Discrepancies found when comparing map reference #1 and map reference #5 were resolved by holding the ties depicted on map ref #1 and fitting them to current conditions as best as possible. It is likely that these ties were carefully measured to the towers as they still stand today and provide the best way to confirm the location of older or lost monumentation. The tie line to the concrete monument at the southwest corner leads to the conclusion that that monument must have replaced one of the railroad rails.

Map References

1. Boundary Sketch entitled "City of Burlington, High Service Reservoir Lot" prepared by J.A. Root and A.D.B dated 1947 and found in the U.V.M. & S.A.C. Land Records Office in drawer #15, drawing #23
2. Plan entitled "UVM&SAC from Hazel W. Dean Volume 370 Pages 72 and 73 308 South Prospect St, Burlington, VT" prepared by Harris Abbott, dated December 1, 2003 and found in Krebs and Lansing Archives.
3. Plan entitled "Plan of Land Leased by University of Vermont and State Agricultural College to The Roman Catholic Diocese of Burlington" prepared by Fred C. Koerner, C.E., dated November, 1963 and found in the U.V.M. & S.A.C. Land Records Office in drawer #29, drawing #144.
4. Plan entitled "Proposed Student Center at UVM & SAC" prepared by Clifford H. Tilley, P.E., dated October 18, 1963 and found in the U.V.M. & S.A.C. Land Records Office in drawer #29, drawing #161.
5. Plan entitled "Redstone Campus, Water Tower and Vicinity" prepared by H.G.A., dated January 1971 andfound in the U.V.M. & S.A.C. Land Records Office in drawer #29, drawing #58.
6. Plan entitled "Plan of the Buell Estate" prepared by McIntosh and Crandall Civil Engr's, traced by A.D. Butterfield March 1932, dated May 1917 and found in the U.V.M. & S.A.C. Land Records Office in drawer #29, drawing #2. refer to City of Burlington Land Records Volume 74 Page 586.
7. Plan entitled "Map of the City of Burlington from Official Records, Private Plans and Actual Surveys" prepared by G.M. Hopkins C.E., dated 1890 and found in Krebs and Lansing Archives.

Survey Notes

1. All bearings are calculated and referenced to Vermont State Plane Grid North. Vermont State Plane Grid North was determined from survey grade GPS readings taken at the time of the survey.
2. A closed traverse was completed in January 2024 using a Topcon ES-103 total station.

Board of Finance and City Council Submission Checklist

Department: DPW- Water Resources Submitter: Steve Roy

Title/Subject: Authorization to Execute Easements with UVM Related to the Redstone Tank Site

	Approval:	Meeting Date:
☒	Board of Finance	4/29/2024
☒	City Council	5/6/2024
☐	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	4/23/2024	Chapin Spencer
Mayor's Office informed and approved memo	Yes	4/23/2024	Erin Jacobsen
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	4/23/24	Draft Easements - Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/23/24	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/23/24	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	Easements
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.

Gene Bergman
Ward Two City Councilor
gbergman@burlingtonvt.gov

To: Board of Finance and City Council
From: Gene Bergman
Re: ONE Cleanup/Cleanout Proposal
Date: April 29, 2024 and May 6, 2024

This is to request $5,000 in Council Initiative Funds to pay for an Old North End Cleanup/Cleanout Day on Saturday, May 18 sponsored by the ONE's city councilors, Bergman, Grant, and Kane. The departments of Public Works, Parks, Recreation, and Waterfront, and the Burlington School District are supporting the activity.

The funds will go to pay for two Myers' 30-yard roll-offs, two small DPW dump trucks and staff for drop off and pick up and disposal, publicity (door-to-door flyers and a few signs), Front Porch Forum ads, water and other refreshments and supplies for volunteers, and limited paid organizing assistance and coordination.

The purpose is to provide ONE residents with two centrally located roll offs and other facilities to dispose of household goods and other solid waste from homes, yards, city streets, sidewalks, and greenbelts. ONE councilors conducted this event in the past, the last time being in 2019. It was beneficial to residents. The ONE was greened up. It built a greater sense of community. It improved community confidence in the ability of our local government to address resident needs.

The day would begin for the public at 10 a.m. and end at 2:30 p.m., with set up from 9-10 and breakdown from 2:30-3:30. There are two sites: (1) the Sustainability Academy on North St. and (2) the Integrated Arts Academy on Archibald, St. Superintendent Flanagan has approved the siting of the project at the schools; we will work with principals on the exact locations.

Besides the roll-offs, there will be small dump trucks for metal recycling, recycling toters, and sharps containers. Volunteers will be provided with heavy duty trash bags for litter pickup. Water and refreshments will be available. There will be publicity. Councilors will utilize a limited amount of paid assistance in the organizing of the event.

The estimated cost for the roll-offs is $3,000. The estimated cost for the DPW dump trucks and staff time is $1,000. The estimated cost for publicity, supplies, and staff time is $1,000 for a total of $5,000.

Councilor Kane will be be available to answer questions at the BOF meeting on April 29th. I have a conflict with a pre-existing meeting at the CCRPC regarding the Battery St. Scoping Study. I will attend if that conflict disappears. If you have questions before the meeting, please don't hesitate to contact me. Thank you.

BOF Action: To recommend to the City Council that it approve the expenditure of up to $5,000 from City Council Initiative Funds to support the ONE clean-up in May 2024 and to authorize the Chief Administrative Officer to reimburse expenses up to $5,000 for this event accordingly.

CC Action: To approve the expenditure of up to $5,000 from City Council Initiative Funds to support the ONE clean-up in May 2024 and to authorize the Chief Administrative Officer to reimburse expenses up to $5,000 for this event accordingly.

MEMORANDUM

To:	Burlington Board of Finance Burlington City Council
From:	Darren Springer, General Manager Emily Stebbins-Wheelock, CFO and Manager of Strategy and Innovation James Gibbons, Director of Policy and Planning
Date:	4/22/2024
Subject:	BED Heat Pump Bill Credit Program and Commercial Demand Response Program

Background

Burlington Electric Department ("BED") is seeking Burlington City Council ("Council") approval of a program to support residential and commercial customers in reducing peak demand from heat pumps and other electric heating technologies through the installation of approved control devices and measurement devices. The program has two components. The first, for which we seek approval at this time, includes a heat pump bill credit, discussed further below. The second, also discussed in greater detail below, will be brought before the Board of Finance and City Council at a later time and involves acceptance and use of competitive federal grant funds. BED is bringing the approval of the bill credit to you now because the credit will require PUC approval, and your authorization will allow BED to initiate the process of seeking that approval.

The goals of the proposed pilot program and the grant are two-fold –
1. To help reduce the cost of operating heat pumps so they are more cost-competitive with fossil fuel heating, and
2. To enable peak energy reduction capabilities for heat pumps and commercial sector electric heating systems that benefit all BED customers in terms of cost savings on capacity and/or transmissions expenses, while also reducing the future need for investment in infrastructure related to those new loads.

BED Test Program on Heat Pump Bill Credit

BED has tested potential devices for a heat pump bill credit program with 9 participating customers for a one-year period to get data on what type of peak reduction response we could expect and what the customers would experience under the program. When customers reduce peak energy use, they help save all BED ratepayers on capacity and/or transmission charges, and if the savings is significant it can support a bill credit or end-use rate for participating customers and participating technologies. BED currently has an end-use rate for EV-charging when customers charge off-peak, but does not yet have a peak reduction program for heat pumps and electric heating technologies, which is why we are proposing this pilot program.

We tested using Sensibo devices for heat pump controls, and Emporia Vue for energy monitoring (we have not identified any single devices with both capabilities). We have determined that expected savings could justify a bill credit between $4.42 per month per heat pump unit assuming very unsuccessful peak reduction impacts all the way up to $7.46 assuming optimal peak reduction results. BED is proposing to start with a $5 per month credit per building (not heat pump unit) while we gather more data through the pilot rate on how well the peak reduction efforts work. It is possible to raise the credit in the future, or, if the pilot is successful, our goal would be to convert the pilot into a per kWh heat pump rate (similar in a way to BED's end-use rate for EV charging) that would reflect different levels of electric heating consumption better that the flat credit will.

BED GRIP Grant

BED was successful in an application to the U.S. Department of Energy for a $1.158 million GRIP grant to support both residential end-use peak reduction programs and commercial load control/thermal storage programs.[1] BED is currently working with the Department of Energy to negotiate a scope for this grant, but the grant will support provision of hardware, software, and devices to support controls and monitoring for heat pump and other electric heating devices for residential and commercial customers. BED will be bringing this grant award separately for Board of Finance and City Council acceptance when the agreement with the Department of Energy is finalized. Given the regulatory process required to get the pilot rate approved, BED is bringing forward the pilot rate program to the Board of Finance and City Council now, so that we can start the PUC process while we complete negotiations on the grant agreement with Department of Energy, in the hopes of launching this program by late summer 2024.

BED Pilot Program Terms

For the residential bill credit program we propose a pilot of 18 months, with a flat monthly $5 bill credit per participant (regardless of how many heat pump units they have). BED, with support from the GRIP grant, will provide participating customers with Sensibo devices and Emporia VUE (installed in electric panel) to enable participation. BED will send peak day/hours signals to adjust the thermostat on heat pump during monthly/annual peak events, with a goal of generating reduction of usage and garnering larger data set on which to base future program design. Participating residents can override peak reduction signals if they need to. The purpose of the pilot will be to learn more about customer participation and engagement in peak reduction events, and to test the technologies needed on a broader scale. The Goal will be to convert the pilot rate to a per kWh bill credit tariff, similar to EV rate in certain ways, at end of 18 months assuming it is merited and assuming technology systems are in place to support kWh program.

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[1] See https://www.energy.gov/articles/biden-harris-administration-announces-35-billion-largest-ever-investment-americas-electric

BED also proposes filing a commercial demand response to be part of the pilot program authorization. The Commercial bill credit or rate number may vary from the residential proposal given the different scale of energy use at the commercial level.

The Pilot Rate, if approved by the City Council, will be filed with the PUC at the time when BED begins, under the grant, to deploy the devices in homes and businesses. This will be so that the 18 month pilot period (which is the greatest term allowed under a pilot rate program in Vermont) will provide the maximum possible data before a decision on converting it to a permanent tariff is required.

Conclusion

The Burlington Electric Commission approved proceeding with the pilot program outlined here at its meeting on 4/10/2024, and recommended it for approval to the City Council. BED staff will be present at the Board of Finance on 4/29 and City Council 5/6 meetings to answer any questions Councilors may have on the programs. Thank you.

Motions

The Board of Finance recommends that the City Council approve the General Manager of Burlington Electric Department, or his designee, to file with the Vermont Public Utility Commission a pilot rate to provide a monthly bill credit and/or a pilot rate to customers installing BED approved measurement and control devices on electric heating systems.

The City Council approves the General Manager of Burlington Electric Department, or his designee, to file with the Vermont Public Utility Commission a pilot rate to provide a monthly bill credit and/or a pilot rate to customers installing BED approved measurement and control devices on electric heating systems.

Board of Finance and City Council Submission Checklist

Department: BED Submitter: Darren Springer

Title/Subject: Heat Pump Bill Credit and Commercial Demand Response Pilot

	Approval:	Meeting Date:
☒	Board of Finance	4/29/2024
☒	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	4/22/2024	Darren Springer
Mayor's Office informed and approved memo	Yes	4/23/2024	Erin Jacobsen
Board/Commission, if required	Yes	4/10/2024	Commission voted to approve unanimously
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A		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	4/23/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/24/2024	Click or tap here to enter text.
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	Memo
Contract Attached, if applicable?	N/A	
Additional Materials, if necessary	Choose an item.	
Draft Resolution or Motion?	Yes	Motions in Memo
If for submission to Council, are sponsors identified?	Yes	Board of Finance

MEMORANDUM

TO: Board of Finance / City Council

FROM: Martin Lee, PE DPW Water Resources Engineering Manager
Ashley Walenty, PE DPW Water Resources Engineer

CC: Megan Moir, Division Director Water Resources
Chapin Spencer, DPW Director

DATE: April 29, 2024 / May 6, 2024

RE: Distribution and Collection System Improvements – Consultant Amendment and Contractor Budget Amendment

---

REQUEST

The Department of Public Works ("DPW") and its Water Resources Division ("WRD") seek authorization, through the attached motions, 1) to amend the contract with DuBois & King ("D&K") for construction oversight by increasing the contract by $196,785 for a total not to exceed value of $743,076, and 2) to increase the Inliner construction budget to cover anticipated overages for water line rehabilitation work for a total increase of $135,000 which includes contingency.

Project Summary

This project is a large ($8M+) multi-year comprehensive construction project that includes improvements to the following infrastructure: water mains, sewer mains, stormwater mains, and street pavement. The project involves collaboration between the General Fund Technical Services and the Water Resources work groups at the Department of Public Works, with each infrastructure type funded or financed through appropriate sources. The construction project started in 2021 and is expected to be complete by July 2024. Overall, this project includes 1,905 feet of sewer pipe replacement, 22,000 feet of sewer pipe relining, 20 feet of stormwater pipe replacement, 25,000 feet of stormwater pipe relining, 575 feet of water main replacement, 5,600 feet of water main relining, and 0.82 miles of full width pavement restoration on select streets. The result of this work will be more resilient water distribution and wastewater/stormwater collection systems for the City. The initial contract with Granite Inliner was approved by City Council in August 2021[1].

DuBois & King has been under contract to provide construction oversight for this project

[1] http://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=C5LRXF6FEC03

since Council approval in 2020[2]. DuBois & King assisted with the bid process and, since the start of construction, has been representing city interests and maintaining a field presence for the duration of the project which is critical for ensuring project quality and accurate accounting of pay items. DuBois & King has also provided construction administrative support which includes managing meetings, submittals, pay applications, and public outreach support. We are near the end of their current not-to-exceed value and DuBois & King is due for a contract amendment to increase their fee to cover the remainder of the 2024 construction season.

PROJECT COST AND FUNDING SUMMARY:

DUBOIS & KING PROJECT COSTS:

The distribution and collection system project has been designed and administered primarily by DPW Water Resources engineers which resulted in significant overall engineering savings during design. However, early on, the City decided to employ a resident construction engineer to ensure adequate construction oversight on this important project as there were not enough internal engineering staff resources to perform this necessary service. Based on the results of a Request for Qualifications (RFQ), the City hired Dubois & King to fulfill this service.

DuBois & King's initial contract ($141,678) was approved by City Council in 2020 and based on providing services for the bid phase and for the initial construction season of a multi-year project. The contract with DuBois & King is on a time and materials basis. The contract has been amended as needed which is typically every construction year the project is occurring. The following DuBois & King project cost summary table outlines the project costs for construction oversight services on this project. The bold amendment is what we are seeking approval for in this memo. The amount of the 2024 construction oversight contract amendment is related both to the amount of construction work remaining (approximately $1.1M), the multiple work sites, and to the escalation of labor rates. The amount of construction oversight remaining is anticipated to be less than last year and therefore the cost is less than last year.

While all construction contractor costs have been paid for through funding or financing sources outside the Water Resources annual budgets (i.e. 2018b Bond Series, Drinking Water State Revolving Fund Loan and ARPA funding), construction engineering costs, including construction oversight, have been paid for out of annual capital funding from the various Water Resources budgets.

[2] https://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=BMFJ7T4BD986

DuBois & King Project Cost Summary Table

Description	Cost	Notes
Initial Contract	$141,678.00	Approved in March 2020
2022 Contract Amendment for Construction Oversight	$137,061.00	Approved in August 2022
2023 Contract Amendment for Construction Oversight	$267,552.00	Approved in April 2023[3]
2024 Contract Amendment for Construction Oversight	**$196,785.00**	**Approval being requested in this memo**
TOTAL:	$743,076.00	Total not to exceed value of contract once amendments are executed

Funding for the 2024 Construction engineering amendment is 50% water capital, 25% wastewater capital and 25% stormwater capital. This will be funded from transfers from the capital expense lines in the FY24 water (Fund 460) wastewater (Fund 480) and stormwater (Fund 245) annual budgets to the respective water resources capital funds (861 - Water, 862 - Wastewater, 863 - Stormwater).

Inliner Project Costs:
After a competitive bidding process, City Council in August 2021 gave authorization to execute a contract with Granite Inliner for a value of $6,744,196 with a contingency of $736,935.13 for a maximum limiting amount of $7,481,131.13, funded by loans from the Clean Water State Revolving Funds (CWSRF) and Drinking Water State Revolving Funds (DWSRF) and City street capital paving funds. In August of 2022, City Council authorized amending the contract to increase the budget by $520,000 for water work on Overlake Park funded by City ARPA funding[4]. As such, the approved budget for the project is currently $8,001,131.13.

Over the course of the project, there have been various unanticipated change orders that have exceeded the contingency for the drinking water system portion of the project:

- Additional paving in areas where existing soil conditions required wider trench limits than anticipated
- Additional excavation point repairs of water mains needed to ensure a successful water lining installation
- Additional water relining pits needed to accommodate unanticipated water pipe conditions. The street with the most issues was Deforest Road in 2023. Deforest Road had the most unforeseen pipe bends resulting in the need for extra pits, associated pipe fittings and associated extra paving. It is assumed that Ledge Road water rehabilitation work in 2024 will not have the issues that Deforest Road had 2023. If necessary, we will request approval for additional budget to complete the water rehabilitation work.
- Managing a water main break adjacent to the project area.

[3] https://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=CQMPJG64C6CB
[4] https://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=CGXR7W6AD839

After assessing the impact of the change orders on the remaining contract value for the anticipated project costs, we estimate that an additional $135,000 of water capital funding will be necessary to complete the water portion of the project. The following is a table of the water line specific project costs for this project showing an estimated need for an additional $135,000 to complete work on our last project location, Ledge Road. This additional money makes the budget whole and ensures there is a 10% contingency.

Ledge Road Budget Summary Table for April 2024

Remaining water budget with approved contingency and anticipated change orders accounted for	$397,948.92
Anticipated Remaining Costs for Ledge Road	($501,676.96)
Additional Revenue Needed to Cover Water Capital Work on Ledge Road	**$127,478.04 rounded up to $135,000**

Funding for the remainder of the Ledge Road additional water capital work will come from a transfer from the FY24 Water capital expense line (460-19-400-411.9500) to the appropriate capital project in the Water Capital Fund Account (861).

ATTACHMENTS:

- Attachment A: 2024 Amendment Fee Estimate for DuBois & King

MOTIONS:

The Department of Public Works' Water Resources Division respectfully requests that the Board of Finance and City Council approve the following motions:

Board of Finance Actions (04/29/24):

1. To approve and recommend that the City Council authorize Chapin Spencer, the Director of Public Works, to execute an amendment in the amount of $196,785.00 for Calendar Year 2024 administration and inspection services, for a total contract value with Dubois and King not to exceed $743,076.00, provided that all these authorizations are contingent on the contract and any amendment thereto having the prior approval of the City Attorney and Chief Administrative Officer.

2. To approve and recommend that the City Council authorize Chapin Spencer, the Director of Public Works, to execute an amendment in the amount of $135,000.00, for a total Distribution and Collections System contract value with Inliner not to exceed $8,136,131.13 provided that all these authorizations are contingent on the contract and any amendment thereto having the prior approval of the City Attorney and Chief Administrative Officer.

City Council Actions (05/06/24):

1. To authorize Chapin Spencer, the Director of Public Works, to execute an amendment in the amount of $196,785.00 for Calendar Year 2024 administration and inspection services, for a total contract with Dubois and King not to exceed value of $743,076.00, provided that all these authorizations are contingent on the contract and any amendment thereto having the prior approval of the City Attorney and Chief Administrative Officer.

2. To authorize Chapin Spencer, the Director of Public Works, to execute an amendment in the amount of $135,000.00, for a total Distribution and Collections System contract value with Inliner not to exceed $8,136,131.13 provided that all these authorizations are contingent on the contract and any amendment thereto having the prior approval of the City Attorney and Chief Administrative Officer.

Thank you for your consideration of this request.

City of Burlington, Vermont
2020 Water Resources Distribution and Collection System Improvements
Construction Observation Services
Based on a 22-Week Duration (Late-March through Mid-August, 2024)

Amendment No. 5 (updated 4/17/2024)

Project Phases & Tasks		Principal/ Contract Manager	Construction Manager	Resident Engineer	Ass't Resident Engineer	Admin. Support	Total Hours
		Labor Categories					
Task 1: Administration							
1.	Maintain Communications with Issuing POC (22-weeks)		44	*			44
2.	Project Coordination			*			0
3.	Review Contract Documents			*			0
4.	Attend Job Meetings and BiWeekly Schedule Updates		see item 14	*			0
5.	Make Sure Contractor Calls Dig Safe			*			0
6.	Prepare Daily Reports w/ Quantities			*			0
7.	Prepare Daily Sewer Line Inspection Reports			*			0
8.	Prepare Daily Water Line Inspection Reports			*			0
9.	Weekly Reconciliation of Completed Quantities with Contractor			*			0
10.	Assess Progress on Each Item and Check if Item Exceeds Bid Quantity			*			0
11.	Complete Daily Field Reports			*			0
12.	Maintain Photographic Record			*			0
13.	Accompany Project Representatives on Site Visits			*			0
14.	Participate in Weekly Meetings (22 mtgs)	22	88	*		8	118
15.	Report Unusual Occurrences and Accidents			*			0
16.	Calculation and Verification of Final Quantities			*			0
17.	Review Suggested Changes by the Contractor	6	32	*		12	50
18.	Maintain Set of Red-Line Drawings			*			0
19.	Request and Review Information from Contractor	4	16	*			20
20.	Prepare Contracter Progress Payment Requests		64	*		8	72
21.	Issue Substantial Completion Certificate	2	8	*		1	11
22.	Provide Certificate that Project Conforms to Requirements	2	8	*		1	11
23.	Perform Davis-Bacon Wage Reviews		38	*			38
24.	Review Contractor Conformance with DBE requirements/Project Closeout	8	40	20			68
	* Hours included in Task 2 below						
Task 2: Construction Inspection							
	Item 1 through Item 10						
	Assume 22 wks @ 40 hrs/wk			880			880
	Assume No Work on Weekends			0			0
Task 3: Customer Service							
	Item 1 and 2 (Friday Meetings)	8	44				52
	* Included in hours for Task 2 above						
Task 4: Materials and Equipment Testing							
	Coordinate/Monitor Project Testing Requirement and Reporting (Items 1 through 3)			*	(see testing subconsultant budget allowance below)		
	* Included in hours for Task 2 above						
	Total Hours:	52	382	900	0	30	1,364
	Total Hours:	52	382	900	0	30	1,364
Billable Labor	Hourly Rate:	$190.00	$132.00	$112.00	$0.00	$80.00	
	Labor Cost:	$9,880	$50,424	$100,800	$0	$2,400	$163,504

City of Burlington, Vermont
2020 Water Resources Distribution and Collection System Improvements
Construction Observation Services
Based on a 22-Week Duration (Late-March through Mid-August, 2024)

Amendment No. 5 (updated 4/17/2024)

Direct Expenses									
I. Subsistence									
Transportation:	Vehicles	7,000	Miles @	$0.670	/ Mile =	$4,690			
			Travel-Air / Ground / Parking Allowance =			$0			
Meals:	Partial Per Diem	0	Days @	$0.00	/ Day =	$0			
	Full Per Diem	110	Days @	$40.00	/ Day =	$4,400			
Rooms & Lodging:	Hotel	110	Days @	$160.00	/ Day =	$17,600		Subsistence Total =	$26,690
II. Support Expenses									
					Telephone / Fax =	$25			
					Postage =	$25			
					Reproduction =	$250			
					Copying =	$25		Support Total =	$325
III. Subcontractors									
					Testing Budget (See Note Below) =	$2,500			
<u>Note</u>: The testing budget shown is based on a $500 monthy average testing budget for 5 months								Subcontractor Total =	$2,500
IV. Miscellaneous Expe									
					Computer Charges =	$0			
					Plotting Charges =	$0			
					Internet Service =	$0			
					Miscellaneous =	$200		Miscellaneous Total =	$200
								Total Direct Expenses =	$29,715
								Administrative Fee =	$3,566
								Total Cost =	$33,281
								<u>Summary of Engineering Fees</u>	
								Labor Fee =	**$163,504**
								Reimbursable Expenses =	**$33,281**
								Total Fee =	**$196,785**

Board of Finance and City Council Submission Checklist

Department: DPW – Water Resources Submitter: Martin Lee

Title/Subject: Distribution and Collection System Improvements – Amendments

	Approval:	Meeting Date:
☒	Board of Finance	4/29/2024
☒	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	4/22/2024	Chapin Spencer
Mayor's Office informed and approved memo	Yes	4/24/2024	Erin Jacobsen
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	4/23/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/23/2024	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?	N/A	Click or tap here to enter text.

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 and City Council
FROM: Brian Pine, CEDO Director
Rachel Jolly, Assistant Director for Community Justice
DATE: April 29, 2024
RE: Lease Agreement for the Community Justice Center at Post Apartments

This memo summarizes the case for relocating the City's Community Justice Center to the office space in the Post Apartments mixed-use building being developed by Champlain Housing Trust (CHT) that has been designed specifically for the unique needs of the CJC staff and the public that it serves.

What are the reasons for relocating the CJC to new space?

Both the quality and amount of office space at 200 Church St is unsuitable and inadequate to meet the needs of the CJC staff and to provide a suitable space for carrying out the role of restoring trust and repairing the harm caused by crime and conflict in our community. Our staff deserve better working conditions and the members of the public ought to have a more welcoming space for doing the difficult work of restorative justice.

As Vermont's oldest and largest Community Justice Center (CJC), the Burlington CJC has outgrown the city-owned office space it has occupied since 2016. In the 25 years of the CJC's operation, it has been moved five times and has never had a space designed with its needs and uses in mind. The CJC is managed by 16 staff (and growing!) and 50 volunteers who offer ten different programs for more than 1500 community members annually. When the Champlain Housing Trust (CHT) began planning the redevelopment of the former VFW on South Winooski Avenue in 2022, CEDO seized the opportunity to relocate the CJC into a new space and resolve the legacy of inadequate and insufficient space for the growing CJC programs.

The following are the main reasons that justify CJC moving from the subject property:

- Since 1998, the CJC has been housed in five separate locations, none of which were designed with the CJC in mind
- With only 7 small offices, the current location is too small for the 10 CJC staff and one intern who are based there, necessitating multiple offices being shared between two people despite the need for client confidentiality
- There is often no space suitable for the one-on-one meetings needed between staff and participants at all times of the day
- Related to the above, there are ***no*** spaces in the current building that allow for confidential conversations, as the walls offer zero soundproofing, and conversations can be overheard (usually word-for-word) in neighboring offices
- For a staff of 16, there is no space for the entire staff to gather, necessitating staff meetings to be held in separate buildings

- For all meetings (team meetings, community partner meetings), there is only one meeting room, necessitating the booking of separate rooms, or holding these meetings in staff offices. The new building offers 3-4 meeting rooms, including a large community room that can be used to strengthen community partnerships
- The CJC staff and clients will benefit greatly from more of a 'street level', visible and accessible presence created to serve as a restorative, community resource
- There are currently CJC staff working out of both the Burlington Police Department and the Costello Courthouse on Cherry St. Having adequate space in a new CJC office will enable greater coordination when staff need to be in the main office.
- The planned new space will allow for potential growth over the next 2-5 years, especially as preliminary discussions have begun around the idea of regional CJC consolidation

Why does the City need to execute a lease at this time?

When the redevelopment planning for the former VFW property at 176 South Winooski Ave began in 2022, CEDO joined CHT in envisioning various options for creating ground-floor commercial uses that would complement the both the ground-floor VFW, and the permanent affordable housing planned for the upper floors. The City's zoning requires non-residential uses on the ground floor in this area, so it quickly became clear that approximately 4,100 square feet of office space would be available in the new building. The CJC has been in need of more appropriate office and program space and the joint venture was mutually beneficial for the VFW, CJC and CHT.

CHT and their development partner, Evernorth, are working toward closing on the construction financing in late May to begin redevelopment of the site in June. The demolition, site development and construction is expected to take 18 months, with the building ready for occupancy at the end of 2025 or early in 2026. This building is being financed with the Low Income Housing Tax Credit – a federal program that requires creation of a taxable, for-profit entity that owns the real estate for the 15-year compliance period. At the end of this 15-year period, CHT will most likely become the owner either alone or through a new partnership to preserve the affordable housing and public-purpose uses in perpetuity.

CHT will not be the only owner of the construction and future building - the owner will be a Limited Partnership with CHT and Evernorth as co- general partners, and a private investor as a limited partner. The owners need certainty to be able to construct a building for this specific use (designed and constructed to meet the CJC's needs), and the financing plan is dependent upon this commercial income to meet the underwriting requirements of the lender. In sum, the project requires financing and the sources of financing require a signed lease to verify that the revenue will be sufficient to cover the debt service and operating expenses.

The monthly base rent for the 4,104 square feet of space plus 8 onsite parking spaces is $2,326. In addition to this base rent, the owner will pass on a pro rata share of the operating costs in the form of Operating Rent ($2,993/month) that consists of the following: property and liability insurance, management fee and administrative costs, property taxes, snow removal, grounds, trash removal, life safety system inspections and repair and general maintenance and repairs of the common areas. The attached Appendix 1 itemizes the annual rent increases to account for the estimated rate of inflation for the covered items. The combined monthly rent of $5,319 equates to an annual rent of $15.56 per square foot. By comparison, the typical rent for Class A office space in the Central Business District from the December 2023 Allen, Brooks & Minor Report ranges from $17 to $22 per square foot plus an additional amount for parking. When factoring in the value of onsite parking for 8 CJC staff, the proposed all-inclusive rent is about 25% below market rate rents for comparable downtown office properties.

How will the increased CJC rent be covered?

Under the current rental arrangement for the CJC at 200 Church St., the City charges $21,000 for rent and utilities but then essentially waives the payment as a form of in-kind support from the City to the operations of the CJC. This in-kind support serves as part of the City's match required from the various State of Vermont agencies that provide the vast majority of operational funding for the CJC. We are still exploring innovative ways to cover the increased rent and the following are examples for how this cost may be covered beginning in late 2025 or early 2026:

- Use a nominal amount of the City's net revenue from the sale of 200 Church St. to capitalize a rent reserve fund that would be used to make rent payments for FY26 and FY27 beyond what the CJC budget is able to support. CEDO anticipates making the case to the regular State funding sources that the needs of the CJC and the clients being served require additional support to cover the increase rent for both program and office space that more appropriately meets the needs of all parties.
- CEDO has already secured two significant, competitive sources of funding intended to cover the cost of creating the CJC office space: the project was allocated $462,941.00 in reallocated State sales taxes to support infrastructure improvements associated with the construction of the 176 S. Winooski Avenue redevelopment project; recently, Senator Sanders secured a federal grant (Congressionally Directed Spending) in the amount of $300,000. While these funding sources are for the development of the CJC space, we are exploring with CHT the possibility of establishing an operating reserve in the budget that would only be used for covering the CJC rent for the first two years of lease payments while State funding awards can gradually increase to reflect the added cost of delivering the CJC programs.

Is the City protected in the unlikely event that funding is insufficient to make the rent payments?

Although the clear intentions of all parties in this transaction are for the City to lease the subject property for use by the CJC for 15 years, we have included what is referred to as a "non-appropriation" clause. A non-appropriation clause enables the lessee (the City here) to terminate the lease agreement at the end of any fiscal year without further obligation or penalty. This can be done only in cases where the City is unable to obtain funding for future payment obligations on the lease.

Typically, the clause contains a 'best efforts' requirement to assure the lessor that the lessee will use its best efforts to obtain the necessary appropriation for the lease payments. Given the level of partnership and collaboration between the City and CHT, both parties enter this agreement with mutually beneficial goals and objectives, but this provision is the most prudent approach for the City.

Requested motion language:

BOF: That the Board of Finance approve, and recommend that the City Council approve and authorize the Mayor to execute, the proposed 15-year lease between the City of Burlington and Post Apartments Housing Limited Partnership for office space located at 176 S. Winooski Avenue, to be used to house the Community Justice Center.

Council: That the City Council approve and authorize the Mayor to execute the proposed 15-year lease between the City of Burlington and Post Apartments Housing Limited Partnership for office space located at 176 S. Winooski Avenue, to be used to house the Community Justice Center.

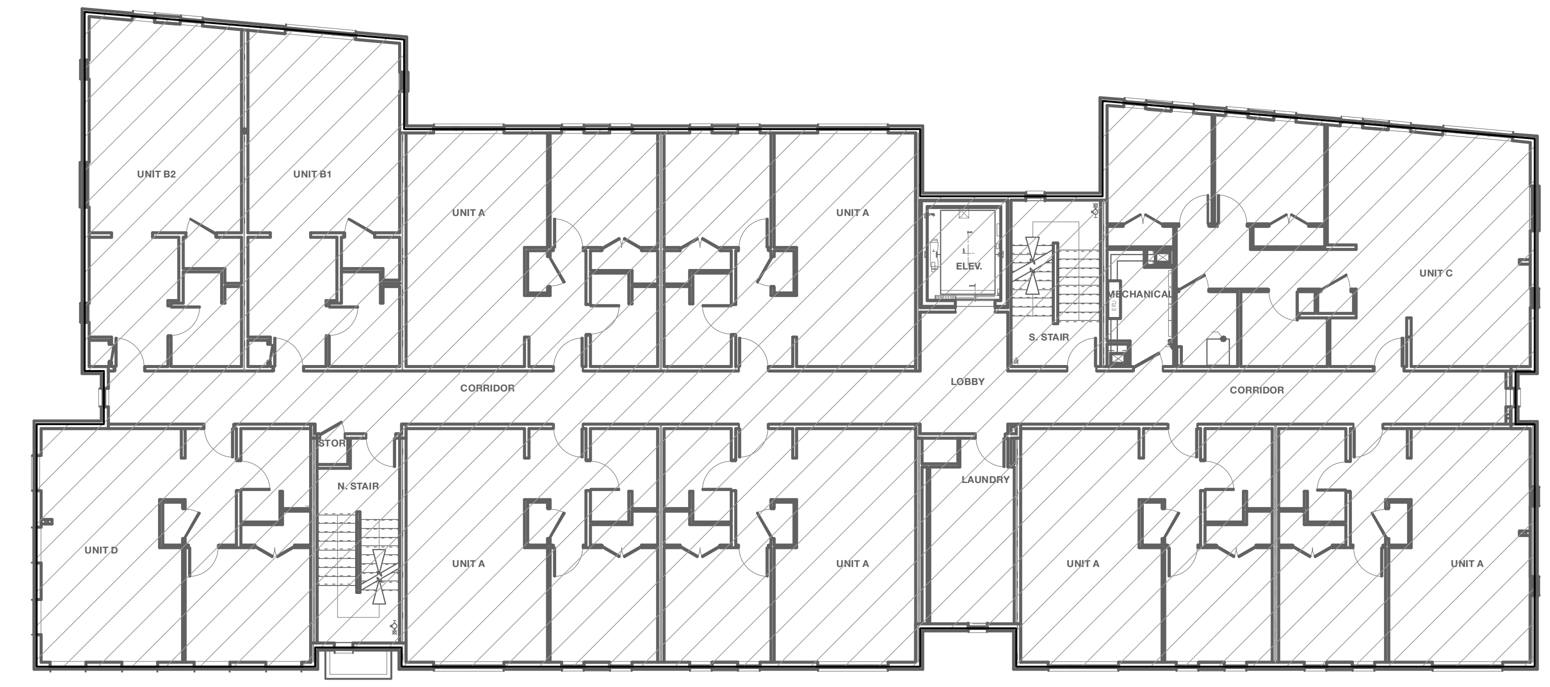
KEY

SITE ELEMENTS NOT SHOWN, REFER TO SITE PLAN

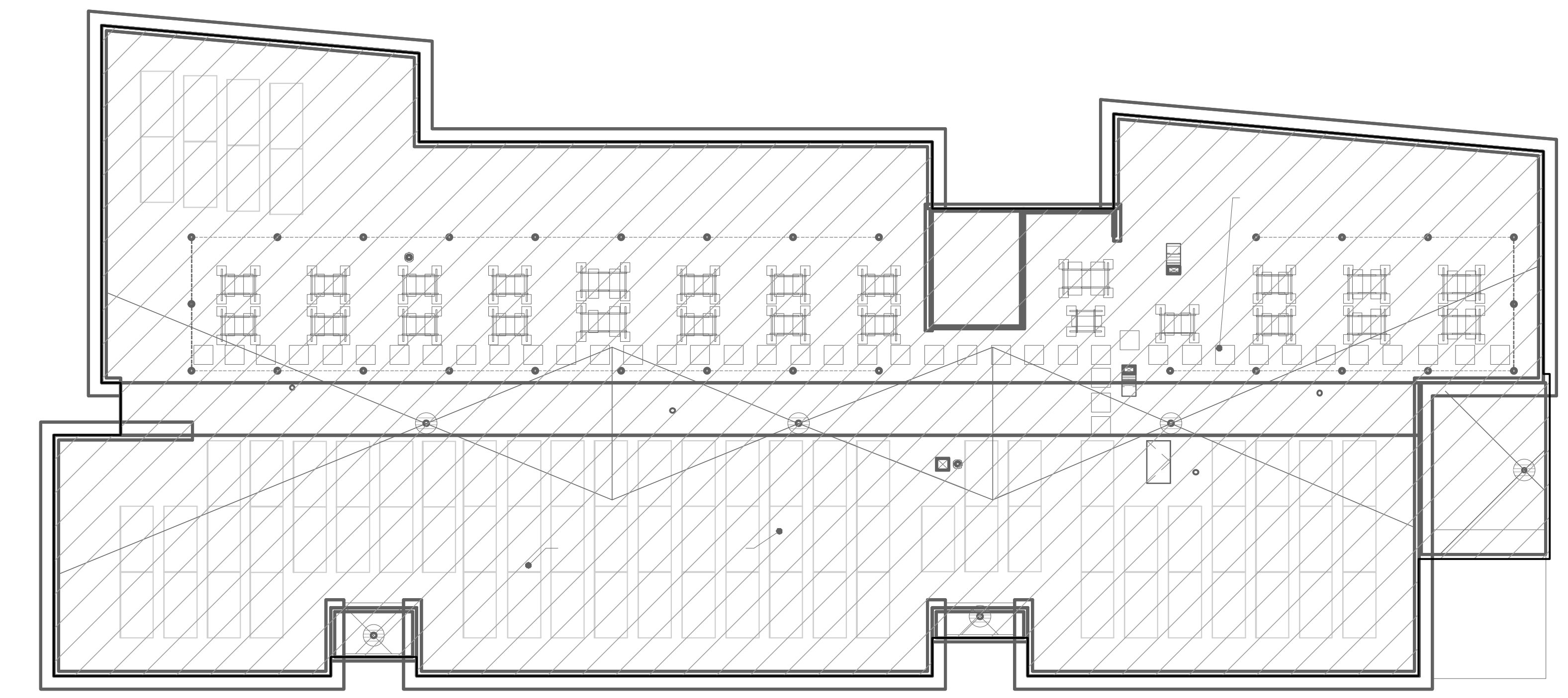
UNIT 1
39,704 SF
NOT INCLUDING ROOF

UNIT 2
4,104 SF

UNIT 3
2,564 SF



3 THIRD FLOOR PLAN
Scale: 1" = 20'-0"



6 ROOF
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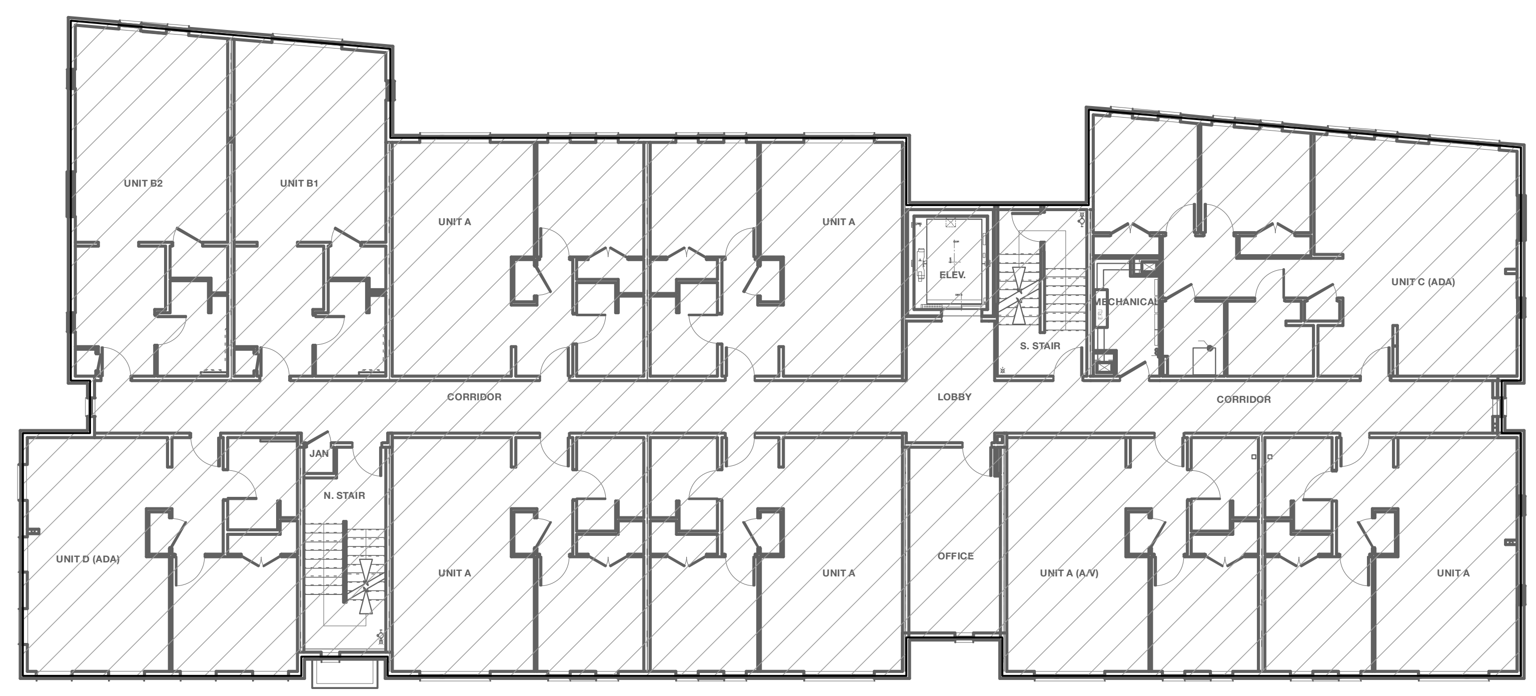

2 SECOND FLOOR PLAN
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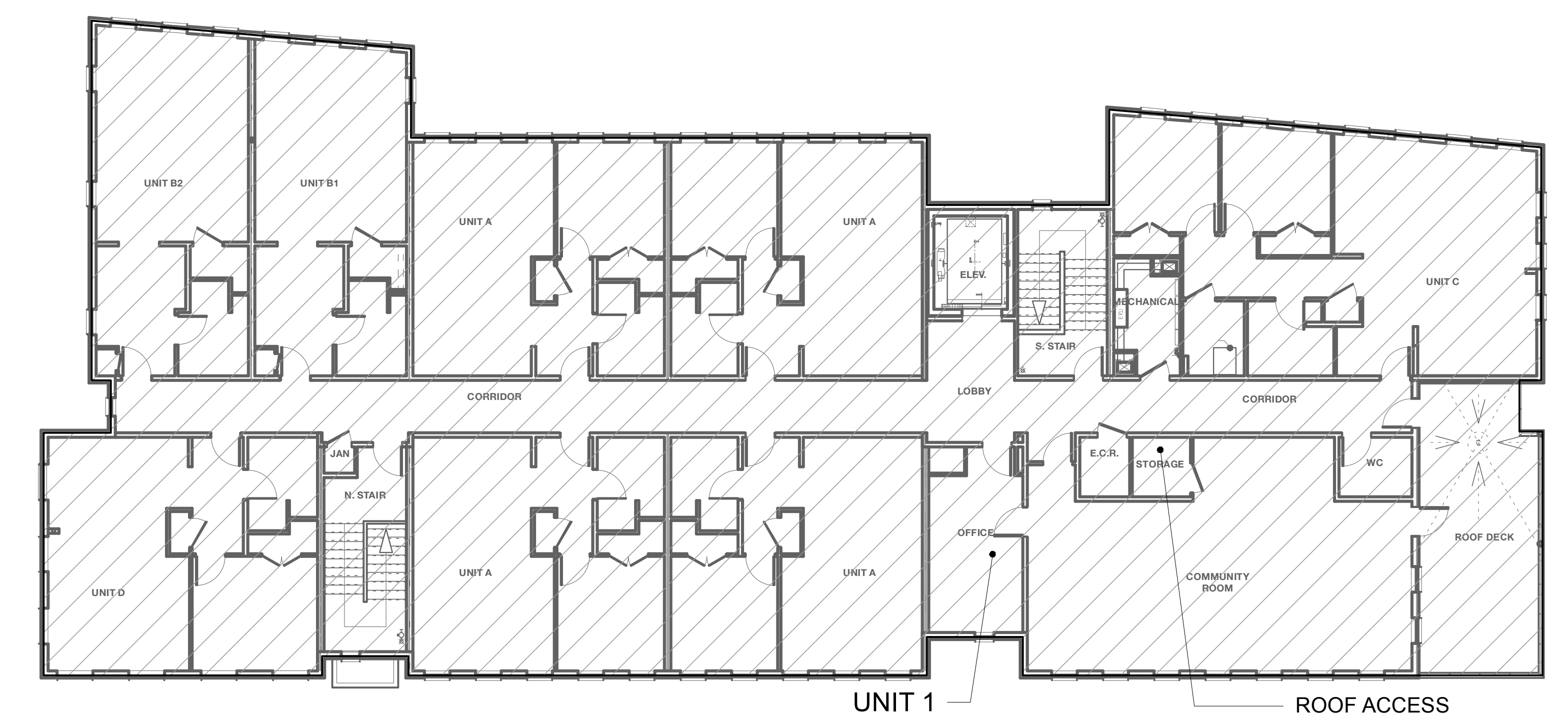

5 FIFTH FLOOR PLAN
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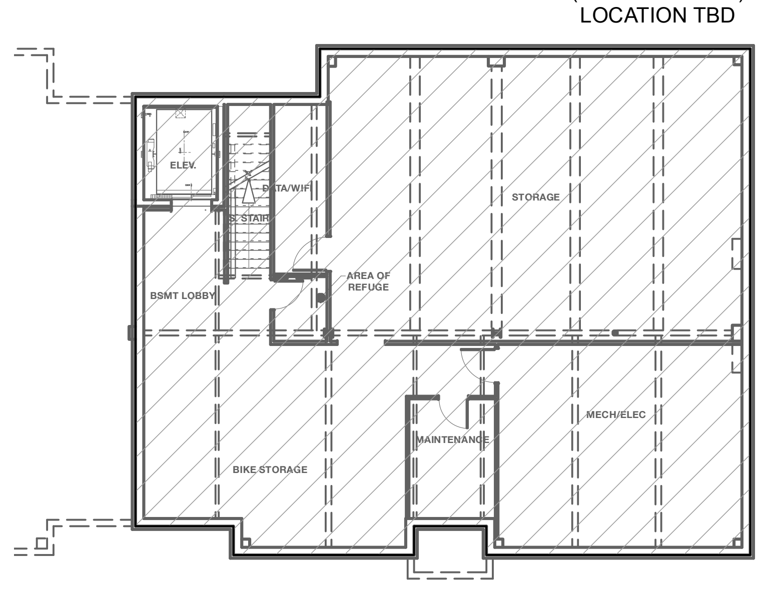

0 BASEMENT PLAN
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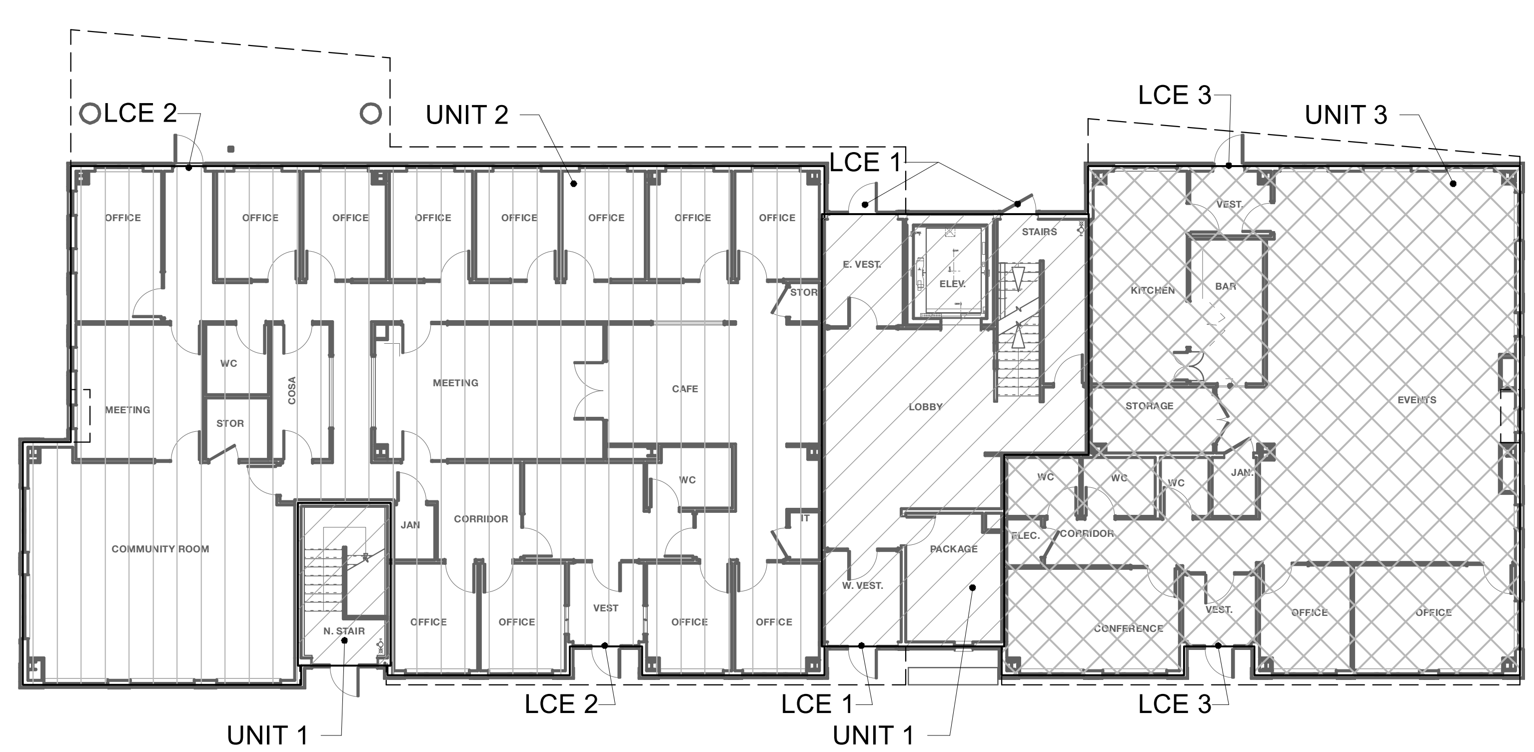
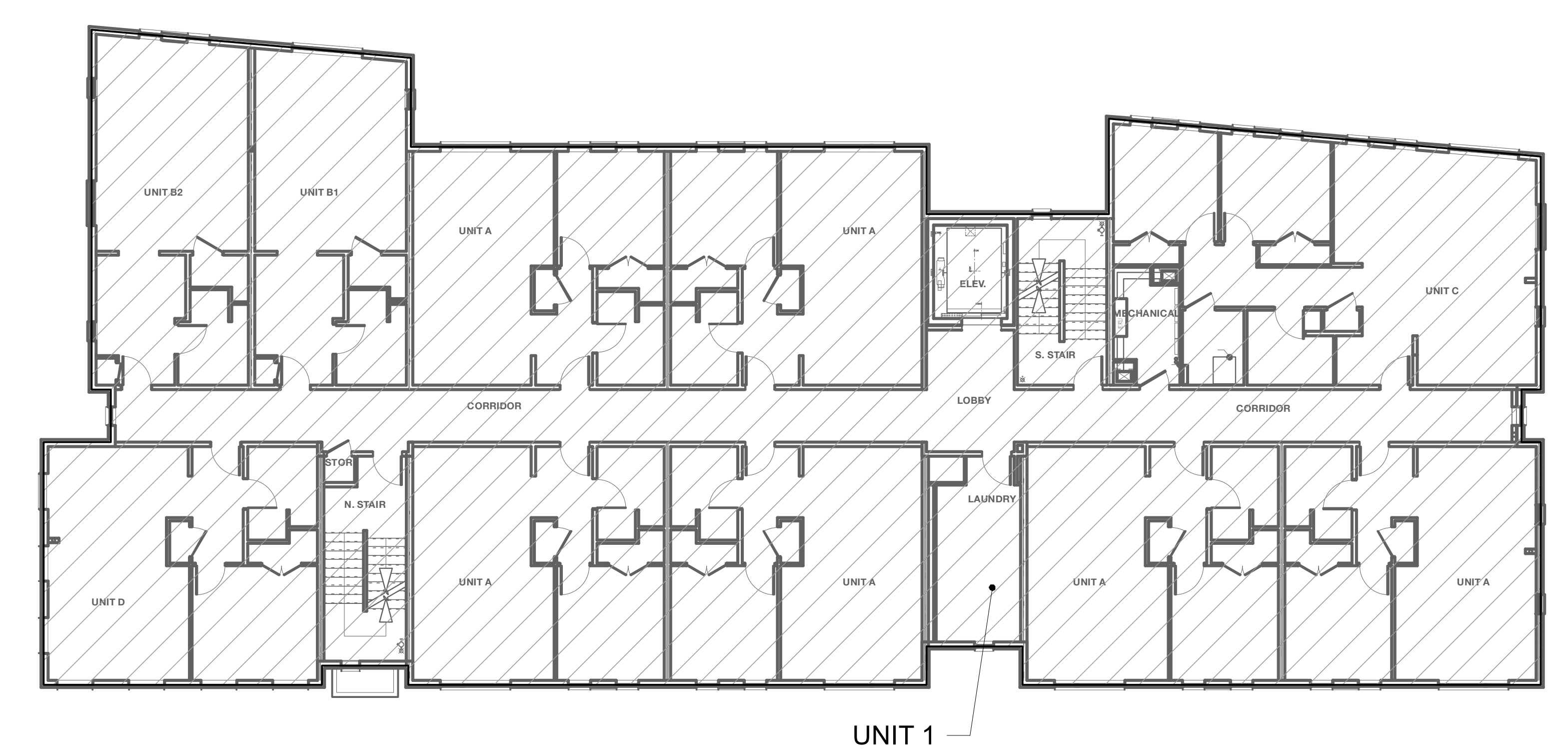


1 FIRST FLOOR PLAN
Scale: 1" = 20'-0"



4 FOURTH FLOOR PLAN
Scale: 1" = 20'-0"

DECLARATION

The undersigned, an architect licensed in the State of Vermont, hereby declares that these Floor Plans contain the following information required by 27A V.S.A. § 2-109: (i) the approximate location and dimension of the vertical boundaries of each unit and the unit's identifying number or name; and (ii) the approximate location and dimensions of entryways, common elements, and limited common elements.

TARYN BARRETT VT. LICENSE NUMBER 003.0092828 DATE:

POST APARTMENTS

BURLINGTON, VERMONT

Duncan Wisniewski
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DRAFT

DATE: 02.13.2024

Condo

1 FIRST FLOOR PLAN
Scale: 3/16" = 1'-0"

POST APARTMENTS

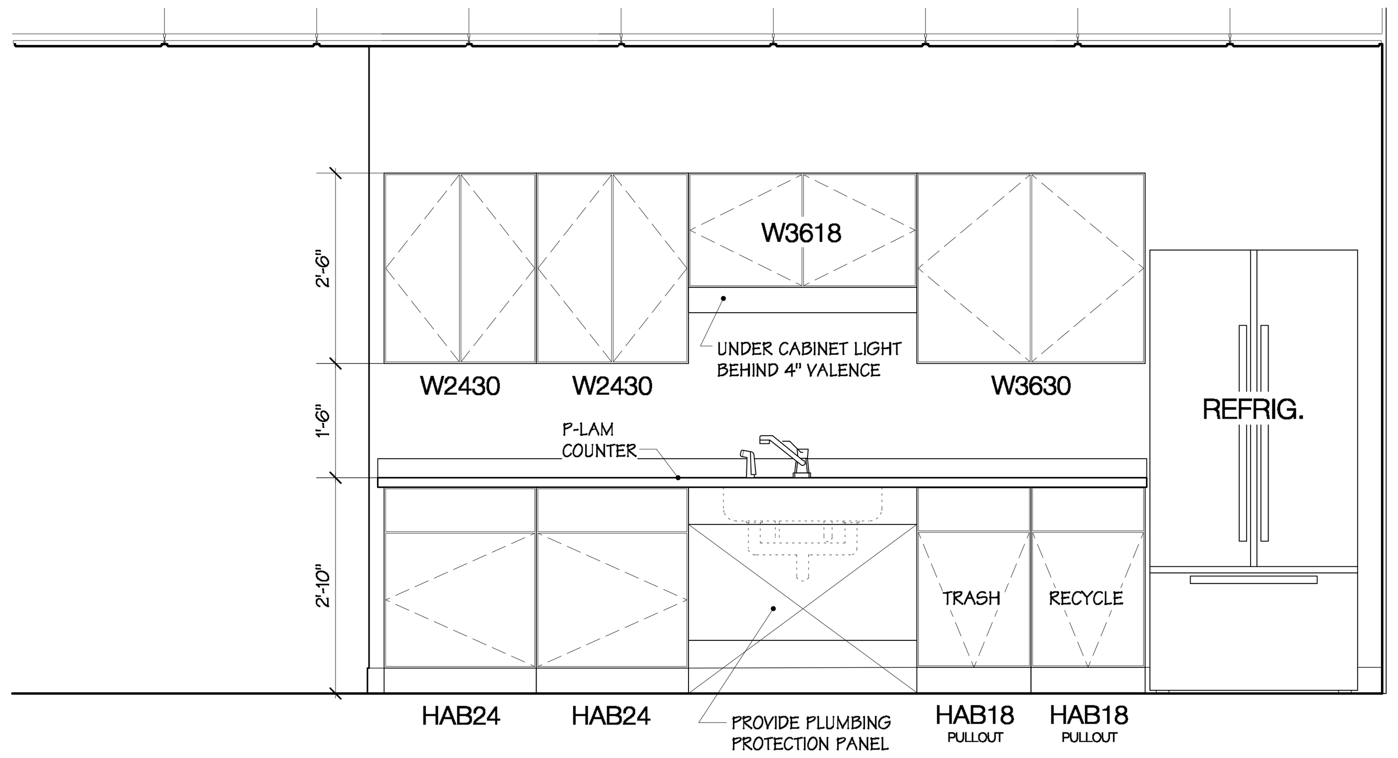
BURLINGTON, VERMONT

FOR ESTIMATING

Duncan Wisniewski ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 12.15.2023
DRAWN: TB, EM

A1-1.0



30 1ST FLOOR CAFE (C1-06)
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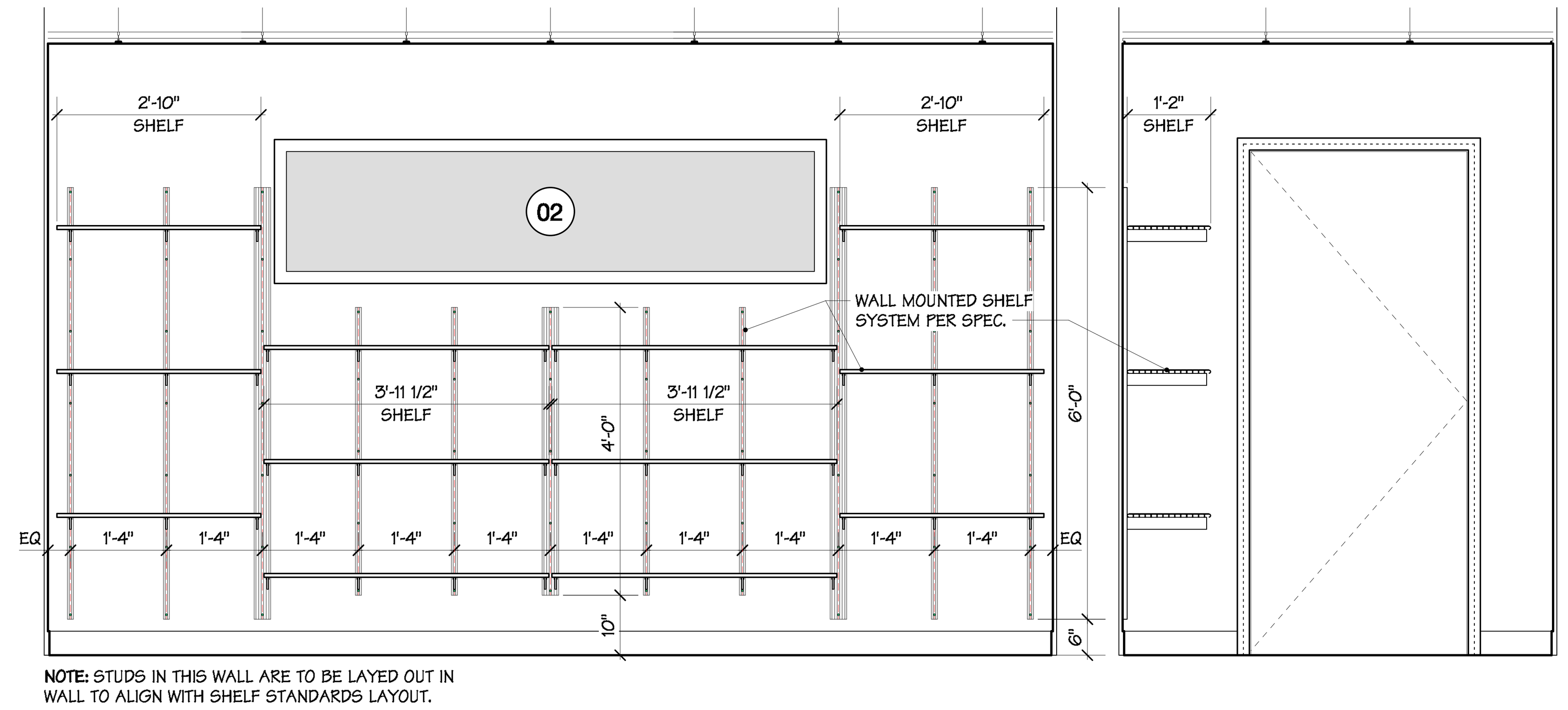

31 1ST FLOOR CLOSET (C1-19)
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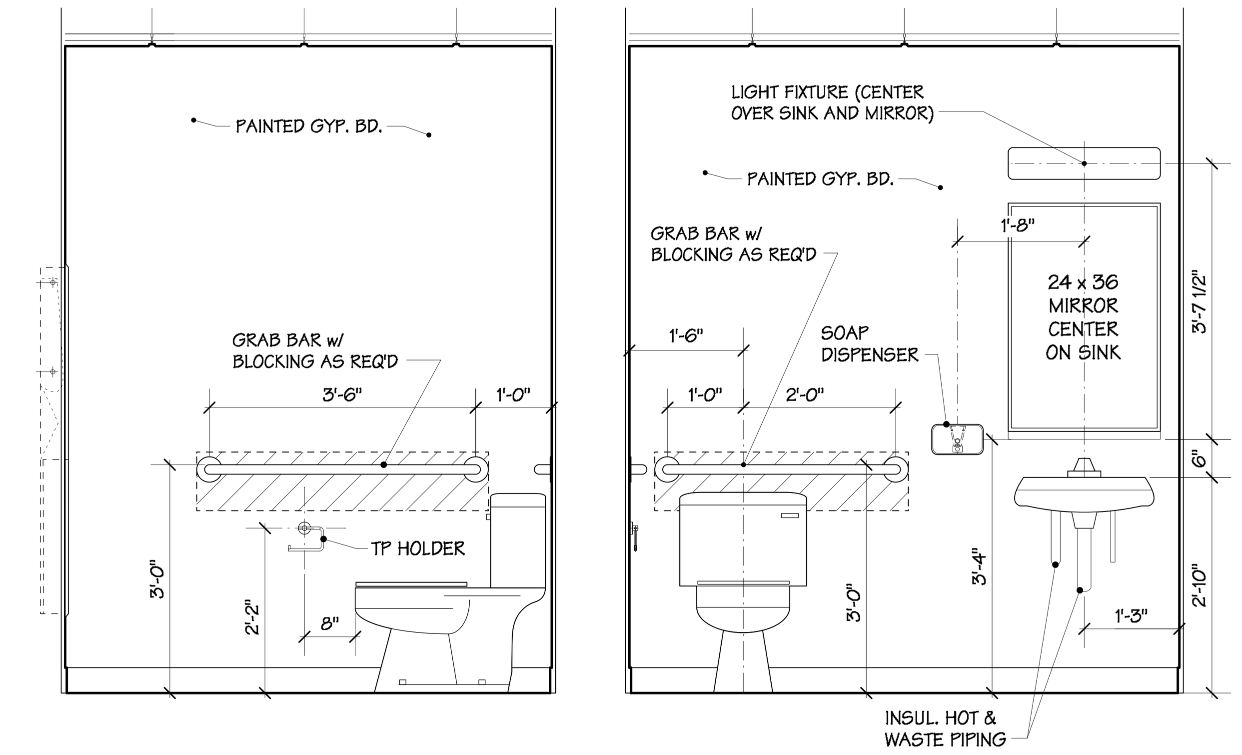

32 COM 1 WC (C1-16, ADA)
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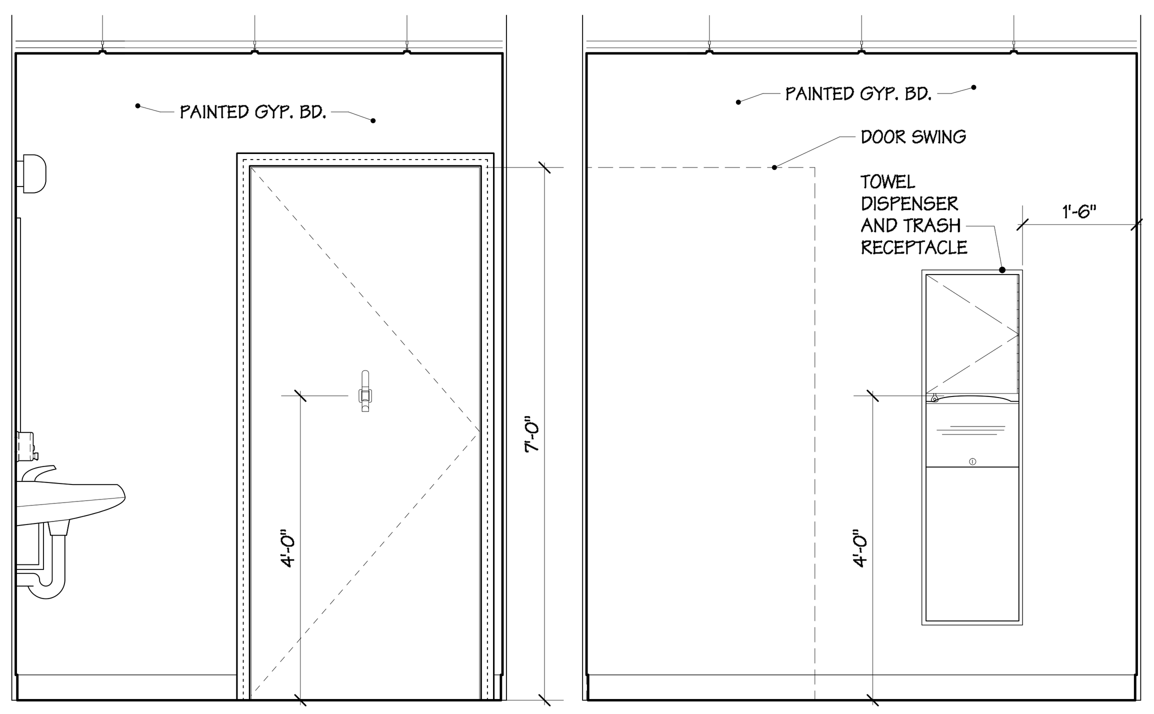

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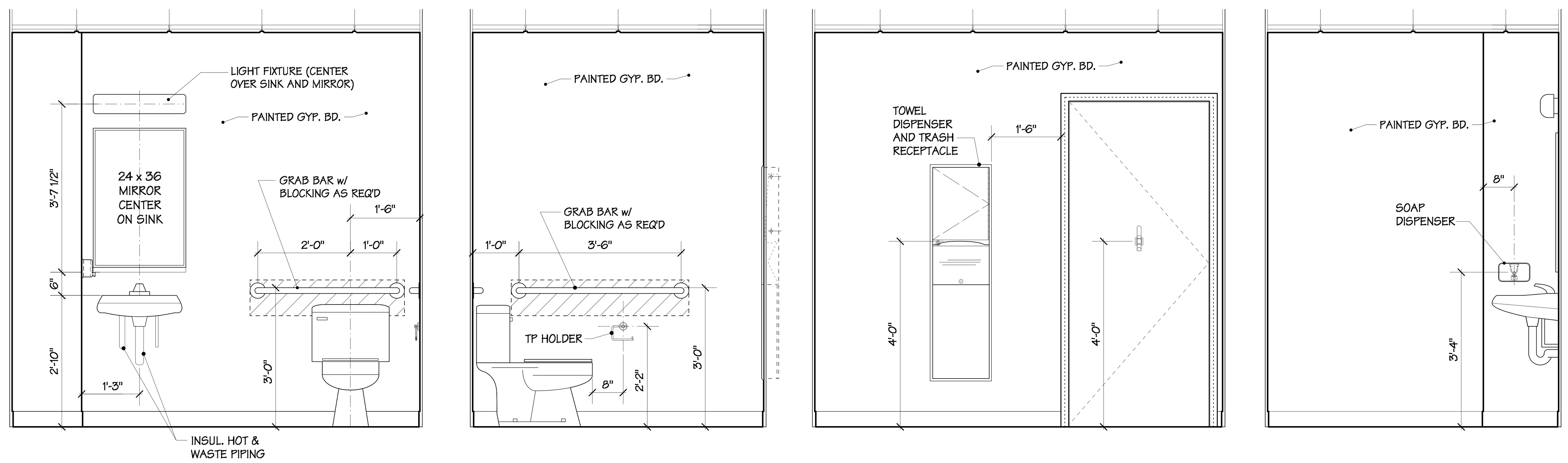

33 COM 1 WC (C1-03, ADA)
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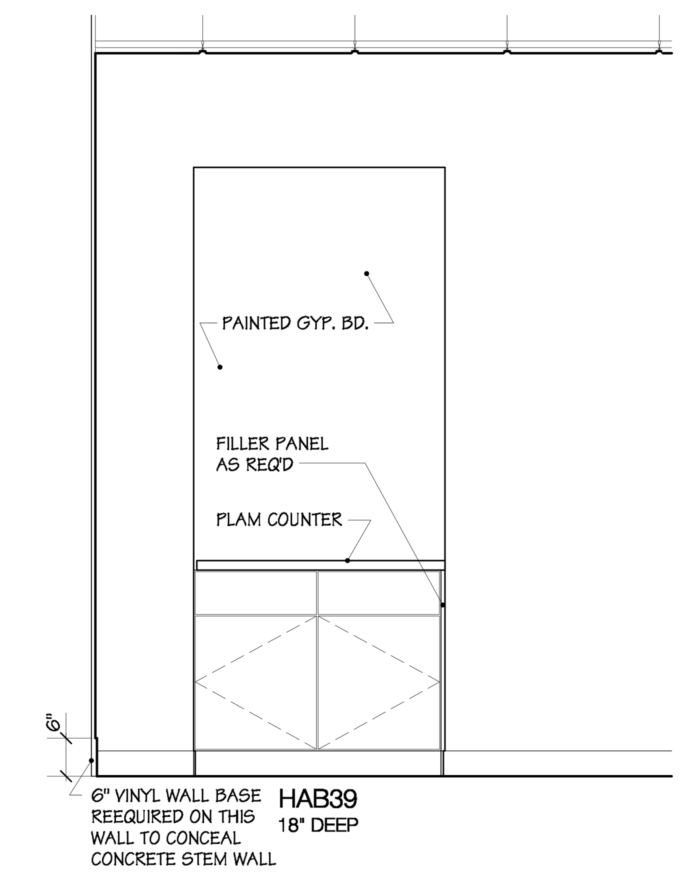

34 COM 1 SERVING COUNTER (C1-18)
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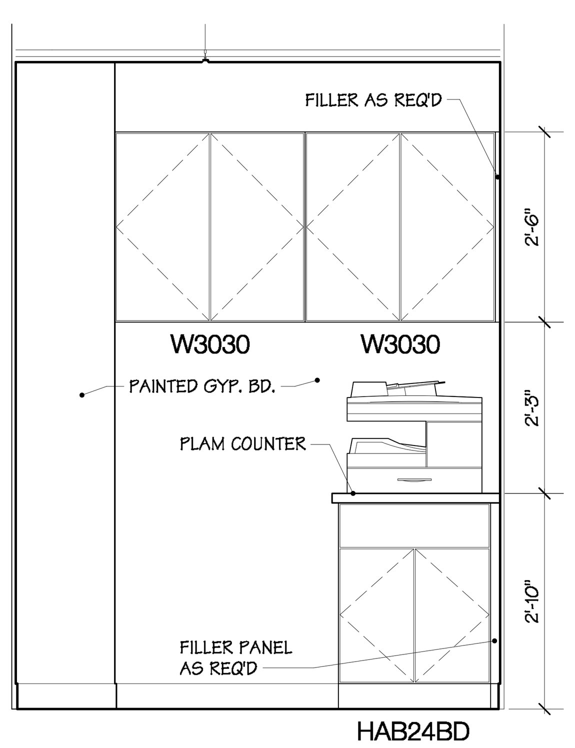

35 COM 1 COPY/SUPPLIES
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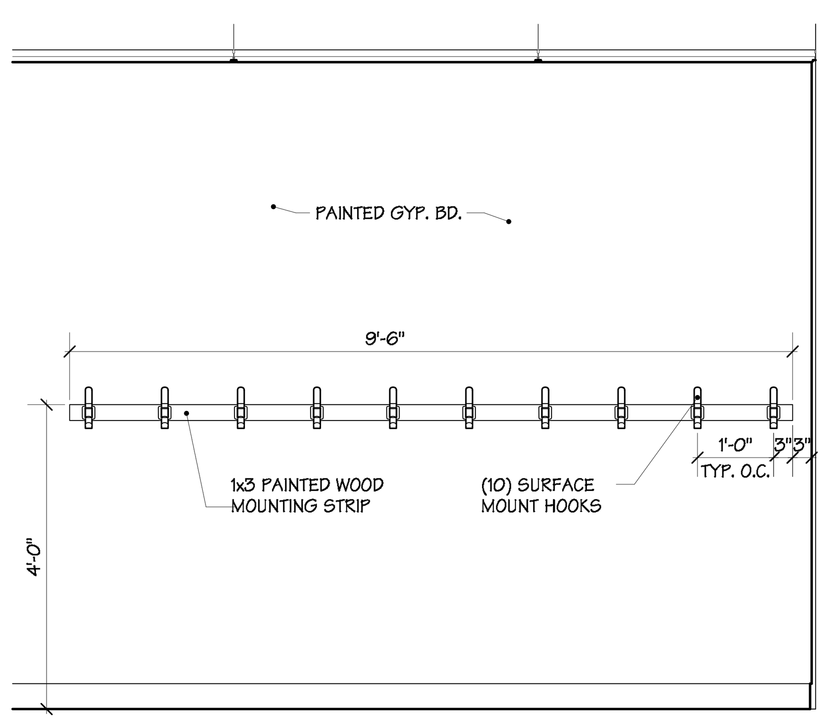

36 COM 1 EMPLOYEE ENTRY
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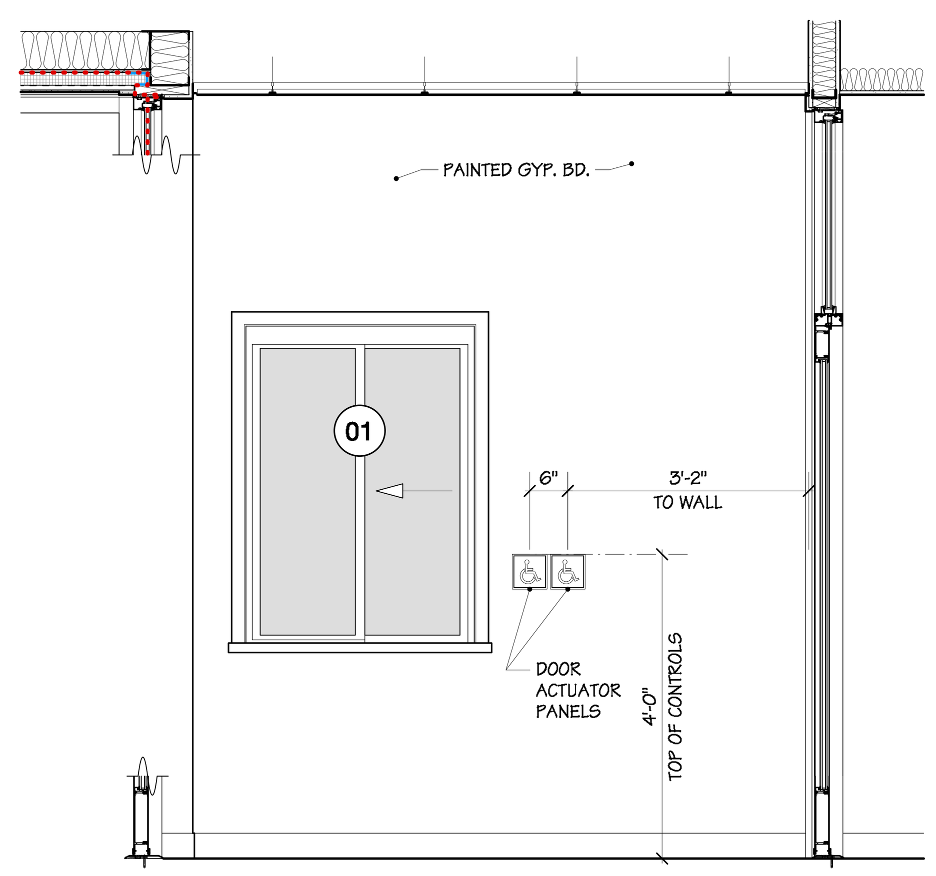
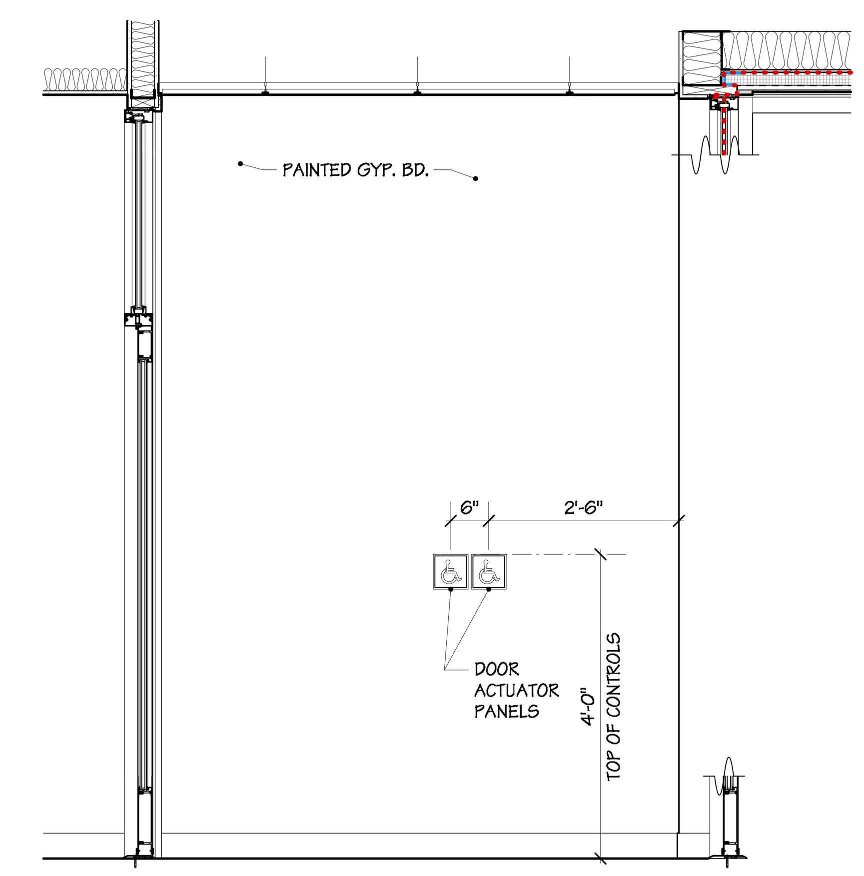


37 COM 1 VESTIBULE (C1-01)
Scale: 1/2" = 1'-0"



40 COM 2 VESTIBULE (C2-01)
Scale: 1/2" = 1'-0"

POST APARTMENTS

BURLINGTON, VERMONT

FOR ESTIMATING

Duncan Wisniewski ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 12.15.2023
DRAWN: TB, EM

A5-5.0

Post Apartments/Community Justice Center (CJC) Office Lease
Letter of Intent By and Between the City of Burlington and
Champlain Housing Trust/Post Apartments Housing LP

Landlord: Post Apartments Housing LP

Tenant: CEDO, Community Justice Center (CJC), City of Burlington

Location: 176 South Winooski Avenue, Suite 101, Burlington, VT

Date: January 31, 2024

1. **Premises**: A certain portion of the gross leasable premises located at 176 South Winooski Avenue, Burlington, VT as shown on Exhibit A of enclosed Floorplans, and identified more specifically as Suite 101 of 176 South Winooski Ave Condo Unit #1, consisting of 4,104 sf (gross), 4,075 (net) of connected commercial storefront, with 8 parking spaces in the surface parking lot.

2. **Lease Term**: The term shall be fifteen (15) years commencing three (3) months after occupancy is granted.

3. **Occupancy**: Tenant shall be granted occupancy upon the later of 1) December 2025 or ii) Owner obtaining a Certificate of Occupancy from the City of Burlington.

4. **Base Rent plus CAM rent**: The base rent is $6.80/sf/year and the CAM expense is $8.75/sf/year for a total rent of $15.55/sf/year. CAM is inclusive of trash and snow removal, grounds/landscaping, and fire alarm monitoring, and all Common Area Maintenance including common area utility expenses and repairs. Tenant will be responsible for paying electric, natural gas and water/sewer for the Leased Premises which will be separately metered.

   Base rent will be adjusted annually by 1.5% for the first five years, 2% for the second five years, and 2.5% for the remaining four years. CAM rent will increase 3-5% per year exclusive of insurance and taxes which will increase per actual.

   With the exception of the first-year's rent as described below, rent will be due monthly upon the first of each month.

5. **Use**: It is represented by the Tenant that the space shall be used for the City's Community Justice Center. If that use changes, Tenant will first inform Landlord of intended change, and Landlord will have approval rights over the new use.

6. **Signage:** Signage or Awnings must be approved by the Landlord.

7. **Taxes**: Tenant will be responsible for all personal property taxes. Landlord will pay all real estate taxes through the CAM charge collected for the tenant's prorata share.

8. **Maintenance**: Tenant shall be responsible for maintenance, good care, upkeep and repair of all other elements of the Leased Premises including, but not limited to: all non-load bearing walls, all non-structural elements, including all doors, windows, and glass, and any and all mechanical systems or devices which Tenants installs in the premises. The Tenant shall, at its own expense,

keep and maintain the Leased Premises and every part thereof in good order and repair and in a clean and sanitary condition at all times.

Landlord shall maintain in a reasonable state of repair and maintenance of the exterior of the building, including windows and doors, including the roof, and the structural elements of the building and all common utility lines and common fixtures, all common plumbing and septic lines serving the Entire Premises.

9. **Landlord/Tenant Fit-Up:** The Landlord agrees to provide the leased premises, with a finished sheet rocked "Vanilla Shell" (perimeter walls taped and primed) with separately metered electric service and a separately metered natural gas hot water system. Landlord also agrees to provide electrical and mechanical rough-in as detailed in construction plans (See Ex A). Landlord will work with Tenant and Contractor to modify plans to meet tenant's specific needs. Tenant will pay for increase in construction costs from the Vanilla Shell ("fit-up"). Tenant and Landlord are working together to secure sources to offset this fitup cost including Sales Tax Reallocation proceeds in an amount dependent on the sales tax eligible costs of up to $462,941.

10. **Landlord Conditions Precedent:** This Letter of Intent and the terms described herein is contingent upon the Post Apartments project proceeding as planned. Specifically, the project is contingent on receipt of adequate third-party financing and all regulatory approvals, and amendments.

11. **City Council Approval:** The Tenant's ability to enter into a lease agreement is also contingent upon receiving all necessary approvals and appropriations of the City of Burlington's City Council.

12. In the event that the project does not proceed, all parties will consider this LOI null and void.

The undersigned hereby agree to the above outline structure of a Lease and will work in good faith to agree upon a final lease by March 1, 2025. The matters set forth in this Letter of Intent constitute an expression of our mutual intention only and do not constitute a binding agreement among the parties with respect to the transaction. Any such binding agreement would only arise as a result of the negotiation, execution and delivery of a written lease agreement as contemplated hereby having terms and conditions satisfactory to the parties to such agreement. No party hereto may bring any claim or action against any other party hereto as a result of a failure to agree on or enter into any definitive agreement as contemplated herein.

Agreed,

By: TENANT

City of Burlington, Authorized Agent 2/9/24 **Date**

By: LANDLORD

Post Apartments LP, Authorized Agent 2/9/24 **Date**

Lease Agreement - Post Apartments HLP and Community Justice Center
Appendix I
176 South Winooski Avenue, Burlington VT

Base Rent		Monthly Base Rent	Annual Base Rent
	Year 1	$ 2,326.00	$ 27,912.00
	Year 2	$ 2,360.00	$ 28,320.00
	Year 3	$ 2,396.00	$ 28,752.00
	Year 4	$ 2,434.00	$ 29,208.00
	Year 5	$ 2,468.00	$ 29,616.00
	Year 6	$ 2,505.00	$ 30,060.00
	Year 7	$ 2,555.00	$ 30,660.00
	Year 8	$ 2,607.00	$ 31,284.00
	Year 9	$ 2,659.00	$ 31,908.00
	Year 10	$ 2,712.00	$ 32,544.00
	Year 11	$ 2,766.00	$ 33,192.00
	Year 12	$ 2,835.00	$ 34,020.00
	Year 13	$ 2,906.00	$ 34,872.00
	Year 14	$ 2,979.00	$ 35,748.00
	Year 15	$ 3,053.00	$ 36,636.00

Operating Rent

7002 Commercial Management Fee
7040 Audit
7070 Manager Payroll CHT
7080 Software
7155 Fire Alarm and Telephone
7185 Life Safety Inspection
7200 Trash
7210 Snow
7211 Salt
7220 Grounds
7251 Contract Repairs and Maintenance
7254 Maintenance Payroll
7255 Repairs and Material
7310 Property Tax
7320 Insurance

Total Annual Operating Expenses	**35,916.00**
Montly	2,993.00

Board of Finance and City Council Submission Checklist

Department: CEDO Submitter: Brian Pine

Title/Subject: Lease Agreement for the Community Justice Center at Post Apartments

	Approval:	Meeting Date:
☒	Board of Finance	4/29/2024
☒	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	4/22/2024	Brian Pine
Mayor's Office informed and approved memo	Yes	4/24/2024	Erin Jacobsen
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	4/12/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/22/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/24/2024	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	Memo with motions
Contract Attached, if applicable?	Yes	Lease agreement with attachments
Additional Materials, if necessary	Yes	Cover memo
Draft Resolution or Motion?	Yes	Motion in the memo
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

To: Board of Finance and City Council

From: Katherine Schad, Chief Administrative Officer
Brian Pine, CEDO Director
Scot Barker, Chief Innovation Officer

Date: April 29, 2024 and May 6, 2024

RE: Potential Sale of 200 Church St

This memo is in response to questions and concerns that have arisen regarding the potential sale of the subject property to Burlington Telecom. The administration is seeking BoF approval on April 29 (motion language is found below) and Council action is expected on May 6.

Background on Appraisal and Sales Price

Two appraisals have been conducted as a part of the due diligence process.

The City hired Larry Martin to conduct an appraisal, and he estimated the value at $2.2M without any allowance or deduction for the cost of major capital improvements such as the roof and the HVAC system.

BT hired Kurt Kaffenberger to conduct an appraisal, and he estimated the value at $1.26M due to the "extraordinary assumption that both the rubber membrane roof AND the HVAC system require replacement. They assumed that the membrane roof needs to be replaced at a cost of $82,000 and the required HVAC system replacement will cost $1.2M. When the estimated value is added to the estimated cost of repairs, the total estimated value according to Kaffenberger reaches $2,542,000.

Since the estimated values were fairly close (after accounting for the cost of replacing the HVAC and membrane roof), CEDO then turned to the "Income Capitalization Approach" to estimate the value of the property. This is defined as any method of converting an income stream from an income-producing property into an indicator of market value. Capitalization is the process of converting an expected stream of income into an indicator of market value. In the case of the subject property, an 8% capitalization rate was used to reflect the rate of return expected on a comparable real estate investment property in the Burlington Central Business District (CBD). To calculate the income approach to value, you divide the annual net operating income by the capitalization rate ($125,726/8% = $1,571,575).

Using this approach, the estimated fair market value was estimated at $1,571,575. The City believes that this value is a fair estimate of the value of the property in light of the deferred maintenance and a soft office market. This value recognizes that the building would be worth $3M if the work was done but that would require $1.5M (at least) of capital investment.

The Space is Not Serving the City Well

The space at 200 Church Street provides privacy for the employees who visit Human Resources and this is valuable. However, the space does not provide adequate access for the employees that HR serves, the multiple deficiencies with respect to the space used by the CJC are described in a separate memo that is going to the BoF for the April 29 meeting. Most city employees do not work within walking distance of the building and there is very limited parking. While HR representatives travel around the city to visit other offices, many employees prefer to travel themselves to the HR offices for privacy and it is difficult for them to get to the office and park.

Additionally, after a break-in of the building last fall, the door was upgraded and now includes a crash bar. While it is an improvement, it is not ADA compliant for our employees or the public.

Another consideration is that the space itself needs many capital upgrades. For instance, every year there are a couple of insect infestations - one is a beetle of some sort and another is a wasp issue. These insects swarm all of the offices along the south side of the building. We have had exterminator services out here every year since 2021, which has slowed but not stopped the problem. Another example is the restrooms. The urinal in the bathroom adjacent to the breakroom literally exploded and flooded the bathroom last week. It was vacant or this could have injured an employee. The front bathroom is very old and the toilet handle is not always operational.

Sharing a building with BT also presents challenges for the City’s employees who work at and visit 200 Church. This includes very noisy trucks coming and going as well as loud workplace "conversations" that include highly inappropriate language. While BT General Manager Mike Loucy is a willing partner in addressing this issue when we bring it up to him, it is clear that the two entities need different things from the space.

The Capital Work Necessary at 200 Church St.

<u>Heating, Ventilation and Air Conditioning (HVAC)</u>

The current HVAC system was installed with units built in 1998 and 2005. These units are past their end of life and are at risk to fail at any time. The HVAC project needs to be done immediately to ensure not only the health and safety of City employees but also to ensure the performance of City and BT equipment. If not properly cooled and circulated, the air in BT’s equipment rooms could rise to dangerous temperatures and cause equipment failures.

The City commissioned a design for the HVAC work back in 2022 by LN Consulting. LN Consulting is a Burlington firm that provides green building design solutions focused on health and sustainability, forged in analysis and technology. They strategize, evaluate, and model ways to minimize energy usage in each building consulting project. They focus on delivering intelligent, forward-thinking solutions that address building resiliency, energy optimization, and occupants' safety.

Most of this system was designed and priced using high-efficiency Variable Refrigerant Volume indoor units, split indoor and outdoor units, and an Energy Recovery Ventilator, optimized on sensors and controls. The City put this out to bid and received only one bid, which was at $1,170,000, and did not include alternates. As this price was quoted two years ago, today's price will absolutely be higher due to rapidly escalating prices for materials and labor. To further confirm the pricing please note that the professional appraiser hired by BT also estimated the cost to replace the HVAC at $1.2M.

Roof

The City received a quote to do the necessary work in 2022 for $104K, however based on their experience managing this kind of work the facilities team estimates that the cost would at least need to double so we estimate it at $210K. The roof work is critical but must happen after the HVAC work is complete.

Interior Upgrades

As referenced above, facilities staff have identified the need to update the restrooms and break area, apply fresh paint, and enhance flooring while also trying to ensure ADA access. This project would take place after the HVAC system is completed.

Weighing the Work at 200 Church St. with the City's Additional Capital Facility Needs

There are also other pressing needs at multiple City-owned buildings that are competing for limited capital funding. The biggest challenge has been the lack of a Facilities Department. Most buildings and systems have not had the maintenance and planning they need. The City has not had the time or money to plan ahead before emergencies happen. Once an emergency happens, it often leads to people having no heating or cooling, and decisions have to be made without planning simply because of minimal funding in order to put a band aid on a building. This is a more costly way to operate municipal facilities and erodes staff morale for both the office occupants and facility staff. The added Operations and Maintenance (O&M) costs to the City are very wasteful, do not support our climate goals and result in substandard facilities for both staff and for other users. Occupant comfort and indoor air quality are sacrificed when facilities suffer from deferred maintenance and obsolete equipment.

As of right now, the HVAC project is not in the capital plan. As stated above, if the City Council decides to keep the building, the HVAC project becomes a very high priority and will need to be done in FY25 at the expense of other work. The other urgent needs that we are hoping to work into the FY25 capital budget include (total of $3,985,000):

- Fire Station 1 & 2 Structural Flooring Issues: $1,160,000
- Police Station HVAC Issues: at least $575,000
- City Hall Full Mechanical System replacement: $750,000
- Miller Center Roof Top Unit Replacement: $1,500,000

Fire Station 1:

Station 1 is an historic structure. To address safety concerns, temporary shoring has been installed in the basement of the building. Both the interior and the exterior of this masonry building are in need of immediate attention and structural repair. The weight of the firetrucks has increased over the years, and the weight combined with the age of the structure has led to critical repair work needed in the bay floor, basement structural columns, and the central interior staircase. We are currently completing the engineering to bid the work out for local contractors to complete. If we don't do this work, we will need to move the fire apparatus to another location. Station 1 is also in need of exterior masonry work. The longer we go with having repairs done, the costlier it will be as the building deteriorates. The historic windows are also in need of restoration. We currently have members of the fire team sleeping in spaces with the elements penetrating the windows. The estimated cost for restoration is $200,000+. The City has received a $20,000 grant (which we have to match) to get a small portion of this work completed. Recently, pipe repair and a plumbing remodel was completed to keep the sewer from backing up in the basement, and add exterior security cameras. The fire team has also requested an update to their kitchen, as it is run down. The HVAC system is in fairly good shape for the next 5-8 years. The roof was last replaced in 2014, so should last for another 10 years.

<u>Fire Station 2:</u>

Station 2 holds space for training and several pieces of apparatus. In the last few years, the bay floor has started moving and recently concrete started falling into the basement when the trucks drive in and out. With the weight of the trucks, we must replace the bay floor in the building. If this is not done, we will need to move all apparatus to another location. We are having the engineering work done now in order to bid out to contractors. We recently had safety netting installed in the basement to keep the space safe from falling debris. Recently, we completed renovations to the restrooms and dormitory spaces to create gender neutral living quarters for a team that is becoming more diverse. In the last few years, we upgraded some of the HVAC. The fire team would also like this kitchen updated, and we will need to start planning window replacement. The roof was also replaced in 2014, so that should last for another 10 years.

<u>Police Station:</u>

The heat exchanger and (4) roof top air-handling units were just replaced, which cost the City ~$16,000. This was due to an unsafe situation for personnel in the building as they were exposed to high CO2 levels. They also had no heat. Temporary heaters had to be added which added to the electric bill. The building now has (4) roof top units which are all old and will need to be replaced with brand new parts at a huge cost in money, safety, and comfort. The buildings windows are also old and drafty, and the building needs updating inside and out. BPD is trying to actively recruit staff, and as recruits take a look at the locker room, they often remark about its poor condition. There is carpet with duct tape adhering it to the floor, old leaking fixtures, epoxy flooring, and lockers that don't accommodate the needs of the team.

<u>City Hall:</u>

The boilers in the basement are all ready to fail (with the exception of one that was recently replaced). The HVAC system for Contois Auditorium is beyond end of useful life. The sump tank that was just replaced by Energy Efficiency Investments (EEI) was close to failure before it caused a flood in the basement. Everything in the basement is leaking due to years of neglect. If it doesn't get replaced, the building may be partially without heating and cooling. EEI is based in New Hampshire and has 70 years of experience in building control systems, security, automation, and energy efficiency.

<u>Miller Center:</u>

The Miller Center is in the best shape of all the facilities, but it won’t be in a few years. This is one of the few buildings that we have had the opportunity to plan for before issues become emergencies.

Burlington Telecom's Commitment to 200 Church St.

BT is committed to being in this building for the long-term. From a practical perspective, moving their operations out of the building would be highly disruptive and significantly more complicated than what it was to move the City's network out of Memorial. That cost is likely prohibitive unless a dire circumstance were to occur that would force them to move. Further evidence that BT is committed to the building is that they just invested a large amount of money in new power and back-up battery plants and a fire suppression system for the network operations center and are embarking on, if this proposal is approved, replacing the HVAC and roofing systems. It is also advantageous to BT to remain in the building given that a significant amount of BT subscribers are in Burlington.

Financials

See attached pro forma financial statement running through 2034 that shows that if we sell now or when we must offer it to BT in 2034 the City comes out approximately the same from a purely financial standpoint. This does not account for the significant waste of City staff time spent on the O&M costs of facilities with obsolete equipment and building systems. It is also important to point out that it is not considered best practice for municipal government to retain properties for speculative purposes in the hopes that their value will appreciate and garner greater financial gains in the future when there are much more pressing, current needs among key City facilities.

RECOMMENDATION

Board of Finance:

1. Approve, and recommend that the City Council approve and authorize the Mayor to execute on behalf of the City, the proposed Purchase Option Exercise Agreement and License and Use Agreement with Champlain Broadband, LLC, for the sale and use of 200 Church Street.
2. Authorize, and recommend that the City Council authorize, the Chief Administrative Officer to: establish a separate fund in the Assigned Fund Balance to accept the proceeds of the sale of 200 Church Street; make any expenditures required to carry out the Purchase Option Exercise Agreement and License and Use Agreement; and make all necessary budget transfers in relation thereto.

City Council:

1. Approve the proposed Purchase Option Exercise Agreement and License and Use Agreement with Champlain Broadband, LLC, for the sale and use of 200 Church Street, and authorize the Mayor to execute both agreements on behalf of the City.

2. Authorize the Mayor or designee to take such further actions and to execute such further instruments as may be necessary or convenient to accomplish the transactions contemplated in the Purchase Option Exercise Agreement and License and Use Agreement, subject to review and approval of the City Attorney.

3. Authorize the Chief Administrative Officer to: establish a separate fund in the Assigned Fund Balance to accept the proceeds of the sale of 200 Church Street; make any expenditures required to

carry out the Purchase Option Exercise Agreement and License and Use Agreement; and make all necessary budget transfers in relation thereto.

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034		
Starting value	$ 1,500,000												
Add rental income		$ 120,000	$ 120,000	$ 120,000	$ 120,000	$ 120,000	$ 120,000	$ 120,000	$ 120,000	$ 120,000	$ 120,000	**$ 1,200,000**	**Total Rent Income**
Subtract capital Improvements		$ (1,500,000)	$ (710,000)		$ (100,000)		$ (500,000)		$ (100,000)			**$ (2,910,000)**	**Total Capital Repair**
Pro forma new value @ 1%		$ 3,000,000	$ 3,030,000	$ 3,060,300	$ 3,090,903	$ 3,121,812	$ 3,153,030	$ 3,184,560	$ 3,216,406	$ 3,248,570	**$ 3,281,056**	**Pro Forma New Value**	

$ 4,481,056	**Rent Income + Pro Forma New Value**
$ (2,910,000)	**Less Capital Investments**
$ 1,571,056	

DRAFT

PURCHASE OPTION EXERCISE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(200 CHURCH STREET, BURLINGTON, VERMONT)

This PURCHASE OPTION EXERCISE AGREEMENT (this "**Agreement**") is made as of this ____ day of April, 2024 (the "**Effective Date**"), by and between the CITY OF BURLINGTON, VERMONT ("**Seller**"), and CHAMPLAIN BROADBAND, LLC, a Vermont limited liability company d/b/a BURLINGTON TELECOM ("**Purchaser**").

RECITALS:

A. Seller is the current owner of that certain land and premises commonly known as 200 Church Street, Burlington, Vermont, legally described on **Exhibit A** attached hereto (the "**Land**") together with (1) all buildings and improvements constructed or located on the Land and (2) all easements and rights benefiting or appurtenant to the Land (collectively, the "**Property**").

B. Seller leases the Property to Purchaser pursuant to that certain Lease Agreement (the "**Lease**"), dated as of March 12, 2019, between Seller, as Landlord, and Purchaser, as Tenant.

C. Pursuant to Section 29 of the Lease, Purchaser has timely and effectively exercised its option to purchase the Property.

D. Seller and Purchaser now desire to enter into this Agreement to set forth the terms and conditions of the sale of the Property from Seller to Purchaser.

NOW, THEREFORE, in consideration of the above Recitals, and the terms, covenants and conditions contained in this Agreement, Seller and Purchaser agree as follows:

1. **Lease Renewal; Purchase and Sale of Property**. Notwithstanding anything to the contrary contained in the Lease, the parties acknowledge and agree that the Initial Term (as defined in the Lease) is hereby (and was timely) extended for the first Renewal Term. Subject to the terms and conditions of this Agreement, Seller shall sell, convey and assign to Purchaser, and Purchaser agrees to accept and acquire, the Property.

2. **Purchase Price**. Notwithstanding anything to the contrary contained in the Lease, the parties agree that the total consideration (the "**Purchase Price**") to be paid by Purchaser to Seller for the Property shall be One Million Five Hundred Seventy-one Thousand Five Hundred Seventy-five and 00/100 Dollars ($1,571,575.00). Purchaser hereby covenants and agrees to pay the Purchase Price in lawful money of the United States on the Date of Closing (as defined below) by federal funds wire transfer of immediately available funds to the account (as designated by Seller) of or for the benefit of Seller.

3. **Due Diligence; Casualty and Eminent Domain; Status of Title to the Property**.

A. Purchaser shall be responsible for procuring the title insurance policy, the survey and any environmental reports, Purchaser's approval of which will be a condition precedent to Purchaser's obligation to close and acquire the Property. Purchaser shall have until January 2, 2025, to complete due diligence and to accept or reject the condition of the

Property. If Purchaser fails to notify Seller within this time period that it is rejecting the condition of the Property, then it shall be deemed to accept the condition of the Property and will proceed with the Closing, subject to the other terms and conditions of this Agreement. If Purchaser rejects the condition of the property within the foregoing period, then subject to Section 5.A(ii), below, this Agreement shall be terminated and the parties shall share equally any escrow charges incurred to date, not including any title insurance premiums incurred by Purchaser.

B. Purchaser agrees and understands that it is relying upon its own inspection of the Property's physical condition, condition of title, and legal/zoning condition, and that it is not relying on Seller's representations of the same. **PURCHASER ACCEPTS THE PHYSICAL, LEGAL, AND TITLE CONDITION OF THE PROPERTY "AS IS, WITH ALL FAULTS AND DEFECTS"**.

C. The parties agree that Section 12 of the Lease will govern in the event of any fire, casualty or eminent domain event during the term of this Agreement and, in the event of any such fire, casualty or eminent domain event, Purchaser, in its sole discretion, shall have the right to terminate this Agreement (in which event the Lease shall continue in accordance with its terms) or renegotiate a reasonable adjustment to the Purchase Price.

D. At Closing, Seller shall convey to Purchaser, by the type of deed specified in Section 4, good clear record and marketable title in fee simple to the Property, and a title company selected by the Purchaser (the "**Title Company**") will so insure at regular rates that such Property will be free and clear of all tenancies, liens, encroachments and encumbrances, excepting (a) any survey defects or defects in title or encumbrances of record reasonably approved by Purchaser, (b) any existing tenancy to any third-party to any part of the Property other than that used by the Purchaser, (c) real estate taxes not yet due and payable, and (d) encumbrances arising by or through the Purchaser (the "**Permitted Encumbrances**"). From and after Closing, Seller shall be entitled to continue to use Seller's space on the first floor of the building under a License Agreement in the form attached hereto as **<u>Exhibit B</u>** (the "**License Agreement**").

4. **Closing Documents; Escrow Instructions**.

A. At Closing, Seller shall deliver or cause to be delivered to Title Company for the benefit of Purchaser the following:

(i) a Warranty Deed, subject only to the Permitted Encumbrances, conveying to Purchaser fee simple title to the Property, in the form attached hereto as **<u>Exhibit C</u>** (the "**Deed**");

(ii) a Lease Termination Agreement terminating the Lease in the form attached hereto as **<u>Exhibit D</u>** (the "**Lease Termination Agreement**");

(iii) a Memorandum of Lease Termination Agreement, terminating the existing Memorandum of Lease Agreement, in the form attached hereto as **<u>Exhibit E</u>** and to be recorded in the real property records in and for Burlington, Vermont (the "**Lease Memorandum**");

(iv) a Title Affidavit in the form attached hereto as **Exhibit F** (the "**Title Affidavit**");

(v) applicable Vermont Property and Real Estate Transaction Tax forms in the form attached hereto as **Exhibit G**;

(vi) a Seller's Affidavit stating, under penalty of perjury, Seller's U.S. taxpayer identification number and that Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code, in the form attached hereto as **Exhibit H**;

(vii) a closing statement prepared by the Title Company with respect to the Property (the "**Closing Statement**");

(viii) the License Agreement, as signed by Seller; and

(ix) all other documents as may be reasonably required to consummate the conveyance, transfer and assignment of the Property to Purchaser or Purchaser's designee or assignee.

B. At Closing, Purchaser shall deliver or cause to be delivered to Title Company for the benefit of Seller the following:

(i) Purchaser's counterpart of the Lease Termination Agreement;

(ii) Purchaser's counterpart of the Lease Memorandum;

(iii) Purchaser's counterpart of the Closing Statement;

(iv) Purchaser's counterpart of the License Agreement; and

(v) the Purchase Price.

C. Upon delivery of the foregoing by both parties, the Title Company shall cause the Deed and Lease Memorandum to be recorded. The Title Company shall also deliver original copies of the Lease Termination Agreement and License Agreement to the parties, distribute funds according to the Closing Statement, and deliver each party a certified document set containing all copies of each of the documents identified above. The parties each may deliver additional escrow instructions to the Title Company, which the Title Company shall comply with to the extent not inconsistent with applicable law, this Agreement, or the other party's additional instructions. For matters not addressed in this Agreement or the party's additional instructions, the Title Company's standard escrow instructions shall control to the extent not inconsistent with applicable law, this Agreement, or the parties' additional instructions. A copy of the Title Company's standard escrow instructions shall be given to each party as close in time as possible to the opening of escrow.

5. **Pre-closing Operations; Closing Costs and Prorations**.

A. *Pre-closing Operations*.

(i) As of the Effective Date, and notwithstanding anything to the contrary contained in the Lease, Purchaser shall only be obligated to pay Purchaser's pro rata share of the Operating Expenses (as defined in the Lease) and taxes (and no longer required to pay Minimum Base Rent). If this Agreement expires or is terminated (through no breach by Seller) before the Date of Closing, Purchaser agrees to pay retroactive rent under the Lease (which shall continue in accordance with its terms). If this Agreement is terminated as a result of a breach by Seller, Purchaser shall have all rights available under this Agreement, the Lease (which shall continue in accordance with its terms) and applicable law.

(ii) Notwithstanding anything to the contrary in the Lease, Purchaser agrees to repair, upgrade or replace the roof and HVAC system servicing the building ("**Major Repairs**"), the costs thereof shall be amortized over the useful life thereof. (For example, if the total cost of a roof replacement is $250,000 and has a useful life of 15 years, the total replacement cost shall be amortized over that 15-year period.) If this Agreement expires or is terminated (through no breach by Purchaser) before the Date of Closing, Seller shall reimburse Purchaser for the unamortized cost of such Major Repairs (as reasonably determined by Purchaser's accounting firm) within sixty (60) days following the termination of this Agreement. Seller's obligation under this section shall survive the termination of the Lease and/or this Agreement. All work under plans and specifications for the Major Repairs, and any and all agreements therefor between Purchaser and third parties, shall be subject to review and approval by Seller, which approval shall not be unreasonably withheld, conditioned or delayed; *provided*, *that* Seller agrees to approve such work, plans and specifications if they are in compliance with applicable building codes and standard industry practices. Each such agreement shall contain provisions reasonably acceptable to Seller that require: (1) the contractor to indemnify and defend the Seller and its officers, employees, and agents from any and all claims arising from the contractor's operations under the agreement; (2) the contractor and its subcontractors to name the City as an additional insured on a primary, non-contributory basis in policies of insurance identified in **Exhibit I**; and (3) the contractor and its subcontractors to comply with, and to certify compliance with, the City's Living Wage, Union Deterrence, and Outsourcing Ordinances.

B. *Prorations and Adjustments*. Pursuant to the terms of the Lease, Purchaser has been paying, and shall continue to pay until Closing all taxes, assessments and utility charges affecting the Property. Purchaser shall be responsible for all costs and expenses relating to the Property for the period from and after the Closing, except as otherwise provided in the License Agreement. Based on the foregoing, there will be no prorations at Closing; provided, however that Purchaser shall receive a credit at closing for any prepaid base rent under the Lease with respect to the period of time from and after the Closing until and including the last date of the month in which the Closing occurs. Purchaser shall be entitled to any credits or refunds on any taxes, assessments and utility charges relating to the Property and paid to Seller after Closing, and Seller shall pay any such amounts to Purchaser to the extent actually received by Seller.

C. *Title Insurance, Closing Fees and Other Closing Costs*. Seller and Purchaser shall each pay for all closing costs and other fees pursuant to Section 29 of the Lease.

6. **Closing**. The closing ("**Closing**") of the sale and purchase hereunder shall take place on or before January 31, 2025, or such other date determined by mutual agreement of the parties (the "**Date of Closing**"). The place of Closing shall be through the offices of the Title Company.

7. **Brokers**. Seller and Purchaser each represent and warrant to each other that no other brokers, finders or the like are involved in connection with this transaction and agree to indemnify each other and hold each other harmless against all claims, damages, costs and expenses of or for any fees or commissions resulting from its actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorneys' fees.

8. **General Provisions**.

A. This Agreement may be amended only by a written agreement subsequently executed by all of the parties hereto. No assignment of this Agreement shall be valid without the approval of the other party in writing.

B. No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by such party, notwithstanding the passage of time. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

C. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

D. Headings of sections are for convenience of reference only, and shall not be construed as part of this Agreement.

E. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Seller and Purchaser agree that the delivery of an executed copy of this Agreement by facsimile or by attachment to an e-mail shall be legal and binding on the transmitting party and shall have the same full force and effect as if an original executed copy of this Agreement had been delivered.

F. This Agreement shall be governed and interpreted in accordance with the internal laws of the State of Vermont applicable to contracts to be fully performed therein with respect to the Property.

G. This Agreement, together with the agreements attached hereto and the provisions of the Lease incorporated herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings between them respecting the same, whether written, oral, or implied.

H. There are no third party beneficiaries of this Agreement.

I. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. The Lease is only modified as set forth herein and in all other respects remains in full force and effect. However, in case of any inconsistency, this Agreement shall govern and control over the Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

SELLER: CITY OF BURLINGTON, VERMONT

By: ___________________________
Name:
Title:

PURCHASER: CHAMPLAIN BROADBAND, LLC, a Vermont limited liability company d/b/a Burlington Telecom

By: ___________________________
Name:
Title:

ACCEPTED BY TITLE COMPANY: By: ____________________________
Name:
Title:

EXHIBIT A
LEGAL DESCRIPTION OF THE LAND

Being all and the same lands and premises conveyed to City of Burlington, Vermont by Warranty Deed of Telecom Plaza Associates, L.P. dated March 18, 2005 and recorded in Volume 909 at Pages 159-161 of the City of Burlington Land Records and being more particularly described therein as follows:

"Being all and the same lands and premises conveyed to Telecom Plaza Associates, L.P. by Warranty Deed of Telecom Plaza Associates dated December 30, 1994 and recorded in Volume 519 at Page 696 of the City of Burlington Land Records.

'Being all and the same lands and premises conveyed to Telecom Plaza Associates by Warranty Deed of Chittenden Trust Company dated June 14, 1988 and recorded in Volume 382 at Page 607 of the City of Burlington Land Records, and being more particularly described in said Deed as follows:

'Being land and premises commonly known as 200 Church 'Street in Burlington. Being all and the same property as conveyed to the herein Grantor by Mortgage Deeds of Eric F. and Mary H. Farrell, dated 1/30/81 and 5/8/81, and recorded in Volume 277, Page 297 and Volume 278, Page 24, respectively of the City of Burlington Land Records. Said Mortgages were duly foreclosed by a Decree of Foreclosure dated March 24th, 1986 and a Certificate of Non-Redemption dated November 3, 1986 both recorded in Volume 350, Pages 257-268 of Misc. Records in the City of Burlington Land Records.

Being a lot of land situated on the southeast corner of Church and King Streets, with all structures thereon, the said land being bounded as follows:

Beginning at the point of intersection of the south line of King Street with the east line of Church Street, thence running southerly in the east line of Church Street 54 feet, more or less, to the north line of land now or formerly owned by J.M. and J. F. Whalen; thence easterly in said north line 120 feet, more or less, to the west line of the right-of-way 12 feet wide which runs northerly from said Whalen's land to King Street, thence northerly in the west line of said right-of-way 54 feet, more or less, to the south line of King Street; thence westerly in said south line of King Street 120 feet, more or less, to the point of beginning.

'Included also in this conveyance is any rights held by the Grantor under a certain Easement regarding parking spaces, dated May 6, 1985, given by Eric and Mary Farrell, and recorded in Volume 379, Pages 159-161 of the Burlington Land Records.

'These easement rights are conveyed by quit claim only, and grantor makes no warranties regarding said easement rights."

This conveyance is subject to the following:

Deed of Easement from Telecom Plaza Associates to the City of Burlington dated June 7, 1990, and recorded in Book 422 at Page 701 of the Burlington Land Records.

Grantor further assigns and conveys to Grantee its rights under the Assignment from Eric F. Farrell and Mary H. Farrell to Telecom Plaza Associates dated June 15, 1988, and recorded in Volume 383 at Page 612 of the Burlington Land Records.

Reference is hereby made to the above-mentioned instruments, the records thereof, the references therein made, and their respective records and references, in further aid of this description.

EXHIBIT B
FORM LICENSE AGREEMENT

See attached.

EXHIBIT C
FORM WARRANTY DEED

See attached.

EXHIBIT D
FORM TERMINATION OF LEASE

TERMINATION OF LEASE

This Termination of Lease is made and entered into as of January 31, 2025 (the "**Effective Date**"), by and between the undersigned tenant (the "**Tenant**") and the undersigned landlord (the "**Landlord**").

RECITALS:

A. Landlord and Tenant are parties to that certain Lease Agreement, dated as of March 12, 2019 (the "**Lease Agreement**"), with respect to the real property and the improvements located thereon at 200 Church Street, Burlington, Vermont (the "**Property**").

B. Landlord and Tenant each desire to terminate the Lease Agreement as of the Effective Date, and, in furtherance of such termination, Landlord and Tenant each desire to release the other from any and all liability and obligation under the Lease Agreement.

NOW, THEREFORE,, Landlord and Tenant agree as follows:

AGREEMENTS:

1. **Termination**. Landlord and Tenant agree that the Lease Agreement is terminated in its entirety as of the Effective Date. In furtherance of such termination, Landlord and Tenant each release the other from any and all liability, obligation, and claim under the Lease Agreement.

2. **Counterparts; Facsimile/E-mailed Signatures**. This Termination of Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. Landlord and Tenant agree that the delivery of an executed copy of this Termination of Lease by facsimile or by attachment to an e-mail shall be legal and binding on the transmitting party and shall have the same full force and effect as if an original executed copy of this Termination of Lease had been delivered.

[Signatures to follow]

IN WITNESS WHEREOF, the parties have executed this Termination of Lease as of the Effective Date.

LANDLORD: CITY OF BURLINGTON, VERMONT

By: ______________________________
Name:
Title:

TENANT: CHAMPLAIN BROADBAND, LLC, a Vermont limited liability company d/b/a Burlington Telecom

By: _______
Name:
Title:

[SIGNATURE PAGE TO LEASE TERMINATION FOR BURLINGTON, VERMONT]

EXHIBIT E
FORM TERMINATION OF MEMORANDUM OF LEASE

See attached.

EXHIBIT F
FORM TITLE AFFIDAVIT

See attached.

EXHIBIT G
VERMONT PROPERTY AND REAL ESTATE TRANSACTION TAX FORMS

See attached.

EXHIBIT H
FORM OF FIRPTA

See attached.

Exhibit I
Contractor Insurance Requirements

This exhibit includes insurance and indemnification requirements to be included in the contraction contract between Purchaser and its contractor to perform the Major Repairs (the "Contractor"). The City may approve exceptions to these coverages in its reasonable discretion.

Prior to beginning any work, the Contractor shall obtain the following insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). The certificate of insurance coverage shall be documented on forms reasonably acceptable to the City. The Contractor shall ensure that subcontractors provide the same level of coverage required herein. If the Contractor carries policies of coverage at higher limits than those set forth herein, then those shall be made available to the City. No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been developed and must be met to protect the interests of the City.

A. Commercial General Liability: With respect to all operations performed by the Contractor, subcontractors, agents or workers, it is the Contractor's responsibility to ensure that commercial general liability insurance coverage, covering bodily injury and property damage, on an occurrence form, 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. Medical Expenses

Coverage limits shall not be less than:

1.	General Aggregate	$2,000,000
2.	Products-Completed/Operations	$2,000,000
3.	Personal & Advertising Injury	$1,000,000
4.	Pollution	$1,000,000
5.	Each Occurrence	$1,000,000
6.	Damage to Rented Premises	$ 250,000
7.	Med. Expense (Any one person)	$ 5,000

B. Workers' Compensation/Employer Liability: With respect to all operations performed, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all subcontractors 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

C. Automobile Liability: The Contractor shall carry commercial automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the Contract. Each policy shall provide coverage with a limit not less than: $1,000,000 - Combined Single Limit for each occurrence.

Each policy (except workers compensation) shall be endorsed to name the City and its officers, employees, agents, successors, and assigns as additional insureds on a primary, non-contributory basis. Each policy shall be endorsed to waive subrogation against the City.

LICENSE AND USE AGREEMENT

This LICENSE AND USE AGREEMENT ("**Agreement**") is entered into by and between CITY OF BURLINGTON, VERMONT ("**Seller**"), and CHAMPLAIN BROADBAND, LLC, a Vermont limited liability company d/b/a BURLINGTON TELECOM ("**Purchaser**"), effective as of [January 15, 2025] (the "**Effective Date**").

RECITALS:

A. Seller and Purchaser, are parties pursuant to that certain Purchase Option Exercise Agreement dated on or about April ___, 2024 (the "**Purchase Agreement**") pursuant to which Purchaser agreed to acquire the Property (as defined in the Purchase Agreement) from Seller.

B. As contemplated by the Purchase Agreement, Purchaser has agreed to grant a limited license to Seller for the use and occupancy of the Property for the Purpose during the License Term set forth herein, all in accordance with the terms and conditions of this Agreement.

THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, Purchaser and Seller agree as follows:

1. Purchaser grants to Seller, and Seller accepts, upon the terms and conditions set forth below, a limited, non-exclusive license ("**License**") for the use and occupancy that portion of the Property Seller currently utilizes for the limited purpose of Seller and its employees, agents and other representatives (collectively, "**Representatives**") general office use (the "**Purpose**"). Seller agrees that it will comply with all reasonable rules imposed by Purchaser for the use of the Property and all laws, ordinances, and regulations applicable to Seller's use. Seller acknowledges and agrees that Purchaser will have access to and be able to utilize the Property during the License Term in a reasonable manner that is not inconsistent with the Purpose. Without limiting the generality of the foregoing, Seller agrees that Purchaser and its contractors will be entitled to access and use the Property during the License Term to undertake renovation and commence construction activities. In connection therewith, Seller agrees to reasonably cooperate and coordinate security, access and its activities with Purchaser's activities at the Property so as to reasonably minimize any interference with Purchaser's use and development of the Property.

2. If closing occurs under the Purchase Agreement, the license granted in this Agreement will commence on Effective Date and will continue for a period (the "**License Term**") terminating on the earlier of (a) the date that is ten (10) days after either party provides the other with written notice of termination of this Agreement, or (b) March 31, 2026. Notwithstanding the foregoing, Purchaser shall terminate this Agreement prior to March 31, 2026 only for material breach hereof by Seller, and only after giving Seller notice and an opportunity to cure of not less than thirty (30) days. For each month (or portion thereof) during the License Term, Seller shall pay to Purchaser a license fee (the "**Fee**") equal to Seller's proportion share of operating expenses of the Property, as reasonably determined by Purchaser. Seller's proportion shall be based upon [33%] of the following categories of expenses reasonably and actually incurred by Purchaser: casualty insurance, property taxes and other assessments by public entities, ground maintenance (including lawn care and snow removal), utilities, and routine building maintenance (i.e., not including rehabilitation of major systems or building repairs that are not of a routine, recurring, and ordinary nature). The monthly Fee shall be paid in full by Seller to Purchaser within ten (10) business days following Purchaser providing an invoice to Seller detailing the then-current monthly Fee. The Fee shall be paid, without deduction or offset, by electronic transfer by wire or through the Automated Clearing House ("**ACH**") system in immediately available federal funds to such account in such bank as Purchaser shall designate from time to time. Any Fee not paid by the due date will bear interest at the Interest Rate from the date due to the date paid. For purposes of this Agreement, "**Interest Rate**" means interest at the lesser

of (i) the rate of 1% per month or (ii) the maximum rate permitted by applicable law. In addition, Seller agrees to reimburse Purchaser for reasonable court costs and attorneys' fees incurred in connection with Purchaser's collection efforts hereunder. If closing does not occur for any reason, then this License Agreement shall not take effect.

3. In consideration of One or More Dollars and No Cents ($1.00), the receipt and sufficiency of which is hereby acknowledged, if exercised no later than January 30, 2026, Seller shall have an option and right of first refusal to lease as much of the Property occupied by Seller and its Representatives during the License Term as Seller may require following March 26, 2026. In case of such exercise, the lease term shall be for one (1) year, but Seller may request a shorter or longer term, which request Purchaser shall not unreasonably deny or condition. The terms and conditions of such lease shall be substantially the same as the terms and conditions of the lease from Seller to Purchaser prior to the Effective Date, and the amount of rent shall be based on current market rates. If the parties cannot agree on an amount of rent, then they shall hire (sharing the costs thereof equally) an appraiser to determine the fair market rent that shall apply. If the parties cannot agree upon an appraiser, they shall each hire their own appraisers at their own respective costs, and the appraisers so selected shall hire a third appraiser, whose fees shall be shared equally between the parties, to review each appraisal and arrive at a fair market rent, the amount so determined to be binding on the parties.

4. Seller will keep the Property in a clean and orderly condition during the License Term, and will surrender the Property at the termination of this Agreement in substantially the same condition as when Seller took occupancy of the Property. Upon the expiration or sooner termination of this Agreement, Seller shall surrender to Purchaser the licensed premises, together with all property affixed to the licensed premises, in good and broom clean condition. If, with the consent of Purchaser, Seller remains in possession of any part of the licensed premises after the expiration of the License Term, then Seller shall be a licensee from month-to-month at the Fee adjusted to fair market rental value and subject to all of the other applicable covenants, terms and conditions hereof.

5. During the License Term, each party will carry, and cause its Representatives to carry, commercial general liability insurance covering claims arising from it or its Representatives' use of the Property, with the other party as an additional insured, in an amount no less than $2,000,000.00 per occurrence and $5,000,000.00 aggregate. **SELLER ACCEPTS THE CONDITION OF THE PROPERTY "AS IS, WITH ALL FAULTS AND DEFECTS" AND RELEASES PURCHASER WITH RESPECT TO ANY CONDITION ON THE PROPERTY**. The parties acknowledge and agree that the foregoing is not intended to modify in any way the Purchase Agreement and that the terms and provisions of the Purchase Agreement are ratified and affirmed and remain in full force and effect.

6. Each party will indemnify, defend and hold the other party harmless from and against any and all liens, claims for personal injury or property damage, violations of environmental laws, causes of action and expenses (including reasonable attorney's fees), arising out of the indemnifying party's and its Representatives' use and occupancy of the Property during the License Term or otherwise.

7. Purchaser and Seller represent to each other that they have full power and authority to enter into this Agreement.

8. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Seller and Purchaser agree that the delivery of an executed copy of this Agreement by facsimile or by attachment to an e-mail shall be legal and binding on the transmitting party and shall have the same full force and effect as if an original executed copy of this Agreement had been delivered.

[Signature Page Follows]

This License and Use Agreement has been executed by the parties on the date(s) indicated below, effective as of the Effective Date.

"**PURCHASER**"	"**SELLER**"
CHAMPLAIN BROADBAND, LLC D/B/A BURLINGTON TELECOM	CITY OF BURLINGTON, VERMONT
By:______________________________ Name:___________________________ Its:______________________________	By:______________________________ Name:___________________________ Its:______________________________
Date: ____________________________	Date: ____________________________

Board of Finance and City Council Submission Checklist

Department: CT & CEDO   Submitter: Katherine Schad & Brian Pine

Title/Subject: Potential sale of 200 Church St.

	Approval:	Meeting Date:
☒	Board of Finance	4/29/2024
☒	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	4/22/2024	Katherine Schad & Brian Pine
Mayor's Office informed and approved memo	No	4/24/2024	Under review by Joe Magee
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	4/25/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/25/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	4/24/2024	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	Memo with motions
Contract Attached, if applicable?	Yes	Purchase Agreement and License Agreement
Additional Materials, if necessary	Yes	Cover memo and pro forma
Draft Resolution or Motion?	Yes	Motion in the memo
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

FY25 General Fund Budget Update

Board of Finance
April 29, 2024

Budget Assumptions

Budget Development began in December, so these assumptions were developed with prior Administration:

- All current staff included
- 7.5% attrition included for all departments (except BFD and BPD) based on historical data
- Health insurance numbers based on FY24 experience and consultant recommendation
- Departments (except BFD and BPD) were told to not increase operating budgets
- Revenues, which have been raised aggressively in the past two years, are largely held steady

The Gap as Presented in Dec 2023

Amount	Category
$4.0M	Revenue shortfall
$3.4M	Tentative increase in GF salaries & benefits for FY25
$1.6M	Tentative increase in operational costs
$9.0M	**Tentative Total**

Note that these numbers are based on the best information available at this time and will change after consultation with Department Heads and as new information regarding benefit costs becomes available.

The Gap as of April 2024

Amount	Category
$4.0M	Revenue shortfall
$7.0M	Tentative increase in GF salaries & benefits for FY25
$2.1M	Tentative increase in operational costs
$13.1M	**Current Total**

Revenue Shortfall – April 2024

Amount	Description
$1.30M	Assigned Fund Balance – Police Dept
$0.90M	Assigned Fund Balance – Fire Dept
$0.80M	ARPA – REIB Dept
$1.0M	Assigned & Unassigned Fund Balance – Non-Departmental
$4.0M	**Estimated Total of One-time Money contributing to Revenue Shortfall**

Increase in Salaries and Benefits – April 2024

Tentative Amount	Description
$3.4M	Tentative increases for salary and overtime
$2.1M	Tentative increases to healthcare costs
$1.0M	Tentative increase to retirement costs – this gets directly passed on to property taxpayers
$0.5M	Tentative increases for all other benefits including dental insurance, life insurance, worker's compensation insurance, etc
$7.0M	**Tentative Total Increase for Salaries and Benefits**

Increase in Operating Costs – April 2024

Tentative Amount	Description
$0.2M	Tentative operational increase for Fire Department
$0.4M	Tentative operational increases for Police Department
$0.5M	Tentative increase to pay for existing fleet lease costs
$1.0M	Tentative increase in debt service costs - this gets directly passed on to property taxpayers
$2.1M	**Tentative Total Increase in Operating Costs**

Tentative List of Potential Solutions

- Finalize and affect recommendations from operational efficiency study
- Employ recommendations from user fee study
- Utilize ARPA funds left over from closed programs to help close gap (at least $2M remaining)
- Increase City portion of <u>hotel portion</u> of gross receipts tax from 2% to 4% (raises $1M)
- Implement voter-approved $.03 increase to public safety tax (raises $1.8M)

Additional Tentative List of Potential Solutions

Mayor, her office, department head and budget advisors actively working on additional solutions including:

- Analyze and reduce use of outside consultants.
- Ensure staffing figures accurately reflect likelihood of hiring positions given hiring challenges in certain areas.
- Review and, as needed, modify or eliminate programs that are no longer working to maintain the most effective and essential services.
- Examine other possible reassignment/reallocation of ARPA and/or other one-time funds
- Plus reviewing several additional ideas generated by budget advisors, department heads, and staff

Fund Balance

"It is the intent of the City to achieve a minimum General Fund positive unassigned balance of 5% of the previous year's General Fund (Fund 101) actual operating expenditures as identified in the City's General Ledger. The targeted balance is 10%, and the maximum balance is not to exceed 15%."