Board of Finance

Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall

Please click the link below to join the webinar:
https://zoom.us/j/94751796951
Or Telephone: +1 646 931 3860 US
Webinar ID: 947 5179 6951

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

1. Agenda

Subject	**1.1. Motion to adopt agenda**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 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 adopt agenda

2. Public Forum

Subject	**2.1. Verbal Comments**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 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	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 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. Renewal of Tax Increment Financing (TIF) District consulting services contract with White+Burke - CEDO**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	3. Consent Agenda
Department	Community & Economic Development Office (CEDO)
Type	Action (Consent)
Recommended Action	to approve and recommend that the City Council approve and authorize the Director of the Community & Economic Development Office to execute the proposed contract with White+Burke Real Estate Advisors for TIF consulting services regarding the Waterfront and Downtown TIF districts with a maximum limiting amount of $65,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office

4. Deliberative Agenda

Subject	**4.1. 201 Flynn Avenue Purchase and Sales Agreement, Between the City of Burlington and Chittenden Solid Waste District - DPW**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	(1) To approve and recommend that City Council authorize the Mayor to execute a purchase and sale agreement between the City of Burlington and Chittenden Solid Waste District for the property located at 201 Flynn Avenue in the amount not to exceed $375,000.00, substantially in the form included in the agenda packet and

	subject to minor modifications approved by the City Attorney or designee. (2) To recommend that the City Council authorize the Mayor and Director of Public Works to take such further actions and execute such further instruments approved as to form by the City Attorney or designee as may be necessary or convenient to effectuate the transactions contemplated hereby.
Subject	**4.2. Creation of Chief Accountant in the Clerk/Treasurer's Office - C/T**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Clerk/Treasurer's Office
Type	Action
Recommended Action	to approve and recommend that the City Council approve the creation of a Chief Accountant, a Regular, Full-time, Exempt, Non-Union, Grade 23 position
Subject	**4.3. Approval of Marina Slip and Mooring Fees - BPRW**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	Parks, Recreation, & Waterfront
Type	Action
Recommended Action	to approve and recommend that the City Council approve the 2025 Marina fees as recommended by the Parks and Recreation Commission, acting as the Harbor Commission, during its September 19, 2024 meeting, as detailed in the rate table herein
Subject	**4.4. Contingent Settlement Agreement - City Attorney's Office**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall
Category	4. Deliberative Agenda
Department	City Attorney
Type	Action
Recommended Action	to approve, ratify, and authorize the Mayor or her designee to enter into the Contingent Settlement Agreement in the litigation matter captioned Mabior Jok v. City of Burlington, Brandon del Pozo, and Joseph Corrow, Docket No. 2:19-cv-00070

5. Adjournment

Subject	**5.1. Motion to adjourn**
Meeting	September 23, 2024 - Special Board of Finance Meeting - Monday, September 23, 2024, 5:30 PM, Bushor Conference Room 1st Floor, City Hall

Category	5. Adjournment
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to adjourn

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/City Council
FROM: Brian Pine, CEDO Director
DATE: September 23, 2024
RE: Renewal of Tax Increment Financing (TIF) District consulting services contract with White+Burke

This memo is intended to provide information pertaining to the proposed renewal of the pre-existing contract for TIF District consulting services between the City and White+Burke Real Estate Advisors related to the City's interests and obligations in both the Waterfront and Downtown Tax Increment Financing (TIF) Districts.

Background:
The cost for these services is eligible as related costs under both the Downtown and Waterfront TIF Districts respectively and authorized by the Vermont Economic Progress Council (VEPC) and the voters for reimbursement using current and future TIF revenues. Related cost budgets for both TIF Districts were approved through the City's FY25 annual budget process and the costs proposed in this memo were captured in the FY25 budget approved.

The services covered under this contract are detailed in the attached Scope of Work as attachment A. This contract allows for the consultant to continue providing services related to coordinating the City's responsibilities and efforts with respect to both TIF Districts. These services include: monitoring and maintaining project progress to ensure all milestones are met, serving as the City's liaison to VEPC, providing support to ensure that the Waterfront TIF ARDA 2.0 is followed, and that both District voter-approved authorizations are fulfilled. The sheer magnitude of both TIF District projects requires continued dedicated project oversight, i.e., an individual with the TIF experience, knowledge and capacity to provide sustained overall leadership to the project team, interact with the CityPlace developer team and VEPC staff, and facilitate progress among the many parties with interests in both TIF Districts. City staff will remain closely involved in project development and implementation for both District projects providing important oversight, but other core duties require staff to focus on making timely progress on numerous other critical City and departmental goals and objectives while the work of the TIF Districts continues to advance in a timely manner.

The maximum limiting amount for this proposed contract is $65,000 in services for both Districts, with $50,000 dedicated to the Waterfront TIF District and $15,000 for the Downtown District.

By way of background, David has four decades of commercial real estate development experience in Vermont. In addition to serving as the City's TIF consultant since July 2021, David and members of his

firm have provided extensive legislative testimony on issues related to Tax Increment Financing. He was instrumental in the VEPC process required to extend the Waterfront TIF District to support the redevelopment of the Moran Plant. His firm developed the City's Downtown TIF application in 2011-2012, and helped secure VEPC approval for both Phase 1 and 2 of that District.

Requests:

Board of Finance:

1. **To approve and recommend that the City Council approve and authorize the Director of the Community & Economic Development Office to execute the proposed contract with White+Burke Real Estate Advisors for TIF consulting services regarding the Waterfront and Downtown TIF districts with a maximum limiting amount of $65,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office.**

City Council:

1. **To approve and authorize the Director of the Community & Economic Development Office to execute the proposed contract amendment with White+Burke Real Estate Advisors for TIF consulting services regarding the Waterfront and Downtown TIF districts with a maximum limiting amount of $65,000 to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office.**

Board of Finance and City Council Submission Checklist

Department: CEDO Submitter: Brian Pine

Title/Subject: Renewal of Tax Increment Financing (TIF) District White+Burke contract

	Approval:	Meeting Date:
☒	Board of Finance	9/23/2024
☒	City Council	9/23/2024
☒	Concurrent	9/23/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	9/16/2024	Brian Pine
Mayor's Office informed and approved memo	Yes	9/18/2024	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	9/17/2024	Erik Ramakrishnan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	9/18/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	9/18/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Scope of Work
Draft Resolution or Motion?	Yes	Motion in memo
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS

645 Pine St. Suite A
Burlington, VT 05401
802.865.7200 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

MEMORANDUM:

TO: Board of Finance/City Council

FR: Chapin Spencer, DPW Director

Lee Perry, DPW Division Director – Maintenance Division

RE: **201 Flynn Avenue Purchase and Sales Agreement, Between the City of Burlington and Chittenden Solid Waste District**

DATE: September 23, 2024

Request:

In order to improve solid waste drop off services for Burlington residents and businesses, as well as ensure the City has a united and functional soil management area and associated storage, the Department of Public Works (DPW) requests approval to enter into a purchase and sale agreement (P&S) for the property located at 201 Flynn Avenue between the City of Burlington and Chittenden Solid Waste District (CSWD) for a total amount not to exceed $375,000 plus closing costs.

Background:

For over two decades, the City of Burlington's DPW and CSWD have been attempting to resolve a protracted effort to construct a modern, safe, full-service drop off center (DOC) in the City. CSWD has operated a space-constrained and service-constrained DOC at 339 Pine Street for many years as a stop gap measure. In 2001, CSWD purchased 195-201 Flynn Avenue (two adjoining parcels) for the purpose of developing a modern, full-service DOC at that location. Due to uncertainty with the Champlain Parkway and the cost to develop a DOC at this location, the DOC development did not advance.

CSWD's policy is to have the host municipality own the DOC property and have the municipality lease the site to CSWD for DOC development and operations. As such, Burlington DPW and CSWD Management have worked since 2016 to find a feasible, pragmatic path to transfer both or one of the 195-201 Flynn Avenue parcels to the City and provide options for the long-term full service drop off center in the City of Burlington.

In 2016, the City and CSWD agreed on a 3-year Memorandum of Understanding (MOU) offering the City an option to purchase 195-201 Flynn Avenue with an annual $16,667 option payment counted towards the ultimate purchase price. Through multiple extensions of the MOU option, and subsequent purchase and sale negotiations, the City and CSWD have settled on the City purchasing only the 201 Flynn Avenue parcel. The current MOU extension expires on September 30, 2024.

Purchasing 201 Flynn Avenue will allow the City to relocate soil storage and soil recycling operations from its current locations at 339 Pine Street and the Intervale, allow CSWD to potentially add additional services offered at their 339 Pine Street DOC location by expanding their footprint in the former soil storage area, as well as provide needed space to accommodate the future Railyard Enterprise Project that in its current preferred design will follow a path through a portion of the 339 Pine Street storage area.

History:

- 2001: CSWD purchased 195-201 Flynn Avenue for ~$510,000 with the intent of setting up an expanded drop off center (DOC). CSWD's expectation was that the City would purchase the property and lease a portion back to CSWD for siting a modern updated DOC.

- 2015: CSWD told City they were planning to sell parcel on the open market given the lack of progress on the Champlain Parkway and a DOC.

- 2016: City and CSWD agreed on a 3-year Memorandum of Understanding offering the City an option to purchase 195-201 Flynn Avenue with an annual $16,667 option payment counted towards the ultimate purchase price.

- 2019: City and CSWD agreed on a 2-year extension of the 2016 MOU.

- 2020: CSWD closed the Burlington DOC during the pandemic and reopened just for organics due to the limited space and safety concerns.

- 2021-2022: City and CSWD negotiated 2 MOU extensions to allow for negotiations for a lease purchase agreement (expired June 30, 2023).

- 2023: MOU extended again in June of 2023 for 3 months, which expired September 30, 2023. During this extension, DPW and CSWD had productive discussions regarding the development of an expanded service DOC in the City of Burlington, as well as a site for City soils relocation and management for 339 Pine St., and the Intervale

- 2023: City and CSWD agreed to a (1) one-year extension of the MOU to give both sides more time to negotiate a purchase and sales agreement. This extension was needed for both the City, and CSWD, to complete their respective due diligence, most notably the Phase I&II environmental study of the parcels. This most recent extension is due to end on September 30, 2024. CSWD's Board of Commissioners, has indicated that there will be no other extensions to the current MOU.

- 2024: In July, CSWD reopened the Burlington DOC to expanded services including recycling, trash, food scraps, and scrap metal. Due diligence completed to date include, wetlands survey, building inspection, Phase I&II environmental assessment, deed research, and appraisals/draft appraisals.

Through the many MOU extensions, the City has made, in total, $101,001.32 in option payments that will count toward the purchase price.

Benefits of purchasing 201 Flynn Avenue:

Completing purchase and sale agreement for 201 Flynn Avenue, will address needs for both DPW and CSWD including:

- Provide a long-term space for a well-designed location for City soil management.

- Enable CSWD to expand their DOC operations at 339 Pine Street in the short term by removing City soil management from 339 Pine Street. This will give CSWD the ability to possibly add additional services beyond what they are currently offering (recycling, trash, compost, scrap steel).

- Free up space to better accommodate the future Railyard Enterprise Project at 339 Pine Street. One of the options shows a path going through a portion of what currently houses the Street Maintenance Divisions construction materials, and soil storage area. These materials will be displaced by the project, and need an area to relocate.

- Give the City and CSWD the option, long-term, to locate an expanded service, modern DOC at 339 Pine Street, 195 Flynn Avenue or some other municipal parcel. If the current 339 Pine Street location is no longer viable for CSWD to operate a DOC from, then 195 Flynn Avenue or another suitable location within the City could be used as an alternate location if they so decide.

- Other than soil management, other construction materials and equipment will be stored on site – including in the weather protected garage. Recent growth at our 645 Pine Street location has decrease parking as a result. Some equipment is stored off site out in the elements during winter months.

- Accommodate interests in the Intervale to repurpose Water Distributions' existing soil management area by relocating operations to 201 Flynn Avenue.

- Avoid loss of the ~$100K in option payments already made by the City.

If the City does not advance the purchase of 201 Flynn Avenue, the City will: 1) lose ~$100K in option payments, 2) continue to struggle with adequately managing soils at suboptimal facilities, and 3) constrain future uses at 339 Pine Street.

201 Flynn Avenue Purchase and Sale Agreement Summary:

- Purchase price for the .91 acre 201 Flynn Avenue parcel (plus a approximate 0.37 acre boundary line adjustment) with 7,200 square foot commercial building – $375,000.00.

- The option payments (deposit) will be applied as a credit to the City's payment of the purchase price at closing. As a result, the City's new financial commitment to purchase this parcel will be $273,998.68 plus closing costs.

- The City, at its cost, will complete a survey of 201 Flynn Avenue that will document the lot line adjustment.

- Lot line adjustment. A lot line adjustment with 195 Flynn Avenue will be completed to increase the square footage of the 201 Flynn Avenue parcel to meet pervious surface requirements for permitting the City's soil management facility. To accommodate permanent access to the rear 195 Flynn Avenue parcel, an easement will be granted through the front 201 Flynn Avenue parcel.

- There were no adjustments in purchase price due to the lot line adjustment as it was understood by both parties that there will be remediation costs associated with the

contaminated soils and the City's development of the 201 Flynn Avenue site that would offset the additional area added to the parcel.

Due Diligence Completed To Date:

- Title Opinion: City Attorney's Office has obtained a title opinion for 201 Flynn Avenue.
- Conceptual Design: A conceptual design has been created for soils storage on the 201 Flynn Avenue parcel (bunker locations for storage of materials etc.). Given the amount of space needed to accommodate multiple materials, a lot line adjustment was needed, and CSWD was amenable to this adjustment, as long as an easement to the 195 parcel was accommodated.
- Environmental Site Assessment: A Phase 1 / Phase 2 environmental site assessment (ESA) was completed. It identified contamination on site.
- Remediation Analysis: Remediation costs based on the planned uses of the parcel were estimated by the City's on-call consultant, VHB. Partial remediation of the site to accommodate City use is projected to be approximately $85,500-$103,000. Total remediation of the site, if desired, is projected to be $630,500.
- Appraisal: CSWD's 2023 appraisal valued the 201 Flynn property at $375,000. The City began its own appraisal in 2024 but was concerned with the methodology used by the appraiser and the draft appraisal has not yet been completed.

Public Engagement

City staff have discussed this proposed purchase at a number of public meetings including the Ward 5 NPA, the DPW Commission and the City Council's Transportation, Energy & Utilities Committee:

- 10-21-2021: Presented an update at the Ward 5 NPA meeting
- 4-20-2023: Presented an update at the Ward 5 NPA meeting
- 8-27-2024: Presented an update and draft Purchase and Sale terms to the Council's Transportation, Energy & Utilities Committee and received general support
- 9-18-2024: Will update the DPW Commission on this proposed purchase and future use
- 9-19-2024: Will present to the Ward 5 NPA on this proposed purchase and future use
- 9-23-2024: Will provide the final purchase and sale document to the Board of Finance and the City Council for their approval

Funding:

Here are all the costs associated with the purchase and the fit up of 201 Flynn Avenue – and the City's responsibilities for site prep for CSWD's expanded DOC at 339 Pine Street:

Item	**City Cost**	**Notes**
Soft Costs		
Phase I Environmental Study	$7,750	City will cover
Phase II Environmental Study	$20,000	Cost split based on Phase I findings
Conceptual Planning	$20,000	Initial work being done in house.
Wetlands	$0	CSWD will cover
Archeology	$0	CSWD will cover
Deed Research	$5,000	Initial work being done in house, title

		commitment contracted out
Permitting (est.)	$3,000	Building trades (electrical, plumbing), zoning, State permits, Fire
Appraisal	$6,500	City appraisal for negotiations and financing
Purchase		
Purchase Price	$375,000	Purchase price for just 201 Flynn Avenue
Closing Costs	$10,000	Estimate
Interest	$75,000	Estimated interest over 5-7 years
Flynn Avenue Fit Up Costs		
Site Clean Up	$103,000	Cost estimate from VHB
Flynn Soil Management Fit Up	$170,000	Based off of conceptual design
Contingency (10%)	$68,250	25% fit up and remediation costs
Total Flynn Avenue Expenses	$863,500	
339 Pine Fit Up		
Stormwater improvements	$25,000	City responsible. Can be completed in-house if needed
Paving	$25,000	CSWD will cover interior site paving, may be some access road work for the City
Fencing		CSWD will cover
Total 339 Pine Street Expenses	$50,000	
Grand Total	$913,500	
Proposed Funding Split		
Soft Costs (Already paid)	$62,250	
Option Payments (Already paid)	$101,001.32	
General Fund – 66% + 339 Pine Street Work	$517,500	
Water Resources – 33%	$233,750	
Total	$913,501	

The total outstanding amount owed, after the subtracting previously paid items, is $751,251. The Clerk/Treasurer's Office and DPW propose issuing an RFP for a 5-7 year lease which the cost would be shared between DPW General Fund (66%) and DPW Water Resources (33%).

DPW's General Fund portion of the lease payments has been budgeted for in FY'25 – mostly through the Council-approved increase in the Solid Waste Generation Tax. The City's Solid Waste Generation Tax ordinance was recently amended to include the recycling of soils and can be used to pay the debt service payments and fit up costs for 201 Flynn Avenue. Out year lease payments would be included in future DPW General Fund and Water Resources budgets.

Next Steps:

- September 18: Discuss with DPW Commission
- September 19: Present to Ward 5 NPA
- September 23: Seek approval for P&S from Board of Finance and City Council
- September 30: Deadline to execute the P&S prior to expiration of the City-CSWD MOU
- October/November: Obtain 5-7 year financing for property acquisition
- October/November: Complete survey of 201 Flynn Avenue with the lot line adjustment
- November: Return to City Council for approval of the Solid Waste Generation Tax adjustment and the lease to cover the acquisition and fit up costs
- Late November: Deadline to close on the property acquisition
- Spring/Summer 2025: Undertake site work improvements at 195-201 Flynn Ave and 339 Pine St
- Fall 2025: City soil management activities begin at 201 Flynn Avenue
- Fall 2025/Spring 2026: CSWD expands Drop-Off Center at 339 Pine Street

Motions:

Board of Finance:

(1) To approve and recommend that City Council authorize the Mayor to execute a purchase and sale agreement between the City of Burlington and Chittenden Solid Waste District for the property located at 201 Flynn Avenue in the amount not to exceed $375,000.00, substantially in the form included in the agenda packet and subject to minor modifications approved by the City Attorney or designee.
(2) To recommend that the City Council authorize the Mayor and Director of Public Works to take such further actions and execute such further instruments approved as to form by the City Attorney or designee as may be necessary or convenient to effectuate the transactions contemplated hereby.

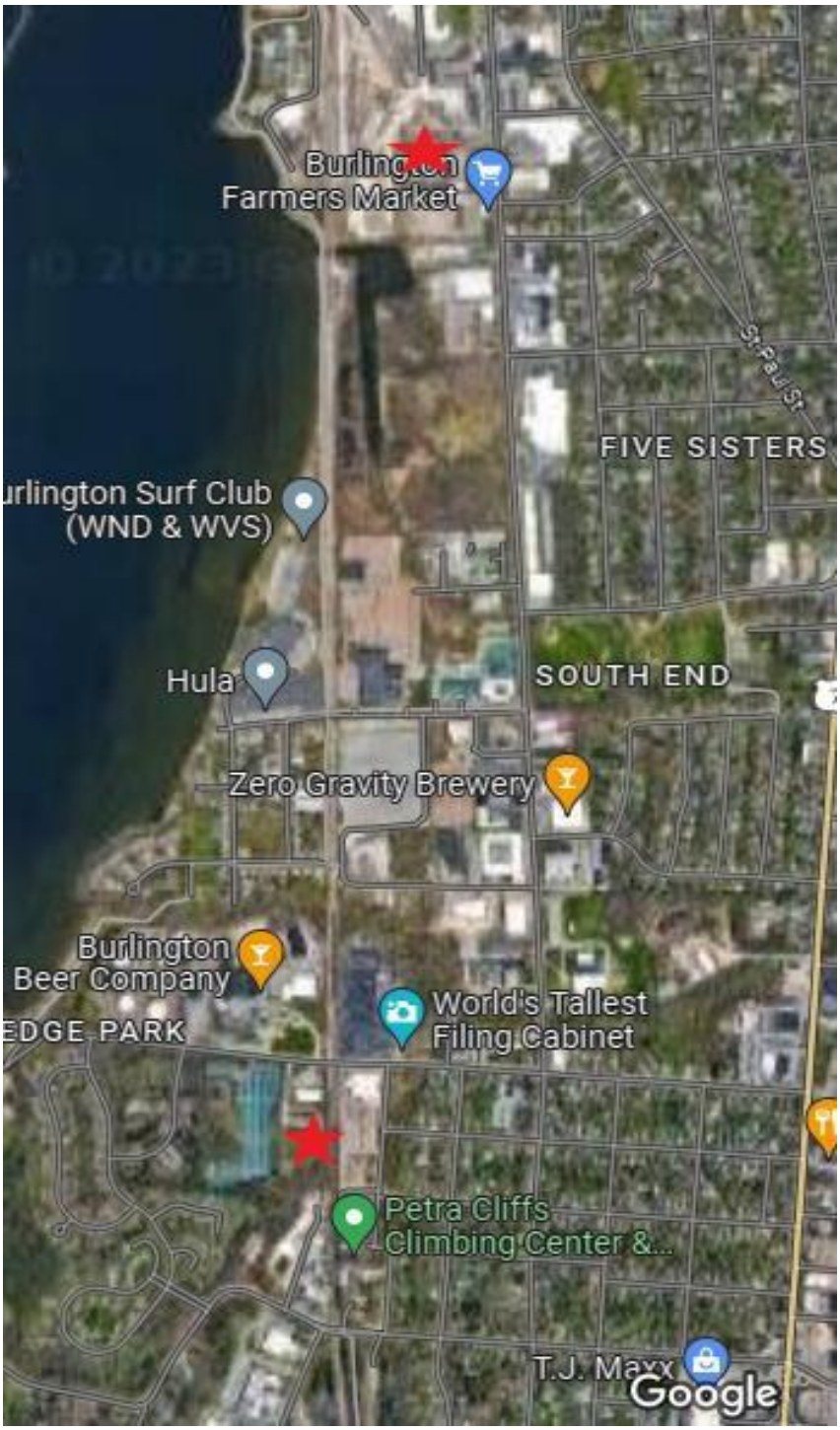
City Council:

(1) To authorize the Mayor to execute a purchase and sale agreement between the City of Burlington and Chittenden Solid Waste District for the property located at 201 Flynn Avenue in the amount not to exceed $375,000.00, substantially in the form included in the agenda packet and subject to minor modifications approved by the City Attorney or designee.
(2) To authorize the Mayor and Director of Public Works to take such further actions and execute such further instruments approved as to form by the City Attorney or designee as may be necessary or convenient to effectuate the transactions contemplated hereby.

Attachments: See maps below

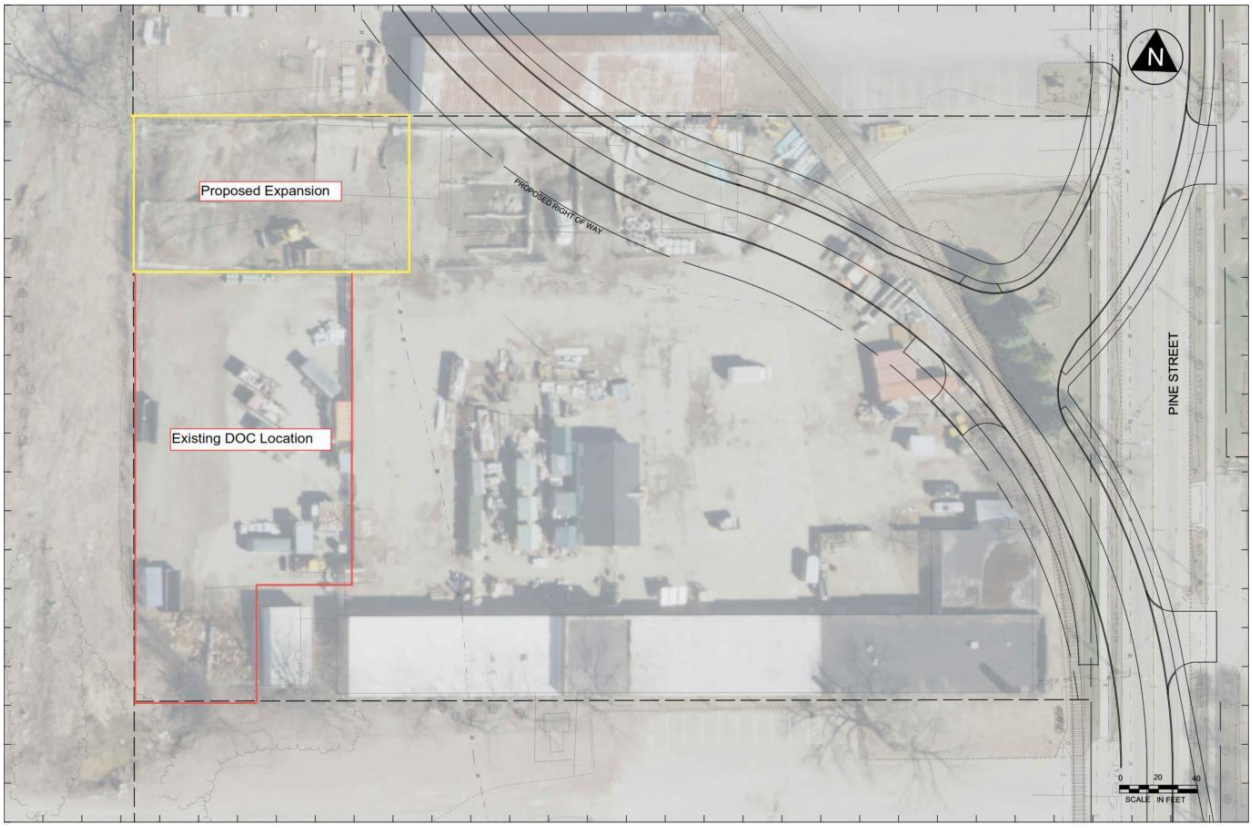
South End Map –

339 Pine Street Red Star To The North
201 Flynn Avenue Red Star To The South



339 Pine Street Proposed Short Term DOC Expansion & REP Proposed Path

(Conceptual alignment for the Railyard Enterprise Project overlaid on map)



Current 339 Pine Street CSWD DOC Improved Design. Open Tuesday through Saturday.

201 Flynn Avenue

(Conceptual Design with Lot Line Adjustment)

PURCHASE AND SALE AGREEMENT

1. **Parties to Agreement**

Seller's Name	Mailing Address	Email	Telephone
Chittenden Solid Waste District	19 Gregory Drive, Suite 204, South Burlington VT 05403	sreeves@cswd.net	802-872-8100

Purchaser's Name	Mailing Address	Email	Telephone
City of Burlington, Vermont	Burlington Public Works Department P.O. Box 849 Burlington, VT 05401	cspencer@burlington.gov	802-863-9094

This Purchase and Sale Agreement (the "Agreement") is made effective as of September ____, 2024 (the "Effective Date") by and between the Chittenden Solid Waste District, a union municipal district formed under the laws of the State of Vermont (the "Seller") and the City of Burlington, a municipal corporation formed under the laws of the State of Vermont (the "Purchaser").

In consideration of the mutual promises and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

2. **Agreement to Sell and Purchase:** Seller agrees to sell and convey and Purchaser agrees to purchase from Seller a portion of that certain parcel of property more particularly described in Exhibit A attached hereto, consisting of (i) a parcel of land depicted in the Site Plan dated 6-27-2023 included as Exhibit B hereto comprising approximately 0.91 acres with a three unit, 7200 square foot commercial building thereon together with all other improvements thereon and appurtenances thereto, which parcel is known as 201 Flynn Avenue, Burlington, Vermont (SPAN Parcel ID 057-2-124-000) ("Parcel A"), and (ii) through a lot line adjustment, a parcel of land also depicted in Exhibit B comprising approximately 0.37 acres together with all appurtenances thereto, which parcel is a portion of that certain parcel commonly known as 195 Flynn Avenue, Burlington, Vermont (SPAN Parcel ID 057-2-125-000) ("Parcel B," and together with Parcel A, the "Property"). Parcel B is to be added to Parcel A by lot line adjustment processed as a condition precedent to the contemplated sale. The description of such lot line adjustment shall be prepared by a licensed surveyor (procured by Purchaser, as set forth in Section 7.b, below) and such description shall be reasonably satisfactory to the Seller. The conveyance of the Property shall be subject to a retained easement (the "Retained Easement") in favor of the Seller across Parcel B for purposes of ingress and egress. The Retained Easement shall be reserved by the Seller and its successors and assigns for the perpetual right and easement for purposes of access, ingress and egress, to 195 Flynn Avenue, Burlington, Vermont

(SPAN Parcel ID 057-2-125-000) including the right to erect, construct, maintain, reconstruct, relocate, and operate roadway, water lines, sewer and stormwater pipes, and utility lines and associated infrastructure as Seller, its successors and assigns may from time to time determine) including buried ground wires or cables, pipes and conduit, under, over and upon the Retained Easement; provided that any such construction, installation and operation shall be performed by Seller in compliance with all applicable permits, laws and regulations; together with the right, within said Retained Easement, to cut down, remove and keep cleared such trees, underbrush and vegetation as in the judgment of Seller may interfere with or endanger the efficient operation and use of the parcel known as 195 Flynn Avenue, Burlington, Vermont (SPAN Parcel ID 057-2-125-000); together with the right to enter upon and across the Property immediately adjacent to the Retained Easement, on a temporary basis for the purpose of gaining access to the Retained Easement, and of exercising any of the rights hereby conveyed; provided, however, that said right must be exercised in a manner that will not unreasonably interfere with the Purchaser's use of the Property herein conveyed

3. **Purchase Price:** Subject to adjustment as provided herein, the purchase price to be paid for the Property (the "Purchase Price") will be Three Hundred Seventy-five Thousand Dollars and No Cents ($375,000.00). The Purchase Price shall be payable by Purchaser as follows:

   a. Pursuant to that Second 195-201 Flynn Avenue Memorandum of Understanding, entered into on or about November 1, 2019 between the Purchaser and the Seller, as amended and supplemented to date, Purchaser has previously paid Seller the sum of one hundred one thousand and one dollars and thirty-two cents ($101,001.32) (the "Deposit"). The Deposit was non-refundable and paid in consideration of the Seller refraining from marketing the sale of the Property to third parties. Seller agrees that the Deposit may be applied as a credit to Purchaser's payment of the Purchase Price at Closing; otherwise, Seller may retain the Deposit except as outlined in Section 6. This Agreement supersedes the Second Memorandum of Understanding between the two parties dated November 1, 2019 and amended on October 25, 2021 and December 12, 2022.

   b. On or before the Closing Date (defined below), Purchaser will deliver to Seller the balance of the Purchase Price by wire transfer of immediately available funds to an account designated by the Seller.

4. **Disclosures.**
   Within ten (10) business days of the Effective Date, Seller shall provide Purchaser with the following items relating to the Property, to the extent available and in Seller's possession and not otherwise provided to the Purchaser: (i) all reasonably available environmental reports, tests, and studies, including a wetlands study and the results thereto; (ii) building plans and drawings; (iii) surveys; (iv) utility bills; (v) appraisals; (vi) current property tax bills; (vii) leases with current tenants; and (viii) title reports or title commitments/policies. Purchaser's sole remedy for a delay in delivering documents and making disclosures under

this section shall be an automatic extension of the Closing Date by one day per day of delay, unless waived by Purchaser.

5. **Financing.** The Purchaser's obligations herein are contingent on Purchaser's ability to obtain financing reasonably acceptable to Purchaser for the funds necessary to meet the Purchase Price. Such ability includes recommendation of the Chief Administrative Officer, authorization of the Burlington City Council, and approval of the Mayor, in accordance and compliance with Burlington City Charter and other Vermont State law. The Purchaser shall present to Seller assurances that binding commitment of such funds has been secured no later than ten (10) business days prior to the Closing Date. Purchaser agrees to make all reasonable and good faith efforts to secure such funds. If Purchaser fails to secure such commitment by the foregoing deadline despite good faith efforts and provides timely notice of the same, this Agreement shall be automatically terminated, the Deposit shall be retained by the Seller unless an extension for Purchaser to secure such funding is agreed upon by addendum to this Agreement by both parties.

6. **Appraisal.** The Purchaser's obligations herein are contingent upon the Property and/or Parcel(s) appraising by an independent and licensed appraiser for not less than the Purchase Price. If after the completion of an appraisal, Purchaser receives notice that the Property and/or Parcel(s) have appraised for less than the Purchase Price, Purchaser shall present such notice to Seller within 14 days of receipt of such notice and shall have the option to (i) rescind this Agreement by providing written notice of termination to Seller, in which case all of the rights and obligations of the parties to this Agreement shall cease and terminate, and the Deposit shall be refunded to Purchaser; (ii) waive the Appraisal Contingency and proceed with the purchase contemplated by this Agreement without a reduction in the Purchase Price; or, (iii) Proceed with the purchase contemplated by this Agreement with a reduction in the Purchase Price, if further upon agreed in writing between the Parties as an amendment to this Agreement. For greater clarity, the time within which to receive an appraisal and provide the notice required by this section shall be concurrent with the Inspection Period (defined below).

7. **Due Diligence:** During the time period commencing upon the Effective Date and terminating at 5:00 p.m. ET on the date which is forty-five (45) calendar days thereafter, ("Inspection Period"), except in the event a Phase II Environmental Site Assessment as contemplated below in section 6.a. is recommended, whereby the Inspection Period will be extended by forty-five calendar days (45), Purchaser shall have the right to conduct and complete its investigation of the following matters relating to the Property, with the cost of such to be paid by the Purchaser:

    a. **Building Inspection.** Inspections and examinations of the building(s) on the Property, at Purchaser's sole expense and cost; notwithstanding, Seller shall work with existing tenants to schedule time for access to the entirety of the premises to perform such inspections and shall ensure that all possessions, debris, or materials of any kind are sufficiently moved or removed in order to allow full access for the purpose of performing a thorough inspection on such building(s) to Purchaser's

satisfaction; it being understood that the condition of the building to be conveyed is 'as is – where-is" and the satisfaction by Purchaser of the condition of such building shall not be used to terminate this agreement by the Purchaser;

b. **Clean and Marketable Title.** The Purchaser will procure a report on title and title commitment and, if desired by the Purchaser, an updated survey of the Property. Purchaser shall notify Seller in writing within thirty (30) calendar days from the Effective Date of the existence of encumbrances or defects reflected on the report on title, title commitment or survey, which are that are not excepted in this Agreement and render title unmarketable as defined by Vermont law (the "Title Objection Notice"). Seller shall use commercially reasonable efforts to remedy matters set forth in the Title Objection Notice within fifteen (15) calendar days of the receipt of the same. If, after the expiration of the 15-day period, Seller is unable to convey title free and clear of one or more encumbrances and defects specified in such notice, Purchaser in full satisfaction of Purchaser's obligations hereunder, shall either: (a) accept such title to the Property as Seller can convey without reduction in the Purchase Price; (c) propose a reduced Purchase Price to Seller, which upon acceptance, would supersede that listed in Section 3; or (b) terminate this Agreement, in which case the Deposit shall be returned to Purchaser, the parties shall equally share the costs of escrow, and thereafter all further rights and liabilities of the parties hereto by reason of this Agreement shall terminate. The Property to be conveyed shall be subject to such liens and encumbrances as reported in the Title Policy provided by CATIC to Seller, and attached as Exhibit C. In addition, the Property conveyed shall be subject to the Retained Easement.

Except as otherwise set forth above, if the results of Purchaser's due diligence are not acceptable to Purchaser, in Purchaser's sole discretion (other than condition of the building on Parcel A), the Purchaser may notify Seller during the Inspection Period of such dissatisfaction, whereby the Seller shall have the option to remedy any of the said issues to the full satisfaction of Purchaser as soon as reasonably possible prior to the Closing Date, and the parties may extend the Closing Date if necessary to accommodate the same. If the remedy remains unacceptable to Purchaser, Purchaser may proceed with termination or renegotiation as immediately succeeding. In which case all of the rights and obligations of the parties to this Agreement shall cease and terminate, the parties shall equally share the costs of escrow, and the Deposit shall be refunded to the Purchaser.

8. Access; Purchaser's Responsibility; Purchaser's Indemnity:

a. Seller authorizes Purchaser and its agents, employees, and invitees, upon no less than two (2) business days' prior written notice, to go on the Property to conduct such inspections, tests, surveys, and other studies as are reasonably necessary or appropriate for Purchaser pursuant to this Agreement.

b. In conducting the inspections or otherwise accessing the Property, Purchaser shall at all times comply with all laws and regulations of all applicable governmental authorities. In connection with any such inspections, neither Purchaser nor any of

its agents shall: (i) unreasonably interfere with or permit unreasonable interference with any person occupying or providing service at the Property; or (ii) unreasonably interfere with the business of Seller conducted at the Property or unreasonably disturb the use or occupancy of any occupant of the Property.

c. Purchaser and Seller agree to hold one another harmless from and against any and all losses, costs, damages, liens, claims, liabilities, or expenses (including, but not limited to, Seller's reasonable attorneys' fees, and court costs but excluding consequential and indirect damages) incurred by Seller arising from or by reason of Purchaser's and/or its agents' access to, or inspections of, the Property, except in the instance of active willful or negligent conduct. The provisions of this Section shall survive the Closing or earlier termination of this Agreement.

9. <u>Seller's Representations and Warranties</u>: Seller represents and warrants to Purchaser that the following are true as of the Effective Date and will be true as of the Closing:

a. Seller (i) is a lawfully existing union municipal district with the powers incident to a municipal corporation and a political subdivision of the State of Vermont and (ii) has the full power and authority to enter into, execute, deliver, and consummate the transaction contemplated by this Agreement and any instruments and agreements contemplated herein.

b. Seller is the record title owner of the Property and will convey good, insurable, and marketable title to the Property at Closing to Purchaser, free of all liens and parties in possession, except those identified in Exhibit C and the Retained Easement.

c. Seller has no knowledge and/or Seller has not received written notice of any contemplated, threatened or actual eminent domain proceeding(s) to which Seller is a party which, if adversely determined, would materially affect the ability of Purchaser to acquire the Property.

d. Seller has provided to the Purchaser copies of all current leases and occupancy agreements affecting the Property and Seller has granted to no person or entity other than Purchaser any right or option to acquire the Property. Seller has not entered into any new or renewed any existing lease agreements for except those herein provided prior to or upon the Effective Date. In the event such leases contemplate an initial term of tenancy to be followed by an additional month-to-month or similar subsequent term permitting Seller to terminate such leasehold in the period between the Effective Date and Closing Date, Seller warrants and agrees that it has taken or will take prior to the Closing Date, necessary efforts to effectively notice the termination of such leasehold agreements.

e. There are no taxes, assessments or bonds of any nature affecting the Property, or any portion thereof. Seller has no understanding or agreement with any taxing authority respecting the imposition or deferment of any taxes or assessments respecting the Property.

f. To Seller's knowledge, (i) the Property is not nor has it been under investigation for a violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions in, at, on, under or about the Property including, but not limited to, soil and ground water condition; (ii) Seller has not used, generated, manufactured, stored or disposed in, at, on, under or about the Property or transported to or from the Property any Hazardous Material (as defined below); and (iii) to the Seller's knowledge, there is not now and there have not been on or in the Property underground storage tanks, any asbestos-containing materials or any polychlorinated biphenyls, including those used in hydraulic oils, electric transformers, or other equipment, except those that may have been identified in the Phase I report on the Property. As used herein, "Hazardous Material" shall mean any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any material containing asbestos, or any other substance or material, defined as a "hazardous substance" by any federal, state or local environmental law, ordinance, rule or regulation.

10. Purchaser's Representations and Warranties: Purchaser represents and warrants to Seller that the following are true as of the Effective Date and will be true as of the Closing:

a. Purchaser (i) is a lawfully existing municipality and a political subdivision of the State of Vermont and (ii) has the full power and authority to enter into, execute, deliver, and consummate the transaction contemplated by this Agreement and any instruments and agreements contemplated herein.

b. There is no litigation, investigation or proceeding pending or, to the knowledge of Purchaser, contemplated or threatened against Purchaser which would impair or adversely affect Purchaser's ability to perform its obligations under this Agreement or under any contract, instrument or document related hereto.

c. Purchaser is not in violation of any legal requirements, now or hereafter in effect, relating to money laundering, anti-terrorism, trade embargoes and economic sanctions.

11. Conditions to Closing:

a. The obligations of the Purchaser under this Agreement are subject to the reasonable satisfaction on or prior to the Closing Date of the following conditions: (i) Seller's material performance and compliance with all covenants, agreements, and conditions in this Agreement required to be performed or complied by Seller on or prior to the Closing Date; (ii) Seller's representations and warranties in this Agreement shall be true and correct as of the Closing Date; (iii) there shall have been no action, proceeding before any court or be pending or threatened wherein a judgment, decree, or order might be issued that would prevent any of the transactions contemplated by this Agreement; (iv) unless waived by Purchaser,

there shall be no material casualty loss or damage to the Property; (v) Purchaser shall have obtained financing, as set forth in Section 5; (vi) each of the documents listed in Section 12 required to be executed by Seller have been executed and/or delivered, as appropriate; (v) the lot line adjustment contemplated in Section 2 shall have been completed, subject to the Retained Easement; and (vi) Purchaser shall have accepted the physical and legal condition of the Property, subject and pursuant to Section 6 of this Agreement.

b. The obligations of the Seller under this Agreement are subject to the reasonable satisfaction on or prior to the Closing Date of the following conditions: (i) Purchaser's material performance and compliance with all covenants, agreements, and conditions in this Agreement required to be performed or complied by Seller on or prior to the Closing Date; (ii) Purchaser's representations and warranties in this Agreement shall be true and correct as of the Closing Date; (iii) there shall have been no action, proceeding before any court or be pending or threatened wherein a judgment, decree, or order might be issued that would prevent any of the transactions contemplated by this Agreement; (iv) the Purchase Price shall be paid to the Seller; and (v) Seller shall have received reasonable assurances that Seller shall continue to be able to maintain a drop-off center at 339 Pine Street in accordance with the terms of Lease Agreement presently in place, or if conditions become such that 339 Pine is no longer a viable or preferred location of the drop off center, then 195-201 Flynn Avenue or another location within the City of Burlington as may be acceptable to Seller. Seller understands that the costs to design, permit, construct and operate a drop-off center will be the Seller's responsibility.

c. In the event that any condition precedent to such party's obligations is not satisfied, such party may, in its sole discretion, elect to: (i) terminate this Agreement by providing written notice of termination to the other party, in which case all of the rights and obligations of the parties to this Agreement shall cease and terminate, the parties shall share equally the costs of escrow, and, if Purchaser's conditions precedent have not been satisfied as set forth in paragraph (a) above, the Deposit shall be refunded to Purchaser or retained by Seller in accordance and compliance with this Agreement; or (ii) waive the satisfaction of such condition(s) and proceed with the purchase contemplated by this Agreement without a reduction in the Purchase Price.

12. <u>Closing</u>:

a. The closing of title shall be held on or before sixty (60) days following the Effective Date, or at such time as the parties may agree in writing without the need for a formal amendment hereto (the "Closing Date"), at such place as may be agreed upon by the parties. The term "Closing" in this Agreement is the settlement of the obligations of the Seller and the Purchaser to each other under this Agreement. When all the conditions precedent to the transfer of the Property set forth in this Agreement have been satisfied, the Purchaser shall deliver the balance of the

Purchase Price to Seller (less prorations, and applicable taxes or other amounts required by applicable law to be withheld), and may record Seller's warranty deed to the Property to Purchaser.

b. At the Closing, against payment of the Purchase Price, Seller shall deliver to the Purchaser, in form reasonably satisfactory to Purchaser:

i. A resolution in recordable form, authorizing the transfer or title to Purchaser and appointing an individual to execute all transfer documents for Seller;

ii. A Vermont Warranty Deed conveying marketable title to the Property as defined by Vermont law;

iii. A completed Vermont Property Transfer Tax Return;

iv. A non-foreign affidavit, as required by Section 1445 of the Internal Revenue Code;

v. Such affidavits, reports, and agreements as may be reasonable required by the company issuing title insurance to Purchaser;

vi. In the event the sale of the Property is not exempt from Land Gains Tax, a completed Vermont Land Gains Tax Return; and

vii. Such other instruments as Purchaser may reasonably request to effectuate the transaction contemplated by this Agreement.

13. <u>"As Is" Sale</u>: Subject to Section 6 of this Agreement, Purchaser acknowledges that Purchaser agrees to take title to the Property "AS-IS, WHERE IS, AND WITH ALL FAULTS" and in the condition existing as of the date of this Agreement, subject to reasonable use, ordinary wear and tear, and without any reduction in or abatement of the Purchase Price unless otherwise expressly set forth in this Agreement or as otherwise amended and agreed in writing between the Parties. Purchaser has undertaken all such investigations of the Property as Purchaser deems necessary or appropriate under the circumstances as to the status of the Property and the existence or non-existence of curative action to be taken with respect to any hazardous or toxic substances on or discharged from the Property.

14. <u>Taxes</u>:

a. Purchasers shall be responsible for and shall pay the Vermont Property Transfer Tax due on the sale covered by this Agreement.

b. Any Land Gains Tax due on this sale shall be the responsibility of Sellers. At or prior to closing, Sellers shall provide Purchasers with satisfactory proof either that there is no such tax due or that the tax has been paid in full.

15. **Risk of Loss:** The risk of loss due to damage to the Property by natural disaster or environmental accident, or due to condemnation of the Property or any portion thereof by eminent domain is on Seller until the Closing. The Seller shall keep and maintain such casualty insurance covering the improvements on the Property as in effect on the date of this Agreement, if any. In the event of a casualty loss prior to Closing, or other loss by natural disaster or environmental accident, or in the event of a condemnation prior to Closing, Purchaser may, in full satisfaction of Purchaser's obligations hereunder, either:

    a. Terminate this Agreement by providing written notice of termination to Seller, in which case all of the rights and obligations of the parties to this Agreement shall cease and terminate with the parties equally sharing the costs of escrow and the Deposit to be returned to Purchaser after deducting all reasonable costs incurred by the Seller in good faith in relation to this Agreement, accompanied by an accounting of such deductions; or

    b. Waive the right to terminate this Agreement and close the transaction without reduction in the Purchase Price, in which latter case, Seller shall pay to Purchaser all funds received by Seller on account of any casualty loss or condemnation, and shall assign to Purchaser all pending claims for insurance or compensation from the condemning authority then in process, and shall cooperate with Purchaser to allow Purchaser to collect the proceeds of the insurance or the compensation payments, as the case may be.

16. **Default:**

    a. Should Seller fail to perform its obligations hereunder as and when called for herein or are otherwise in default, then Purchaser may terminate this Agreement and may seek and obtain any available remedy at law or equity, including specific performance, together with costs of suit and attorneys' fees should Purchaser prevail.

    b. Should Purchaser fail to complete this purchase as provided herein, or are otherwise in default, Seller may terminate this Agreement, and may retain the Deposit, as agreed and liquidated damages.

17. **Proration of Taxes and Other Charges:** The following, if applicable, shall be apportioned as of the date of closing: municipal property taxes for the then-current calendar year and education property taxes for the then-current fiscal year. The net amount of the above adjustments shall be added to or deducted from, as the case may be, the Purchase Price. Should any tax, charge or rate be undetermined on the date of closing, the last determined tax, charge or rate shall be used for the purposes of apportionment.

18. **Fixtures and personal property:** No personal property is included in this sale unless expressly listed in this agreement or in any schedule attached hereto and fixtires currently located in the building on the Property as of the date hereof. Except for those items expressly listed in an attached schedule, Seller warrants and agrees to remove all appliances, possessions, debris, and any and all items.

19. **Broker:** The parties hereto warrant and represent to each other that they have no knowledge of any real estate broker or agent to whom a commission may be payable as a result of this transaction or any such knowledge of any other finder's fees or commissions related thereto. Each party agrees to indemnify and hold harmless the other for all claims or demands of any other real estate agent or broker claiming by, through, or under such party. This indemnification shall also include payment of costs and attorneys' fees incurred by a party in defense of a claim for such real estate commissions or fees.

20. **Effect; Severability:** This Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, successors, administrators, executors and assigns. This Agreement contains the entire agreement by and between the parties hereto, superseding any and all prior agreement, written or oral, affecting said Property. This Agreement shall be governed by the laws of the State of Vermont. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then the remaining provisions hereof shall remain in force to the extent necessary to effectuate the original intent of the parties as closely as possible.

21. **Waiver of Jury Trial:** Seller and purchaser hereby waive trial by jury in any action, proceeding, or counterclaim (whether arising in tort or contract) brought by such party against the other on any matter arising out of or in any way connected with this Agreement.

22. **Modification and Amendment; Waiver:** No modification, amendment or deletion affecting this Agreement shall be effective unless in writing and signed by all parties. No waiver of any provision of this Agreement shall be effective unless in writing, notwithstanding the passage of time, and no waiver shall be deemed a continuing waiver of any provision hereof.

23. **Notices:** All notices required to be given under this Agreement shall be deemed given on the earliest of: (i) when delivered personally to the recipient; (ii) one (1) business day after being sent to the recipient by reputable overnight courier services (charges prepaid); (iii) one (1) business day after being sent to the recipient by facsimile transmission or electronic mail provided that an automated delivery failure or "out of office" notice has not been received by the sender; or (iv) four (4) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid.

24. **Survival of Covenants, Agreements, Representations and Warranties:** Except as otherwise may be limited by the specific terms of this Agreement, all covenants, agreements, representations and warranties set forth in this Agreement shall survive the Closing for a period of two (2) years and shall not merge into any deed or other instrument executed or delivered in connection with the transaction contemplated hereby.

25. **No Assignment:** Purchaser shall not have the right to assign its rights and obligations under this Agreement without the prior express written consent of the Seller.

26. **Construction:** The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any addendum, amendments or exhibits hereto.

27. **Entire Agreement:** This Agreement (including the exhibits hereto and any addenda herewith) constitutes the entire contract between the parties with regard to the Property. All terms and conditions contained in any other writings previously executed by the parties and all other discussions, understandings or agreements regarding the Property and the subject matter hereof shall be deemed to be superseded hereby. Upon the closing of the conveyance of the Property, the Amended and Restated Second Memorandum of Understanding, as last extended as of September 30, 2023, between the Seller and the Purchaser with respect to the Property shall terminate.

28. **Further Assurances:** The parties shall reasonably cooperate with one another in order to fulfil and perform the transactions contemplated by this Agreement, and shall provide such further assurances to one another, including after the Closing, as shall be reasonable and appropriate under the circumstances, including without limitation the execution of such documents as may be desirable to implement the provisions of this Agreement fully and effectively.

29. **Counterparts:** This document may be executed in one or more separate counterparts, all of which, taken together, shall comprise one instrument, and a scanned or facsimile copy of an executed counterpart, or a counterpart executed by a verified digital signature mechanism, shall have the same full legal force and effect as if it were an original.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

PURCHASER:

CITY OF BURLINGTON, VERMONT

By:_____
Name: Emma Mulvaney-Stanak
Title: Mayor

SELLER:

CHITTENDEN SOLID WASTE DISTRICT

By:_____
Name: Sarah Reeves
Title: Executive Director

EXHIBIT A

Legal Description of Property

PROPERTY DESCRIPTION, EASEMENTS AND
COVENANTS BENEFITING THE PROPERTY

Being all and the same land and premises conveyed by Warranty Deed from Unsworth MAACO, LLC to Chittenden Solid Waste District dated December 14, 2001 and recorded on December 17, 2001 in Volume 711 at Page 181 of the City of Burlington Land Records and being more particularly described therein as follows:

> "Being a piece or parcel of land situated southerly of Flynn Avenue, so-called, in the City of Burlington consisting of 3.34 acres, more or less, and being all of Parcels 1 and 2 as shown and depicted on a Plan of Land entitled, "'Boundary Line Adjustment, Plat of Survey, Unsworth MAACO, LLC, Property and Metal Works, Inc., Property, Flynn Avenue, Burlington, Vermont" dated December 30, 2000, and revised February 28, 2001, prepared by Warren A. Robenstien and recorded in Map Slide [371A] of the City of Burlington Land Records. Said piece or parcel of land is more particularly described as follows:
>
> Commencing at a point marked by an existing iron pin set in the ground, (said point being set in the westerly boundary of the right of way of Vermont Railway and being the southeasterly corner of lands and premises of Metal Works, Inc., as shown on said plan) and proceeding southerly in and along the said westerly boundary of the Vermont Railway right of way a distance of 610.80 feet, more or less, to a point marked by an iron pin set in the ground, said point marking the northerly corner of lands and premises of Barrett Tracking Company, Inc., as shown on said Plan; thence turning to the right at an interior angle of 83°02 feet and proceeding N 67°43'W (mag) in and along the northerly boundary lines of said Barrett Trucking Company, Inc., Foster Real Estate Development, Inc., and M & M Properties a distance of 281.13 *[sic, 201.13]* feet more or less, to a point marked by an existing iron pin; thence turning to the right at an interior angle of 95°34' 10" and proceeding northerly in and along the easterly boundary line now or formerly of Barrett Trucking Company, Inc., a distance of 499.82 feet, more or less, to a point marked by an existing iron pin; thence deflecting to the right at an interior angle of 156°03'50" and proceeding in and along said easterly boundary line of Barrett Trucking Company, Inc., a distance of 153.80 feet, more or less, to an existing iron pin set in the ground; thence turning to the right at an exterior angle of 251°49' and proceeding 15.06 feet, more or less, to an existing iron pin set in the ground, thence deflecting to the right and proceeding 3.50 feet, more or less, to an existing monument set in the ground; thence continuing in approximately the same course a distance of 3.77 feet, more or less, to an iron pin set in the ground; Thence turning to the right and proceeding southerly in and along the boundary line of Metal Works, Inc., a distance of 50 feet, more or less, to a point marked by an iron pin set in the ground; thence turning to the left and proceeding in and along the boundary line of Metal Works, Inc., a distance of 50.52 feet, more or less, to an existing iron pin; thence continuing in and along said boundary line of Metal Works, Inc., a distance of 143.65 feet, more or less, to the point or place of beginning.

Also included herewith is an easement and right of way 25 feet in width for purposes of ingress and egress and placement of utilities as shown and depicted on the above referred to plan extending from the southerly line of said Flynn Avenue to the above described parcel of land.

In further aid of the description of said easement and right of way, reference is hereby made to the following:

1) Easement Deed from The Exxon Corporation to Howard Space Corporation dated July 18, 1977, and recorded in Volume 242, Page 63 of said Burlington Land Records.

2) Boundary Line Agreement entered into by and between Metal Works, Inc., and Unsworth MAACO, LLC, dated November 5, 2001, and recorded in Volume [711], Page [176] of said Land Records wherein said easement and right of way was widened to 25 feet.

Being all and the same lands and premises conveyed to Unsworth MAACO, LLC, by Quitclaim Deed of Raymond R. Unsworth dated December 30, 1997, and recorded in Volume 580, Page 434 of said Land Records and conveyed to Unsworth MAACO, LLC, from Metal Works, Inc., pursuant to said Boundary Line Agreement dated November 5, 2001, and recorded in Volume [711], Page [176] of said Land Records.

Howard Space Corporation and Raymond R. Unsworth join in this deed, by Quitclaim only, to convey any remaining interest they may have in and to the above described lands and premises."

Reference is hereby made to the instruments identified above and to the records thereof and the references therein contained in further aid of this description.

The Property may also be benefited by a pipeline easement granted in the Warranty Deed from Esso Standard Oil Company to Sun Oil Company dated August 5, 1948 and recorded in Volume 132 at Page 133 of the City of Burlington Land Records, which is described therein as a "fifteen (15) feet right-of-way for its pipe lines across the remaining land of the grantor, the location of which shall be mutually agreed upon provided, however, that the said location shall not interfere with the building or equipment used by the grantor" to enable the grantee to "use the overflow line from the [septic] tank" easement that was reserved by the grantor in this instrument.

EXHIBIT B

Site Plan showing the Lot Line Adjustment

EXHIBIT C

CATIC Title policy
Accepted Exceptions to Title

CATIC FORM - VTEOPI-C (Rev. 5-01) - Page 2

EXPANDED PROTECTION OWNER POLICY

C A T I C®

Connecticut Attorneys Title Insurance Company

Policy
OP 1616524

OWNER TITLE INSURANCE POLICY
SCHEDULE B - PART I
EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) which arise by reason of:

General Exceptions:

A. Rights of persons in possession other than the insured.

B. Any easements or claims of easements not shown by the public records, boundary line disputes, overlaps, encroachments, title to filled lands (if any) and all other facts which an accurate survey and inspection of the land would disclose and which are not shown by the public records.

C. Unrecorded mechanic's liens.

Exceptions lettered A,C are hereby deleted and, subject to all other provisions hereof, the Insured is insured against loss by reason of matters mentioned in such exceptions.

1. Any water rights or claims or title to water in or under the land.
2. IF THE INSURED PREMISES IS A CONDOMINIUM UNIT: Covenants, conditions, restrictions, easements, options, powers of attorney and limitations on title, created by the laws of the State of Vermont or set forth in the Master Deed or Declaration of Condominium, in the related By-Laws, in the Declaration of Trust or Site Plans and Floor Plans as duly recorded in the appropriate land records office and as the same may have been lawfully amended, and in any instrument creating the estate or interest insured by this policy.
3. To the extent that the insured Premises are subject to State or local permits or certificates, including but not limited to, zoning permits, Act 249 and/or Act 250 subdivision permits, local subdivision permits, building permits, septic permits, driveway or curbcut permits and certificates of occupancy, this policy does not insure compliance with the express or implied terms or conditions of these documents.
4. Real estate taxes and assessments (including liens not yet due and payable) as follows: Real estate taxes are current and subsequent payments are not yet due and payable.

Special Exceptions (if none, so state)

See attached Continuation Sheet for additional Exceptions from Coverage

C A T I C®

Connecticut Attorneys Title Insurance Company

CONTINUATION SHEET

Policy No. OP1616524

Schedule B Exceptions are continued as follows:

1. Easement and right of way 25 feet in width, for purposes of ingress and egress, and placement of utilities as shown and depicted on the above referenced to plan.

2. Easement deed from The Exxon Corporation to Howard Space Corporation dated July 18, 1977 and recorded in Volume 242, Page 63 of the Burlington Land Records.

3. Boundary line agreement between Metal Works, Inc., and Unsworth MAACO, LLC recorded in the City of Burlington Land Records.

Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Lee Perry

Title/Subject: 201 Flynn Avenue Purchase and Sale Agreement Between City of Burlington and Chittenden Solid Waste District

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	9/23/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	9/10/2024	Approved by Chapin Spencer
Mayor's Office informed and approved memo	Yes	9/19/2024	Approved by Joe Magee
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A		
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	9/18/2024	Approved by Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	9/19/2024	Approved by Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Choose an item.	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Purchase & Sales Agreement
Draft Resolution or Motion?	Choose an item.	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	

OFFICE OF THE CLERK TREASURER
City of Burlington
City Hall, 149 Church Street, Burlington, VT 05401 **Voice (802) 865-7000**
Fax (802) 865-7014

To: Board of Finance and City Council
From: Brad Kukenberger, Director of Finance, Clerk Treasurer's Office
Date: September 23, 2024
Subject: Creation of Chief Accountant in the Clerk Treasurer's Office

Executive Summary

We propose creating one (1) new position in the Clerk/Treasurer's Office as summarized below. The new position is Chief Accountant, a Regular, Full-time, Exempt, Non-Union, Grade 23 position.

Background

The City needs this position due to the growing complexity of the city's financial operations and the need for additional dedicated financial leadership as mentioned in recent annual audits. The Chief Accountant will ensure accurate financial reporting, compliance with federal, state, and local regulations, and offer critical support to city leadership in strategic financial planning. The creation of this role will enhance the city's ability to maintain sound fiscal management, improve audit processes, and streamline financial operations.

Role and Responsibilities of the Chief Accountant

The Chief Accountant will be responsible for managing all accounting functions, ensuring compliance with GAAP and GASB regulations, and supporting the city's financial stability. Key responsibilities include:

- **Financial Management:**
  - Oversee the city's financial operations, including the monthly, quarterly, and annual close of books.
  - Ensure the timely and accurate preparation of financial statements, reports, and analyses for city management and officials.
  - Develop and implement financial policies and procedures to improve operational efficiency and ensure compliance with financial standards.
- **Budgeting and Forecasting:**
  - Assist in the preparation and monitoring of the city's annual budget, providing financial forecasts and analysis.
  - Work closely with city leadership to evaluate budget performance and recommend adjustments when necessary.
- **Audit and Compliance:**
  - Coordinate and support both internal and external audits, ensuring adherence to all regulatory requirements.
  - Maintain up-to-date knowledge of accounting standards, policies, and best practices, ensuring citywide compliance.
- **Financial Planning and Analysis:**
  - Conduct financial analysis to identify trends, variances, and opportunities for cost savings or revenue generation.
  - Prepare and present financial reports to senior management and city officials, advising on fiscal strategies and long-term planning.

- **Team Leadership:**
    - Supervise and mentor accounting staff, fostering professional development and ensuring collaboration within the finance department.
    - Lead regular meetings with accounting staff to discuss fiscal year-end closing, audit preparations, and financial matters.

Financial Impact

The estimated salary of this position will be approximately $92,201 annually. The cost will be offset by vacancy savings in FY25 as well as budget savings from the reduced need for an outside consulting firm to assist with preparation ahead of the City's annual audit, ensuring no significant budgetary impact. This was considered in the FY25 CT budget.

Motions

Board of Finance Motion:

- To approve and recommend that the City Council approve the creation of a Chief Accountant, a Regular, Full-time, Exempt, Non-Union, Grade 23 position.

City Council Motion:

- To approve the creation of a Chief Accountant, a Regular, Full-time, Exempt, Non-Union, Grade 23 position.

City of Burlington
Job Description

Position Title: Chief Accountant

Department: Clerk/Treasurer

Reports to: Comptroller

Pay Grade: 23 **Job Code:** 306

Exempt/Non-Exempt: Exempt **Union:** Non-Union

Remote Work Tier: Tier 2

General Purpose: This full-time position involves overseeing financial operations, ensuring compliance with relevant laws and regulations, and maintaining accurate financial records. The Chief Accountant will manage accounting functions, assist in budget preparation, conduct financial analysis, and support audit processes. With a minimum of 5 years of progressive accounting experience, preferably in the public sector, and a strong knowledge of GAAP and GASB regulations, the ideal candidate will possess excellent analytical, organizational, and leadership skills. This role is crucial for the fiscal management and financial planning of the city's resources.

Essential Job Functions:

- **Financial Management:**
  - Oversee and manage the city's accounting functions ensuring timely and accurate monthly, quarterly, and annual close of City books.
  - Ensure accurate and timely preparation of financial statements, reports, and analyses.
  - Develop and implement financial policies and procedures to enhance operational efficiency and compliance.
- **Budgeting and Forecasting:**
  - Assist in the preparation and monitoring of the city's annual budget.
  - Provide financial forecasts and analysis to support decision-making processes.
  - Monitor budget performance and recommend adjustments as needed.
- **Audit and Compliance:**
  - Coordinate and support internal and external audits, including the annual audit.
  - Ensure compliance with federal, state, and local laws, regulations, and policies.
  - Maintain up-to-date knowledge of accounting standards and best practices.
- **Financial Planning and Analysis:**
  - Conduct financial analysis to identify trends, variances, and opportunities for improvement.
  - Prepare and present financial reports to senior management and city officials.
  - Advise on financial strategies and long-term planning initiatives.

- **Team Leadership:**
  - Supervise and mentor accounting staff, providing guidance and professional development opportunities.
  - Foster a collaborative and productive work environment.
  - Lead regular meetings with accounting staff to discuss fiscal year close and other financial matters.

Qualifications:

- **Education:**
  - Bachelor's degree in Accounting, Finance, or a related field preferred, additional experience may be substituted for degree requirement on a two-for-one year basis.
- **Experience:**
  - Minimum of 5 years of progressive accounting experience, preferably in a government or public sector setting.
  - Proven experience in financial management, budgeting, and audit coordination.
  - Strong knowledge of Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) regulations.
  - Minimum of three (3) years of supervisory experience
- **Skills:**
  - Excellent analytical, organizational, and problem-solving skills.
  - Proficient in accounting software and Microsoft Office Suite, particularly Excel.
  - Strong leadership and team management abilities.
  - Effective communication and interpersonal skills.

Physical & Mental/Reasoning Requirements: Work Environment:
These are the physical and mental/reasoning requirements of the position as it is typically performed. Inability to meet one or more of these physical or mental/reasoning requirements will not automatically disqualify a candidate or employee from the position. Upon request for a reasonable accommodation, the City may be able to adjust or excuse one or more of these requirements, depending on the requirement, the essential function to which it relates, and the proposed accommodation.

x	seeing	x	ability to move distances within warehouses and offices
	color perception (red, green, amber)	x	lifting (specify 30 pounds)
x	hearing/listening	x	carrying (specify 30 pounds)
	clear speech		climbing
x	touching		driving
x	dexterity x hand x finger		ability to mount and dismount forklift
	reading – basic		pushing/pulling
x	reading – complex		shift work
	math skills – basic		moving objects
x	math skills – complex		pressurized equipment
x	writing – basic		extreme heat
	writing – complex		extreme cold
x	analysis/comprehension		high places
x	judgment/decision making		noise
	clerical		fumes/odors
x	inside		dirt/dust
	outside		hazardous materials
x	works alone		electrical equipment
x	works with others		mechanical equipment
x	face-to-face contact		
x	verbal contact w/others		

Supervision:

Directly Supervises: __2__ Indirectly Supervises: ____

Disclaimer:

The above statements are intended to describe the general nature and level of work being performed by employees to this classification. They are not intended to be construed as an exhaustive list of all responsibilities, duties and/or skills required of all personnel so classified.

Board of Finance and City Council Submission Checklist

Department: Clerk/Treasurer Submitter: Bradley Kukenberger

Title/Subject: Creation of Chief Accountant and Freezing of Accounting Operations Analyst Position

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	9/23/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

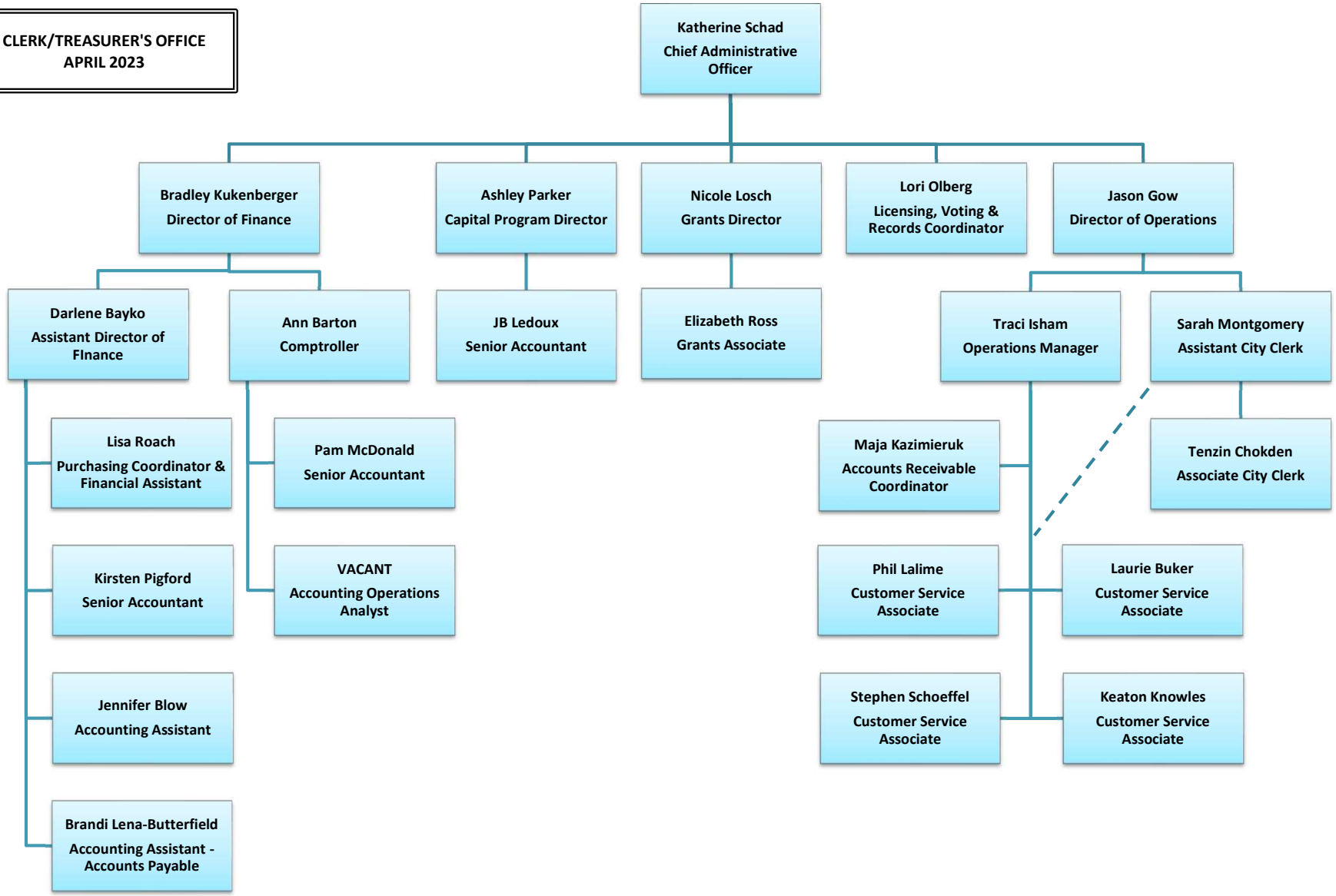
Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	9/16/2024	Katherine Schad
Mayor's Office informed and approved memo	Yes	9/19/2024	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	9/19/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	N/A	Click or tap to enter a date.	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Yes	9/16/2024	Tim Clancy
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

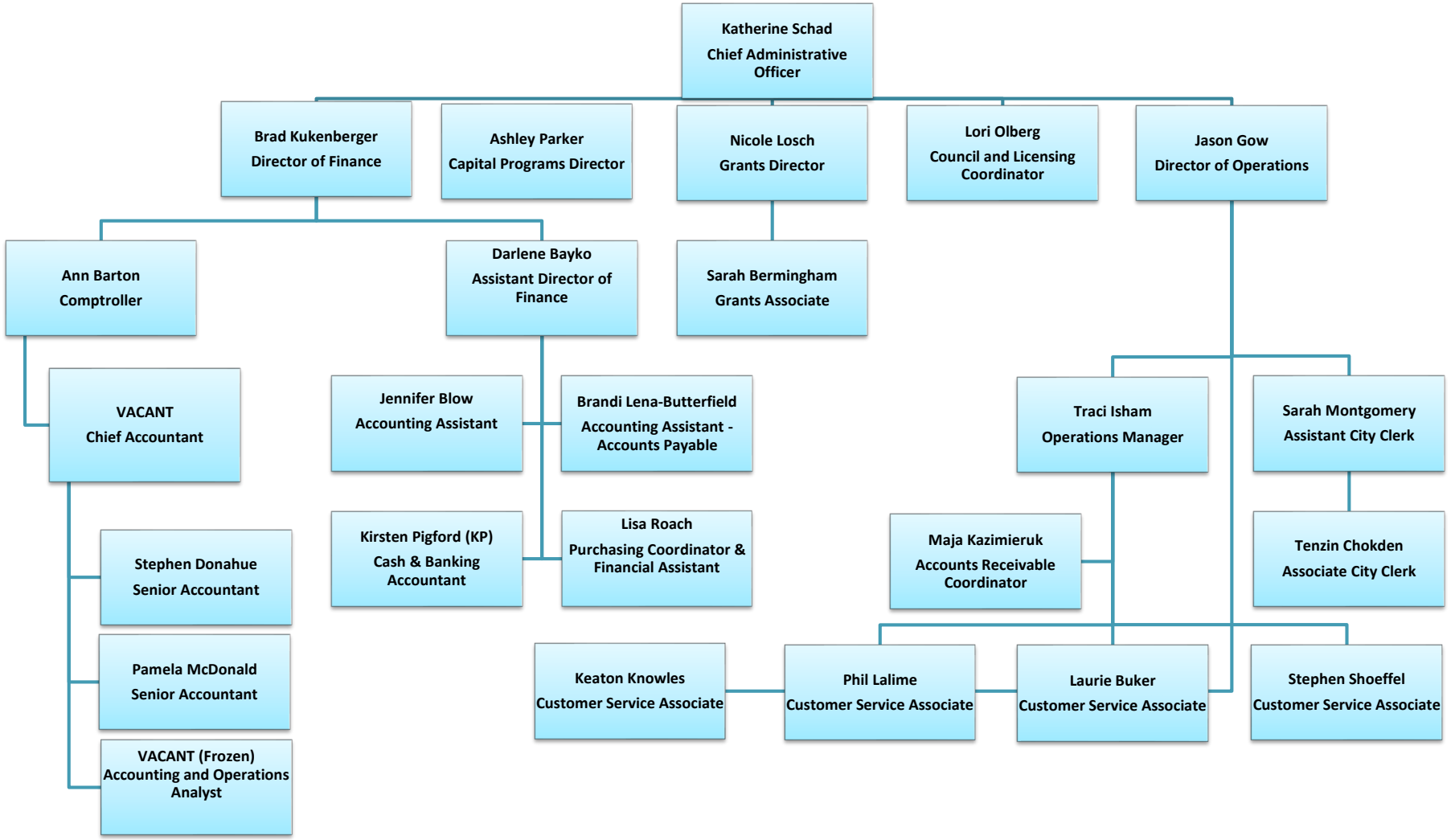
Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

CLERK/TREASURER'S OFFICE
APRIL 2023



CLERK & TREASURER'S OFFICE
August 2024 - Current



BURLINGTON PARKS RECREATION WATERFRONT

MEMO

To: Board of Finance and City Council
From: Cindi Wight, Director
Erin Moreau, Waterfront Superintendent & Harbormaster
Rob Peterson, Marina Manager & Deputy Harbormaster
Date: September 23, 2024
Re: Approval of Marina Slip and Mooring Fees

Executive Summary

Parks, Recreation & Waterfront is requesting:

- Approval of 2025 Marina slip and mooring fees for the 2025 season.

Approve the 2025 fees for slips and moorings at Perkins Pier and the Community Boathouse.

Background

All slip and mooring fees require approval annually from the Harbor Commission and the City Council. The Harbor Commission is expected to approve the fees at their 9/19/24 meeting, following the Parks Commission unanimous vote to approve on 9/10/24.

Cost Recovery Goals related to Marinas

Category – Enterprise
Our cost recovery goals for Enterprise range from 100-150%

Enterprise categories have a commercial service or contract, similar to a private operation and include specialized services. These are generally more tourist-focused.

The cost recovery *Enterprise* category requires the least subsidy from the taxpayers because it serves a unique group of users. The activity (motor and sail boating) is not open to all community members. Our enterprise groups (marina and campground) cover approximately 120% of expenses. It includes indirect costs but not capital expenses, typically covered through bonds or Penny for Parks (small projects).

The 2024 MGT User Fee Study indicated that the Marina recovers 129% of its revenue and did not indicate a need to increase the percent of cost recovery. As all expenses continue to increase, including a desire to reinvest into the marina with smaller projects using general fund dollars, we need to continue to increase fees. We are also doing a further analysis of the MGT study to ensure all indirect expenses, including expenses in other program lines, are included in the cost analysis.

Fee Changes

Seasonal Boater Rates: For Seasonal Boaters at the Burlington Boathouse and Perkins Pier, we applied a fee increase of between 1.7-8.6%, to account for our increased expenses for labor and utilities. Last year, we increased the Non-Resident rate significantly, and this year we focused on increasing our Resident rate to keep it proportionate with other marinas in the harbor and to narrow the gap between the current resident and non-resident rates. There is currently a 14% difference between resident and non-resident

slip rates at the Community Boathouse and Perkins Pier, the largest gaps between the two rate structures in our 36-year operating history. Making these changes would narrow this gap to a 9% difference at the Boathouse and 11% at Perkins Pier. Comparatively speaking, Ferry Dock Marina's slip rates will be $104/ft to $129/ft, with the vast majority falling into the $129/ft rate. Ferry Dock Marina's rates are $5 more per foot if paid after March 1st. The other private marina in the harbor, Burlington Harbor Marina, has seasonal rates that are higher than Ferry Dock's seasonal rates.

Transient Boater Rates: We are proposing a flexible rate for transient moorings that starts at a lower rate, raises during peak season, and lowers in the fall with the anticipation that slightly lower rates will increase our occupancy level during the shoulder seasons.

We also propose a new special overnight rate for certain prime slips during the summer concert series, using the July 3rd slip rate as a rate structure.

Additionally, we are proposing a special day rate slip fee for Boat Shows. In the past, we would receive per slip revenue on Boat Show vessels only if they stayed overnight with us. We propose this new Boat Show rate to capture revenue during their stay during the day past our typical check-out time, as not all boats stay overnight. We have based this fee at 50% of our current hourly slip rate. Since Boat Shows occupy all of our hourly slips, this strikes a balance between capturing additional revenue through high occupancy rates, while maintaining a strong relationship with Boat Show organizations that are offering a public special event, exposing visitors to Lake Champlain and the Burlington Waterfront.

Description	Current	New Price	% Increase FY25
Daily Transient docking after one hour	$10.00/hr	No change	N/A
Overnight Slips	$2.75/ft.	No change	N/A
Overnight Slips Peak Rate	$3.00/ft	No change	N/A
Transient moorings Spring/Fall Rates after 5:00pm	$1.50/ft.	$1.25	-20%
Transient moorings Peak Season after 5:00pm	$1.50/ft.	No change	N/A
Seasonal Boathouse Dock Resident	$102.00/ft	$108.00	5.88%
Seasonal Boathouse Dock Non-Resident	$118.00/ft	$120.00/ft	1.69%
Seasonal Perkins Pier Dock Resident	$81.00/ft	$88.00/ft	8.64%
Seasonal Perkins Pier Dock Non-Resident	$94.00/ft	$99.00/ft	5.32%
Seasonal Mooring Rates Resident	$54.00/ft	$56.00	3.7%
Seasonal Mooring Rates Non-Resident	$63.00/ft	$65.00	3.17%
Boater Wait list	No charge	No change	N/A
Monthly Slip	$32.00/ft	No change	N/A
Monthly Mooring	$25.00/ft	No change	N/A
Commercial Slip Rates for existing slips	No change	No change	N/A
July 3rd/special event Slip (flat rate)	$250.00	No Change	N/A
July 3rd Mooring (flat rate)	$150.00	No change	N/A
Boat Show flat day rate		$25.00	100%

Long term challenges
The City relies heavily on the revenue from the marina to cover city expenses. The FY23-25 bond is supporting dredging a portion of the high sediment areas of the marinas and a feasibility study to determine the future outcome of the Boathouse facility. Unfortunately, the City has historically relied on the net revenue from the marina to support the general fund budget, which means very few capital dollars have been reinvested into our waterfront. Moving forward we will need to both re-capture some of the increased revenue in order to re-invest in Waterfront capital projects and find other sources of capital in order to keep our previous waterfront vibrant and resilient.

Motions

Board of Finance Motion
To approve and recommend that the City Council approve the 2025 Marina fees as recommended by the Parks and Recreation Commission, acting as the Harbor Commission, during its September 19, 2024 meeting, as detailed in the rate table herein.

City Council Motion
To approve the 2025 Marina fees as recommended by the Parks and Recreation Commission, acting as the Harbor Commission, during its September 19, 2024 meeting, as detailed in the rate table herein.

Board of Finance and City Council Submission Checklist

Department: BPRW Submitter: Rob Peterson

Title/Subject: Marina Manager and Deputy Harbormaster

	Approval:	Meeting Date:
☐	Board of Finance	9/23/2024
☐	City Council	9/23/2024
☒	Concurrent	9/23/2024

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head Cindi Wight, BPRW	Yes	9/13/2024	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	9/19/2024	Joe Magee
Board/Commission, if required	Yes	Click or tap to enter a date.	Parks Commission: 9/10/24 Harbor Commission 9/19/24
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	9/18/2024	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	9/18/2024	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	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

CONTINGENT SETTLEMENT AGREEMENT

NOW COME Mabior Jok, City of Burlington, Brandon del Pozo, and Joseph Corrow (the "Parties") and by their signatures below have reached the following contingent settlement agreement ("Agreement") in reference to all of the issues arising out of or related to the pending civil lawsuit entitled *Mabior Jok v. City of Burlington, Brandon del Pozo, and Joseph Corrow,* Docket No. 2:19-cv-00070 including without limitation claims for attorney's fees ("All Claims").

The Parties shall exchange the documents and payments required to implement the following:

1. Payment. All Claims are resolved contingent on the approval of Burlington City Council as follows: The matter is settled for a total payment of Two Hundred Fifteen Thousand Dollars and No Cents ($215,000.00). Defendants are insured by Travelers. On behalf of the Defendants, Travelers shall pay One Hundred Forty Thousand Dollars and No Cents ($140,000.00) towards settlement. The City of Burlington (if approved by the Burlington City Counsel) shall pay Seventy-Five Thousand Dollars and No Cents ($75,000). Burlington City Counsel shall have until August 23, 2024 to approve this Agreement. All payments made under this Agreement shall be tendered through legal counsel.

2. No Suit. The Parties hereby resolve All Claims with prejudice. Neither Party shall file litigation or continue litigation related to All Claims, other than an action necessary to enforce the terms of this Agreement or a new matter arising out of conduct after the date of this Agreement. Each Party shall bear its own costs and attorney's fees.

3. General Releases. Plaintiff Mabior Jok shall execute General Releases of all claims of any nature, including claims arising out of or related to All Claims no later than August 23, 2024. The form of the General Releases shall be reasonably acceptable to all counsel and shall be prepared by defense counsel. Without limiting the foregoing, the General Releases shall cover all claims of any nature (whether known, unknown, or undiscovered); all claims that were or could have been raised among the Parties in All Claims for any reason; and all persons or entities who could in any way be subjected to these claims, including principals, shareholders, affiliates, agents, officers and employees. The General Releases shall not affect actions to enforce the terms of this Agreement or a new matter arising out of conduct after the date of the General Releases.

4. Joint Statement. Working through counsel, Mabior Jok and the Mayor shall prepare a written Joint Statement to be released to the media concerning this settlement. Agreement to a Joint Statement is not a material term to this Agreement. The failure of the Parties to agree upon a Joint Statement shall not affect the validity of this Agreement.

5. Miscellaneous. This Agreement represents a compromise to avoid litigation. By making this Agreement, no Party makes any admission concerning the strength or weakness of any claim. This Agreement is a comprehensive agreement; all prior

understandings and discussions are merged into this Agreement. This Agreement may only be amended by a written instrument signed by all Parties. The Parties shall execute such additional documents as are reasonably requested to implement this Agreement. This Agreement shall be interpreted under the laws of the State of Vermont. The presumption against the drafter shall not apply to the construction of this Agreement. Photocopies of this Agreement shall be as effective as the original. This Agreement shall be binding and enforceable against the successors, heirs and assigns of the Parties. All Parties were represented by counsel in the negotiation and drafting of this Agreement.

_____ Dated:_____
Mabior Jok

_____ Dated:_____
City of Burlington

Approved as to form:

_____
Robb Spensley, Esq.
Counsel for Plaintiff

_____
Pietro J. Lynn, Esq.
Counsel for Defendants