



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: BoF and City Council

From: Samantha Dunn, CEDO Assistant Director for Community Works

CC: Brian Pine, CEDO Director

Date: April 20, 2023

Subject: UDAG Budget Amendment

Request

The Community & Economic Development Office is requesting Board of Finance and City Council approval of a Budget Neutral Amendment to move Urban Development Action Grant (UDAG) funds from the restricted cash account as follows:

- \$950,715.00 of UDAG to the Moran Capital Account in accordance with the Promissory Note between CEDO and BED, which was entered into to outline the contributions owed by BED toward the cost of abatement/remediation of contaminant at Moran Frame site. This amount will be repaid to UDAG over eight years through yearly installments made by BED;
- \$632,500.00 in UDAG funds from the restricted cash account, into CEDO's FY23 Budget for non-Moran UDAG activities.

UDAG Background

The UDAG program was the predecessor of Community Development Block Grants (CDBG) and ended in 1989. Before the program ended, CEDO made a \$1.8 million loan to a local business.

In 2017 the loan was repaid in full in, and after minor administrative expenses, the City has retained \$1.8 million to redeploy for eligible activities managed by CEDO.

BED/Moran Frame Background

In December 2009, the City and Burlington Electric Department (BED) entered into a Letter of Agreement pursuant to which BED agreed to pay the City \$100,000.00 as a settlement of BED's liability for contamination found at the Moran Electrical Plant site.

In July 2022, the City and BED executed a Memorandum of Understanding committing BED to contributing \$950,715.00 towards the abatement and remediation of contaminants at the site (previously owned and operated by BED). Because the MOU allows BED to make this contribution through settlement payments through FY30, CEDO has pledged undedicated UDAG funds to cover the upfront cost of \$950,715.00 which will be repaid per the terms of a promissory note with BED.

Attachments

2018 HUD Letter Re. Burlington Urban Development Action Grant Repayment Proceeds
City Council Communication July 13, 2022.

City of Burlington / Burlington Electric Department MOU

CEDO / Burlington Electric Department Promissory Note

Board of Finance Motion

To approve and recommend that the City Council approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to increase the Moran Capital Budget by \$950,715.00 and increase the CEDO FY23 Budget by 632,500.00 from the UDAG restricted cash account.

City Council Motion

To approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to increase the Moran Capital Budget by \$950,715 and increase the CEDO FY23 Budget by 632,500 from the UDAG restricted cash account.



U.S. Department of Housing and Urban Development

MASSACHUSETTS STATE OFFICE, NEW ENGLAND AREA
Office of Community Planning and Development
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 553
Boston, Massachusetts 02222-1092

Fax (617) 565-5442

Richard W. Haesler, Esq.
Assistant City Attorney
City Hall, Room 11
149 Church Street
Burlington, VT 05401

MAY 30 2018

Dear Mr. Haesler:

SUBJECT: Burlington Urban Development Action Grant (UDAG) B-86-AA-50-0006
Repayment Proceeds

Thank you for contacting my office regarding use of repayment proceeds from the above-referenced Urban Development Action Grant (UDAG). We have reviewed the materials you submitted, including the original UDAG Grant Agreement and UDAG Close-out Agreement. We concur with your premise that the City is free to use these funds for any purpose consistent with Title I of the Housing and Community Development Act (HCDA) and are not governed by 24 CFR Part 570.

Should the City choose to use these funds in conjunction with an existing project, we would expect any co-funded activity reporting to include some details regarding the amount and use of the UDAG proceeds funding.

We appreciate the City of Burlington contacting us concerning this topic. Should you have any further questions regarding this matter, please contact Mark Siegenthaler, CPD Representative at mark.siegenthaler@hud.gov or 617 994-8378.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Shumeyko", is written over a horizontal line.

Robert D. Shumeyko
Director

cc: Beth Anderson, Chief Administrative Officer
Marcy Esbjerg, Assistant Director, CEDO

Urban Development Action Grants (UDAG)

Title 42-The Public Health and Welfare Chapter 69-Community Development/Section 5318 (Section 118 of the Act) - Operated 1978 – 1989

Purpose: To provide grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery.

Overview:

The primary objective of the community development program is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

Eligible Activities

1. the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;
2. the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;
3. the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;
4. the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;
5. a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;
6. the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods;
7. the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons;
8. the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base; and
9. the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.

Ineligible Activities:

10. Speculative Projects
11. Projects with identified intended occupants for relocation from one eligible city to another
12. Assistance for individuals adversely affected by prohibited relocations

In detail:

Eligible activities mirror those of the Community Development Block Grant Program:

1. the acquisition of real property (including air rights, water rights, and other interests therein) which is
 - A. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
 - B. appropriate for rehabilitation or conservation activities;
 2. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;
 3. to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter; or
 4. to be used for other public purposes;
-
- b. the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;
 - c. code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;
 - d. clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings);
 - e. special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
 - f. payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this chapter;
 - g. disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this chapter or its retention for public purposes;
 - h. provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs,
 - i. payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this chapter;
 - j. payment of the cost of completing a project funded under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.];
 - k. relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;
 - l. activities necessary
 - A. to develop a comprehensive community development plan, and
 - B. to develop a policy-planning- management capacity so that the recipient of assistance under this chapter may more rationally and effectively
 - i. determine its needs,
 - ii. set long-term goals and short-term objectives,
 - iii. devise programs and activities to meet these goals and objectives,

- iv. evaluate the progress of such programs in accomplishing these goals and objectives, and
- v. carry out management, coordination, and monitoring of activities necessary for effective planning implementation;
- m. payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] ; and the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities,
- n. provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including
 - 1. acquisition of real property;
 - 2. acquisition, construction, reconstruction, rehabilitation, or installation of
 - A. public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and
 - B. commercial or industrial buildings or structures and other commercial or industrial real property improvements; and
 - 3. planning;
- o. assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in nonentitlement areas, or entities organized under section 681(d) of title 15 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 5301(c) of this title, and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 1437a(b)(3) of this title) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;
- p. activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as--
 - 1. an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and
 - 2. a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;
- q. provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that--
 - 1. creates or retains jobs for low- and moderate-income persons;
- r. the rehabilitation or development of housing assisted under section 1437o of this title;

- s. provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);
- t. housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] , energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;
- u. provision of assistance by recipients under this chapter to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;
- v. provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by--
 - 1. providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;
 - 2. providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and
 - 3. providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;
- w. activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods;
- x. provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to--
 - 1. subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;
 - 2. finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;
 - 3. acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this chapter may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this chapter may not directly provide such guarantees);
 - 4. provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or
 - 5. pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer; an
- y. lead-based paint hazard evaluation and reduction



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MEMO

TO: City Council
FROM: Samantha Dunn, CEDO Assistant Director, Community Works
DATE: Wednesday, July 13, 2022
RE: Moran Frame Project Update

This memo is to provide an update on the final disposition of the proposed agreement between the City and the Burlington Electric Department (“BED”) which was authorized by City Council on February 18, 2020 (“to execute a settlement agreement between the City of Burlington and the Burlington Electric Department (“BED”), in which BED pays to the City an amount not less than \$950,000 to compensate the City for the costs of abating/remediating contaminants”).

The City executed a Memorandum of Agreement (“MOA”) with BED wherein BED will make a contribution of \$950,715 toward the abatement/remediation of contaminants. BED will make the Settlement Payment to the City in annual installments commencing in Fiscal Year 2023 in the amount of \$118,839.00) through Fiscal Year 2030. The Parties agree that BED shall pay simple interest at a rate of 1% per annum on any unpaid principal during the term of these installments.

In the meantime, the Moran Frame Phase 1A is nearing completion and most of the abatement/remediation has been successfully completed. CEDO has been able to temporarily utilize undedicated UDAG funds from HUD to cover a significant portion of these abatement and remediation costs. All of this UDAG coverage (with interest) will be repaid back into CEDO’s UDAG fund per the terms of the agreement with BED.

Please do not hesitate to reach out to me or CEDO Director Brian Pine should you have any questions.

MEMORANDUM OF UNDERSTANDING AND AGREEMENT

This Memorandum of Understanding and Agreement is made this ___ day of June 2022, by and between the City of Burlington, a Vermont municipal corporation, acting by and through its City Council (hereinafter “City”), and Burlington Electric Department, a department of the City (hereinafter “BED”) (individually a “Party” or together the “Parties”).

RECITALS

WHEREAS, from 1954 to 1990, BED controlled and operated the J. Edward Moran Electric Generating Station located on the City’s waterfront area (“Moran”); and

WHEREAS, on June 28, 1990, the City and BED executed a Memorandum of Understanding and Agreement pursuant to which BED transferred control and dominion over Moran to the City (“1990 MOU”); and

WHEREAS, the 1990 MOU contained a provision that the City “shall take the Moran Station and its associated land in an ‘AS IS’ condition as of the effective date of this Agreement and shall hold BED harmless from any and all future liability and/or responsibility for such Moran Station and property, excluding environmental remediation (if any) which shall be required in the future by a state or federal environmental regulatory agency, for conditions existing prior to the transfer”; and

WHEREAS, in 2005, the City retained the services of Waite Environmental Management (“WEM”) to conduct a Phase II Environmental Site Assessment of the Moran site in preparation of potential redevelopment of the site; and

WHEREAS, WEM’s assessment determined the presence of contaminants in the groundwater and soils at the Moran site, including volatile organic compounds (“VOCs”), polycyclic aromatic hydrocarbons (“PAHs”), arsenic and cyanide; and

WHEREAS, on December 7, 2009, the City and BED entered into a Letter of Agreement pursuant to which BED agreed to pay the City One Hundred Thousand Dollars (\$100,000) “as settlement of BED’s liability for any and all environmental remediation costs associated with known environmental contamination at the Moran site as of this date”; and

WHEREAS, more recently the City engaged Vanasse Hangen Brustlin, Inc. (“VHB”) to perform an environmental assessment in connection with the possible demolition or redevelopment of Moran; and

WHEREAS, VHB’s assessment identified the presence of PCB-contaminated paint on steel and concrete and additional asbestos containing material that was not identified in 2009 and existed prior to the transfer of Moran in 1990 (“Unknown Contaminants”); and

WHEREAS, removal and disposal of the Unknown Contaminants are required by the U.S. Environmental Protection Agency, Vermont Occupational Safety and Health Administration, Vermont Department of Environmental Conservation and Vermont Department of Health; and

WHEREAS, in light of the Parties prior agreements, BED on behalf of its ratepayers, and the City on behalf of its taxpayers, have negotiated this Memorandum of Understanding and Agreement (“Agreement”);

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. BED will make a contribution of Nine Hundred Fifty Thousand Seven Hundred Fifteen Dollars (\$950,715.00) (the “Settlement Payment”) toward the abatement and/or remediation of the Unknown Contaminants.

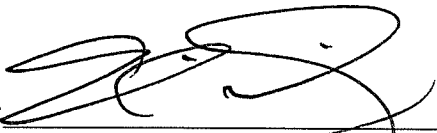
2. BED will make the Settlement Payment to the City in annual installments commencing in Fiscal Year 2023 in the amount of One Hundred Twenty-four Thousand Two Hundred Forty-Nine Dollars and Twenty-two cents (\$124,249.22) through Fiscal Year 2030. The Parties agree that BED shall pay simple interest at a rate of 1% per annum on any unpaid principal during the term of these installments.
3. In consideration of the Settlement Payment, the City shall release, discharge, indemnify and defend BED from and against any future environmental liability at Moran for: (a) any above-ground contamination, whether known or unknown; and (b) any below ground contamination beneath the existing building that is known or should have been known as of the date of this Agreement including, without limitation, any VOCs, PAHs, cyanide, arsenic or other hazardous substances that have been previously identified to exist at the Moran site.
4. The Parties agree that this Agreement is strictly for the benefit of the current taxpayers of the City of Burlington and the current ratepayers of BED, and both parties recognize that it is in their mutual interest to retain any potential insurance coverage for the Moran site based on prior or existing insurance policies purchased by either the City or BED. Therefore, nothing in this Agreement or its releases, shall alter or be interpreted to alter any rights that the City or BED have in insurance policies owned by either the City or BED regarding any environmental issues associated with the Moran site. The Parties further agree to cooperate and where necessary assign any rights in any insurance policy to the other to ensure that such policies may be utilized to the greatest extent possible in the event of circumstances giving rise to a claim concerning the Moran site.

5. If the City intends to use the Moran site in a manner other than what is presently contemplated (the Moran Frame Project), and if that proposed use involves the disturbance of any soils on the Moran site below the layer of matting, and if the City does not intend to waive any potential claim against BED as exempted in section 3 of this Agreement as part of the plan, then the City shall first consult with BED concerning the proposed use, the amount and location of any proposed soil disturbance, and any mitigation plans, and shall obtain BED's consent to the changed use and plans, which consent may be given or withheld by BED in its sole discretion, which shall not be unreasonably withheld. If BED states an objection to the proposed use, the parties shall attempt to work in good faith to resolve the objection in a timely and reasonable manner. If BED refuses its consent, then the City may still develop the Moran site in accord with its revised use, but no resulting environmental liability for the project shall be assigned or attributable to BED ratepayers by the City.
6. BED shall not be responsible for any on-going maintenance costs of the PCB-contaminated paint so long as the current paint-mitigation plan by the City, as recommended by VHB, remains sufficient for state and federal environmental regulatory agencies. In the event the current plan is deemed insufficient by state and federal environmental regulatory agencies and results in increased mitigation costs, BED and the City shall discuss in good faith a potential contribution by BED towards those increased costs.
7. The City shall make VHB available to testify on behalf of BED at any Vermont Public Utility Commission proceeding at which the remediation of the Unknown Contaminants is at issue.

8. IN PRESENCE OF:

CITY OF BURLINGTON

Erin Hoetypner
Witness

By: 
Mayor Miro Weinberger
Duly Authorized

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County, on the 30th day of June, 2022, Miro Weinberger, Mayor, Duly Authorized Agent of the City of Burlington, personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed, and the free act and deed of the City of Burlington.

Before me,

Erin Hoetypner
Notary Public

My Commission Expires: 1/31/23

IN PRESENCE OF:

BURLINGTON ELECTRIC DEPARTMENT

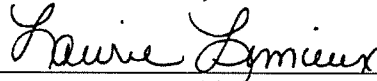
Laurie Lymieux
Witness

By: 
Darren Springer, General Manager
Duly Authorized

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County, on the 27 day of June, 2022, Darren Springer, General Manager, Duly Authorized Agent of Burlington Electric Department, personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed, and the free act and deed of Burlington Electric Department.

Before me,



Notary Public

My Commission Expires: 01/31/2023

PROMISSORY NOTE

\$ 950,715.00

Date: June 27, 2022

FOR VALUE RECEIVED, **THE BURLINGTON ELECTRIC DEPARTMENT**, a Vermont municipal utility (hereinafter "**Borrower**"), promises to pay to the COMMUNITY & ECONOMIC DEVELOPMENT OFFICE OF THE **CITY OF BURLINGTON, VERMONT**, a Vermont municipal corporation (hereinafter "the **Lender**") the principal sum of Nine Hundred Fifty Thousand Seven Hundred and Fifteen Dollars (\$950,715.00) with a rate of interest of 1% per annum on the unpaid principal for a term of eight (8) years to be paid in equal annual installments of One Hundred Twenty-Four Thousand Two Hundred Forty-Nine dollars and Twenty-Two cents (\$124,249.22) principal, plus interest, beginning on the first day of fiscal year 2023 (July 1, 2022), and continuing annually until fiscal year 2030, (the "Due Date"), at which time the remaining unpaid principal and interest shall be due in full, and continuing until the principal and any outstanding interest is paid. All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of the principal.

Borrower shall have the right to prepay, in whole or in part, the principal amount outstanding under this Note without penalty or charge. Any partial prepayment shall be applied against the principal amount outstanding, and shall not extend or postpone the due date of any subsequent installments or change the amount of such installments, unless **Lender** shall otherwise agree in writing.

If any installment under this Note is not paid when due and remains unpaid for thirty days after its due date, the entire principal amount outstanding, and the accrued interest on that principal amount, shall, at the option of the **Lender**, immediately become due and payable. **Lender** may exercise this option to accelerate during any default by **Borrower** regardless of any prior forbearance. If suit is brought to collect this Note, or if this Note is put into the hands of the City Attorney or attorneys for collection, **Lender** shall be entitled to collect all reasonable costs and expenses of collection or suit, including, but not limited to, reasonable attorney's fees.

Any of the following events shall constitute a default: (1) Failure of **Borrower** to pay the principal and any accrued interest when due; (2) Liquidation, dissolution or incompetency of **Borrower**; (3) Filing of bankruptcy proceedings involving **Borrower** as a debtor; (4) Application for the appointment of a receiver for **Borrower**; (5) Making of a general assignment for the benefit of **Borrower's** creditors; (6) Insolvency of **Borrower**; (7) Misrepresentation by **Borrower** to **Lender** for the purpose of obtaining or extending credit; or (8) Sale of a material portion of the business or assets of **Borrower**.

The principal sum secured by this Note may, at the option of **Lender**, become due and payable thirty days after the happening of any default, or that is an event in which the **Lender** is entitled to declare all amounts unpaid under this Note due and payable. All covenants, conditions, and agreements contained in this Note or any Mortgage, or any Settlement Agreement associated with this Note are, by this reference, made part of this Note.

Any notice to **Borrower** provided for in this Note shall be given by mailing such notice by certified mail addressed to **Borrower** at 585 Pine Street, Burlington, Vermont 05401 or to such other address as **Borrower** may designate by notice to the Note holder.

Any notice to **Lender** provided for in this Note shall be given by mailing such notice by certified mail addressed to **Lender** at 149 Church Street, Burlington, Vermont 05401 or to such other address as **Lender** may designate by notice to **Borrower**.

Lender shall have a lien on and option to set off and apply all deposits, credits, and other property of the makers and endorsers, sureties or otherwise, now or hereafter in its possession or control, against this and any other indebtedness of any of the them, though unmature, and without notice or demand. Any lien, claim or set-off rights on deposits, credits and other property shall be subordinate to the lien and pledge of Revenues under the Burlington Electric Department General Bond Resolution adopted on October 7, 1981, as amended and supplemented (the "General Bond Resolution"). The Lender shall not take any action against such deposits or, credits or property in a manner that would cause the Electric Department to be in default under the General Bond Resolution.

Presentment, notice of dishonor, and protect are waived by all makers, sureties, guarantors, and endorsers of this Note. This Note shall be the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns. This note may not be amended without the written approval of the holder.

The following exhibits to this Agreement, including any amendments and supplements hereto, are hereby incorporated herein and made a part of this Agreement: EXHIBIT A – MEMORANDUM OF UNDERSTANDING EXHIBIT B – LOAN PAYMENT SCHEDULE. In the event of any inconsistency between this Agreement and the exhibits hereto, this Agreement (without reference to such exhibits) shall govern. **IN WITNESS WHEREOF**, this Agreement has been executed and delivered in the manner prescribed by law as of the date first written above.

Signed this 27th day of June, 2022, at Burlington,
VT.

LENDER:

By: Brian Pine

Date: 6/27/2022

Brian Pine, Director, Community & Economic Development Office

BORROWER:

By:  _____

Date: 06/27/2022

Burlington Electric Department

Exhibit A:
MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING AND AGREEMENT

This Memorandum of Understanding and Agreement is made this ___ day of June 2022, by and between the City of Burlington, a Vermont municipal corporation, acting by and through its City Council (hereinafter “City”), and Burlington Electric Department, a department of the City (hereinafter “BED”) (individually a “Party” or together the “Parties”).

RECITALS

WHEREAS, from 1954 to 1990, BED controlled and operated the J. Edward Moran Electric Generating Station located on the City’s waterfront area (“Moran”); and

WHEREAS, on June 28, 1990, the City and BED executed a Memorandum of Understanding and Agreement pursuant to which BED transferred control and dominion over Moran to the City (“1990 MOU”); and

WHEREAS, the 1990 MOU contained a provision that the City “shall take the Moran Station and its associated land in an ‘AS IS’ condition as of the effective date of this Agreement and shall hold BED harmless from any and all future liability and/or responsibility for such Moran Station and property, excluding environmental remediation (if any) which shall be required in the future by a state or federal environmental regulatory agency, for conditions existing prior to the transfer”; and

WHEREAS, in 2005, the City retained the services of Waite Environmental Management (“WEM”) to conduct a Phase II Environmental Site Assessment of the Moran site in preparation of potential redevelopment of the site; and

WHEREAS, WEM’s assessment determined the presence of contaminants in the groundwater and soils at the Moran site, including volatile organic compounds (“VOCs”), polycyclic aromatic hydrocarbons (“PAHs”), arsenic and cyanide; and

WHEREAS, on December 7, 2009, the City and BED entered into a Letter of Agreement pursuant to which BED agreed to pay the City One Hundred Thousand Dollars (\$100,000) “as settlement of BED’s liability for any and all environmental remediation costs associated with known environmental contamination at the Moran site as of this date”; and

WHEREAS, more recently the City engaged Vanasse Hangen Brustlin, Inc. (“VHB”) to perform an environmental assessment in connection with the possible demolition or redevelopment of Moran; and

WHEREAS, VHB’s assessment identified the presence of PCB-contaminated paint on steel and concrete and additional asbestos containing material that was not identified in 2009 and existed prior to the transfer of Moran in 1990 (“Unknown Contaminants”); and

WHEREAS, removal and disposal of the Unknown Contaminants are required by the U.S. Environmental Protection Agency, Vermont Occupational Safety and Health Administration, Vermont Department of Environmental Conservation and Vermont Department of Health; and

WHEREAS, in light of the Parties prior agreements, BED on behalf of its ratepayers, and the City on behalf of its taxpayers, have negotiated this Memorandum of Understanding and Agreement (“Agreement”);

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. BED will make a contribution of Nine Hundred Fifty Thousand Seven Hundred Fifteen Dollars (\$950,715.00) (the “Settlement Payment”) toward the abatement and/or remediation of the Unknown Contaminants.

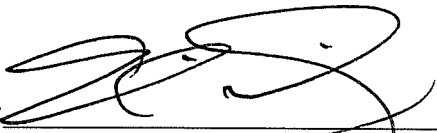
2. BED will make the Settlement Payment to the City in annual installments commencing in Fiscal Year 2023 in the amount of One Hundred Twenty-four Thousand Two Hundred Forty-Nine Dollars and Twenty-two cents (\$124,249.22) through Fiscal Year 2030. The Parties agree that BED shall pay simple interest at a rate of 1% per annum on any unpaid principal during the term of these installments.
3. In consideration of the Settlement Payment, the City shall release, discharge, indemnify and defend BED from and against any future environmental liability at Moran for: (a) any above-ground contamination, whether known or unknown; and (b) any below ground contamination beneath the existing building that is known or should have been known as of the date of this Agreement including, without limitation, any VOCs, PAHs, cyanide, arsenic or other hazardous substances that have been previously identified to exist at the Moran site.
4. The Parties agree that this Agreement is strictly for the benefit of the current taxpayers of the City of Burlington and the current ratepayers of BED, and both parties recognize that it is in their mutual interest to retain any potential insurance coverage for the Moran site based on prior or existing insurance policies purchased by either the City or BED. Therefore, nothing in this Agreement or its releases, shall alter or be interpreted to alter any rights that the City or BED have in insurance policies owned by either the City or BED regarding any environmental issues associated with the Moran site. The Parties further agree to cooperate and where necessary assign any rights in any insurance policy to the other to ensure that such policies may be utilized to the greatest extent possible in the event of circumstances giving rise to a claim concerning the Moran site.

5. If the City intends to use the Moran site in a manner other than what is presently contemplated (the Moran Frame Project), and if that proposed use involves the disturbance of any soils on the Moran site below the layer of matting, and if the City does not intend to waive any potential claim against BED as exempted in section 3 of this Agreement as part of the plan, then the City shall first consult with BED concerning the proposed use, the amount and location of any proposed soil disturbance, and any mitigation plans, and shall obtain BED's consent to the changed use and plans, which consent may be given or withheld by BED in its sole discretion, which shall not be unreasonably withheld. If BED states an objection to the proposed use, the parties shall attempt to work in good faith to resolve the objection in a timely and reasonable manner. If BED refuses its consent, then the City may still develop the Moran site in accord with its revised use, but no resulting environmental liability for the project shall be assigned or attributable to BED ratepayers by the City.
6. BED shall not be responsible for any on-going maintenance costs of the PCB-contaminated paint so long as the current paint-mitigation plan by the City, as recommended by VHB, remains sufficient for state and federal environmental regulatory agencies. In the event the current plan is deemed insufficient by state and federal environmental regulatory agencies and results in increased mitigation costs, BED and the City shall discuss in good faith a potential contribution by BED towards those increased costs.
7. The City shall make VHB available to testify on behalf of BED at any Vermont Public Utility Commission proceeding at which the remediation of the Unknown Contaminants is at issue.

8. IN PRESENCE OF:

CITY OF BURLINGTON

Erin Hoetypen
Witness

By: 
Mayor Miro Weinberger
Duly Authorized

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County, on the 30th day of June, 2022, Miro Weinberger, Mayor, Duly Authorized Agent of the City of Burlington, personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed, and the free act and deed of the City of Burlington.

Before me,

Erin Hoetypen
Notary Public

My Commission Expires: 1/31/23

IN PRESENCE OF:

BURLINGTON ELECTRIC DEPARTMENT

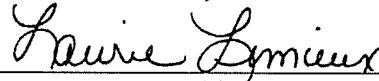
Laurie Lymieux
Witness

By: 
Darren Springer, General Manager
Duly Authorized

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County, on the 27 day of June, 2022, Darren Springer, General Manager, Duly Authorized Agent of Burlington Electric Department, personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed, and the free act and deed of Burlington Electric Department.

Before me,



Notary Public

My Commission Expires: 01/31/2023

Exhibit B:
LOAN PAYMENT SCHEDULE

BED - MORAN Loan Payment

Annual Interest Rate 1%
Years 8
Payments per Year 1
Amount \$950,715.00

Payment Number	Payment Due Date	Payment	Principal	Interest	Balance
1	7/15/2022	(\$124,249.22)	(\$114,742.07)	(\$9,507.15)	\$835,972.93
2	7/15/2023	(\$124,249.22)	(\$115,889.49)	(\$8,359.73)	\$720,083.44
3	7/15/2024	(\$124,249.22)	(\$117,048.39)	(\$7,200.83)	\$603,035.05
4	7/15/2025	(\$124,249.22)	(\$118,218.87)	(\$6,030.35)	\$484,816.18
5	7/15/2026	(\$124,249.22)	(\$119,401.06)	(\$4,848.16)	\$365,415.12
6	7/15/2027	(\$124,249.22)	(\$120,595.07)	(\$3,654.15)	\$244,820.05
7	7/15/2028	(\$124,249.22)	(\$121,801.02)	(\$2,448.20)	\$123,019.03
8	7/15/2029	(\$124,249.22)	(\$123,019.03)	(\$1,230.19)	\$0.00

Board of Finance and City Council Submission Checklist

Department: CEDO Submitter: Brian Pine
Resolution to Authorize Borrowing for the Waterfront TIF District public
Title/Subject: improvements

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.

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/21/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/21/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/21/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/21/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

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

MEMO

Date: April 24, 2023

To: Board of Finance and City Council

From: Alec Kaeding, Waterfront and Park Operations Manager; Cindi Wight, Director, Department of Parks, Recreation & Waterfront

CC: Erin Moreau, Waterfront Superintendent and Harbor Master

Re: Lease of Vendor Space at 0 College Street Bike Racks for Bike Rentals

I. Purpose

This memo seeks approval to execute all necessary lease agreements related to the lease of the vendor space and bike racks located at 0 College Street to Burlington Segways Inc., for bike rental purposes.

II. Background

BPRW wants to offer bike rentals at 0 College Street, from May 15, 2023 until October 15, 2023 to increase the opportunities for bike rentals at the Waterfront and to provide additional revenue for the department to cover increasing expenses. Please see the maps in Attachment A. The City has selected Burlington Segways, Inc. following a competitive Request for Proposals (RFP) process.

III. Process

On February 3, 2023, BPRW issued an RFP for bike rentals at the bike using public advertising on the BPRW website, the City's website for active RFPs, and through BPRW's social media outlets. Bids were due to BPRW by February 24, 2023.

One bid was received and evaluated by a team of three BPRW staff. The collective scoring table used is below:

1. Qualifications (20 points possible) Experience in providing bike rentals in an outdoor setting.
2. Cost (20 points possible) Compensation for the City and rental prices

Burlington Segways' proposal was complete and, as the only one received, accepted.

IV. Compensation to the City & Terms of Lease Agreement

The City will receive 10 percent of gross revenue from the bike rental program during the 2023 summer season. The lease also includes an option to extend for two additional seasons if both parties agree.

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To recommend that the City Council approve the lease of the vendor space and bike racks located at 0 College Street to Burlington Segways, Inc., and to authorize Mayor Miro Weinberger to execute the lease agreement and any related documents, subject to review by the City Attorney's Office.

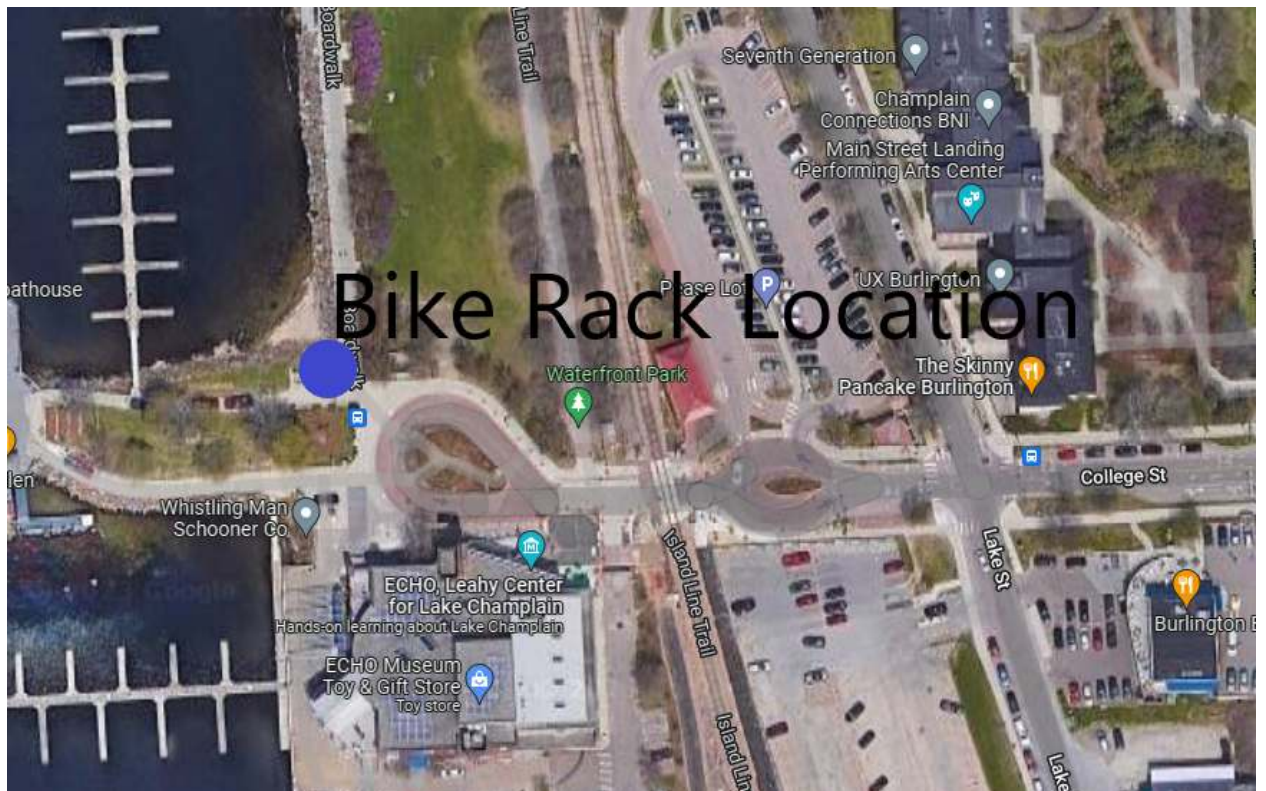
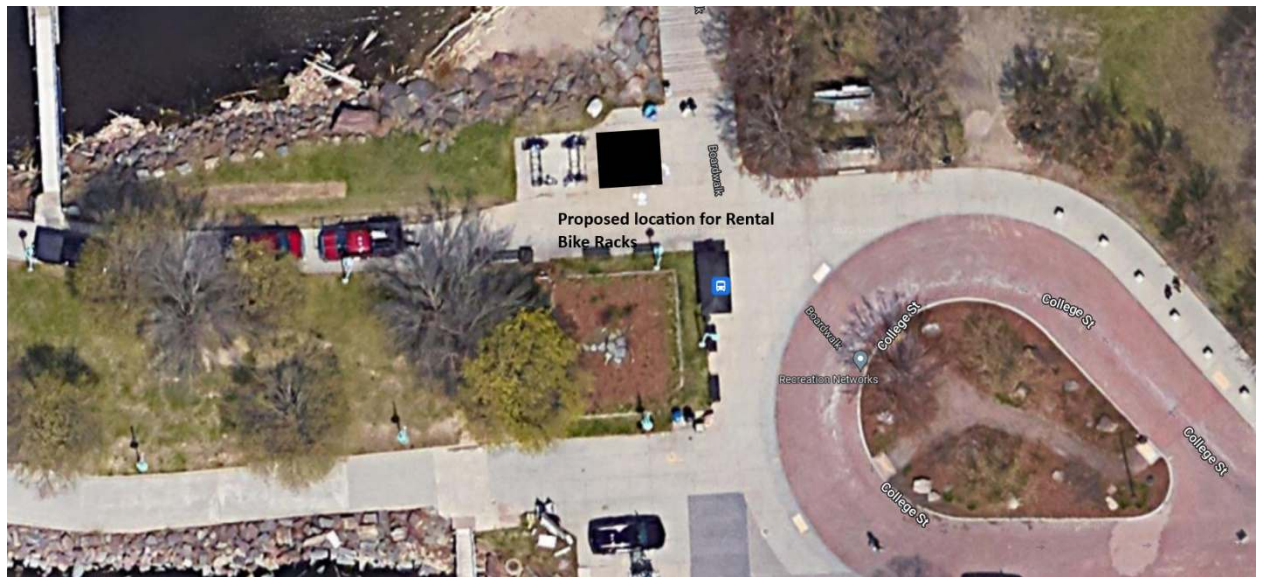


City Council Motion:

To approve the lease of the vendor space and bike racks located at 0 College Street to Burlington Segways, Inc., and to authorize Mayor Miro Weinberger to execute the lease agreement and any related documents, subject to review by the City Attorney's Office.



Attachment A



Board of Finance and City Council Submission ChecklistDepartment: BPRW Submitter: Alec KaedingTitle/Subject: College Street Bike Rack Rental Space

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☒	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/8/2023	Cindi Wight
Mayor's Office informed and approved memo	Yes	4/18/2023	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/7/2023	Kyle Clauss
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/11/2023	Kyle Clauss
CAO has reviewed budget, financing, and memo	Yes	4/18/2023	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

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

**CITY OF BURLINGTON
LEASE AGREEMENT
WITH
Burlington Segways, Inc.**

This Lease Agreement (“Lease”) is entered into by and between the City of Burlington, acting by and through the Parks, Recreation & Waterfront Department (“City”), and Burlington Segways, Inc. (“Lessee”), a Vermont corporation authorized to do business in the State of Vermont with a principal place of business at 277 Pine Street, Burlington, Vermont 05401. The City and Lessee agree to the terms and conditions of this Lease.

1. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Lease shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Lease before the Effective Date and unless otherwise agreed to in writing, shall have no obligations for performance or expenses incurred before the Effective Date or after the expiration or termination of this Lease.

2. RECITALS

- A. Authority.** Authority to enter into this Lease exists in the City Charter. Required approvals, clearance, and coordination have been accomplished from and within each Party.
- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Lease.
- C. Purpose.** The City owns and operates bike racks at the end of College Street, next to the bus stop in the southwest corner of Waterfront Park in Burlington, Vermont. The City and Lessee wish to enter into an agreement leasing certain portions of the Parks, Recreation & Waterfront Department (“BPRW”) premises to Lessee to further and carry out the purposes of the operation of the BPRW. This Lease establishes the conditions and terms of Lessee’s use of the Leased Premises.
- D. References.** All references in this Lease to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments, are references to sections subsections, exhibits, or other attachments contained herein or incorporated as part of this Lease, unless otherwise noted.

3. DEFINITIONS

- A. “Leased Premises”** means the City-owned building and ground space known and numbered as 0 College Street, Burlington, Vermont 05401, which consists of approximately 260 square feet of space. A description and map of the Leased Premises are included as Attachment A.
- B. “Effective Date”** means the date on which this Lease is approved and signed by the City, as shown on the signature page of this Lease.
- C. “Hazardous Substance”** means and includes, but shall not be limited to, any element, substance, compound or mixture, including disease-causing agents, which after release into the environment or work place and upon exposure, ingestion, inhalation or assimilation into any organism, either directly or indirectly, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities,

cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction or physical deformations in such organisms or their offspring, and all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents), or any other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, CERCLA, and regulations adopted pursuant to such Acts, the Toxic Substances Control Act of 1976, as heretofore or currently in effect (“TSCA”) and the Resource Conservation and Recovery Act of 1976, as heretofore or currently in effect (“RCRA”).

- D. **“Lease”** means this Lease Agreement, its terms and conditions, attachments, and documents incorporated by reference under the terms of this Lease.
- E. **“Party”** means the City or Lessee and **“Parties”** means the City and Lessee.
- F. **“Termination Event”** means any event described in Section 16.

4. TERM AND RENEWAL TERM(S)

- A. **Initial Term.** This Lease and the Parties’ respective performance shall commence on May 15, 2023, and expire on October 15, 2023.
- B. **Renewal Term(s).** Upon mutual agreement of the Parties, this Lease may be extended for an additional two-year renewal term. As a condition of a possible renewal term, Lessee must provide written notice to the City of its intent to seek renewal, doing so at least 60 days’ in advance of the last day of the initial term. A renewal term shall commence upon the expiration of either the initial term, and shall be upon the same terms contained herein.

5. LEASE—USES AND PURPOSES

The City hereby leases to Lessee for its exclusive use the right to access and occupy the Leased Premises, subject to the terms of this Lease and the following conditions:

- A. **Use.** Unless otherwise approved in writing by the City, Lessee shall use and occupy the Leased Premises for its electric bike rental operations.
- B. **Condition.** Lessee shall keep and maintain all parts of the Leased Premises—including related and associated appurtenances—in good condition, order and repair during the term of this Lease. Such actions include but are not limited to: painting, lighting, removal of ground side snow and garbage, landscaping, replacement of broken glass with glass the same size and quality of that broken, and utility services.
- C. **Sublease.** Lessee shall not sublease any portion of the Leased Premises without the express prior written approval of the City. If such approval is obtained during the term of this Lease, then Lessee shall cooperate with other occupants of the building in which the Leased Premises is located so that any common facilities shall at all times be kept and maintained in a clean, orderly and sanitary manner. Lessee may share in an equitable manner with the other occupants the expenses of maintaining said common facilities. If the common facilities are not kept and maintained in a clean, orderly, and sanitary manner, the City shall have the right, in its sole discretion, to assume such

obligation and charge the full expenses thereof to Lessee. All maintenance shall be subject to general monitoring by the City to ensure a continuing high quality of appearance commensurate with maintenance and safety standards of the BPRW.

- D. Compliance with Law.** Lessee shall observe and comply with any and all present and future requirements of the constituted public authority and with all federal, state, or local statutes, ordinances, regulations, standards, conditions, and agreements applicable to Lessee for its use of the Leased Premises, including, but not limited to, ordinances, rules and regulations promulgated from time to time by or at the direction of the City for the administration of the BPRW. Further, Lessee shall—at its own expense—submit to and comply with the requirements of all state and federal regulatory agencies or municipal boards having jurisdiction over the construction of any fixed improvements on the Leased Premises, including, but not limited to, any Environmental Board or Board of Health.
- E. ADA.** Lessee shall—at its own expense—comply with the standards for accessible design known as the Americans with Disabilities Act (“ADA”) Accessibility Guidelines in connection with any new construction or alteration of the Leased Premises. Lessee shall bear the burden of this obligation regardless of whether any such Agency or Board shall require that the City be the applicant of record.
- F. Waste and Nuisance.** Lessee shall not make any actionable waste or nuisance upon the Leased Premises and shall not do or permit to be done anything which may result in the creation, commission, or maintenance of any such waste or nuisance on said premises or the BPRW. Lessee shall properly handle, remove, and dispose of any and all lubricants and/or hazardous waste and maintain the Leased Premises in a clean and safe condition.
- G. Improvements.** Should Lessee desire to make infrastructure and Lessee-specific modifications or improvements to the Leased Premises, Lessee shall obtain advanced written approval by the City. Lessee shall be solely responsible for all costs associated with improvements without reimbursement or further consideration from the City. All approved additions or improvements must comply with the standards for accessible design known as the Americans with Disabilities Act Accessibility Guidelines and shall, on expiration or termination of this Lease, belong to the City without compensation to Lessee.
- H. Supervision.** Lessee shall ensure that the management, maintenance, and operation of the Leased Premises shall at all times be under the supervision and direction of an active, qualified, competent representative of Lessee, and Lessee shall identify its representative, and any successor, in writing to the City.

6. RENT

Lessee shall, in accordance with the provisions of this section, pay the City rent and other amounts due hereunder in the amounts and using the methods set forth below:

- A. Leased Space Rent.** Lessee shall pay the City rent for access and use of the Leased Premises at a rate of ten percent (10%) of the gross revenue from operation of the bike rental program per month.
- B. Time for Payment.** Lessee shall make the rental payment due under this §6 on or before the first day of each calendar month during the term of this Lease. Payment shall be made to:

Cindi Wight
645 Pine St., Ste. B, Burlington, VT 05401
802-495-1919
cwight@burlingtonvt.gov

C. Electronic Payment. The City shall have the right, on not less than thirty (30) days prior written notice to Lessee (the “Electronic Payment Notice”), to require Lessee to make subsequent payments of monthly rent, any additional back rent, and other monies due pursuant to the terms of this Lease by means of electronic funds transfer determined by the City in its sole and absolute discretion (the “Electronic Payment”). The Electronic Payment Notice shall set forth the proper bank ABA number, account number and designation of the account to which such Electronic Payment shall be made. Lessee shall promptly notify the City in writing of any additional information that will be required to establish and maintain Electronic Payment from Lessee’s bank or financial institution. The City shall have the right, after at least ten (10) days prior written notice to Lessee, to change the name of the depository for receipt of any Electronic Payment and to discontinue payment of any sum by Electronic Payment.”

D. Late Payment. Any required payment which has not been paid when due shall incur interest at the rate of 1.5% per month.

7. CITY OBLIGATIONS

A. Access. The City shall ensure reasonable ingress and egress to and from the Leased Premises.

8. ENTRY OF LEASED PREMISES

The City and its authorized officers, employees, agents, contractors, sub-contractors and other representatives shall have the right to enter upon the Leased Premises for the following purposes:

A. Inspection. To inspect the Leased Premises at reasonable intervals during regular business hours (or at any time in case of emergency) to determine whether Lessee has complied and is complying with the terms and conditions of this Lease. Lessee shall provide the Director of BPRW with serviceable keys to all of its facilities to permit the exercise of the City’s rights hereunder; or

9. TAXES AND ASSESSMENTS

A. Direct Tax. Lessee shall pay directly to the taxing authority any and all personal property inventory taxes or assessments which may be assessed against the Leased Premises and its contents during the term hereof or any renewal term.

10. INSURANCE

Prior to the Effective Date of this Lease, Lessee shall obtain insurance coverage meeting each requirement and condition set forth in this §10.

A. Carrier. Lessee shall obtain insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-financial size category VIII or better by the latest *Best Insurance Report*, or has an analogous rating from a comparable rating service approved by the City.

B. Certificate of Insurance. Proof of insurance and compliance with all requirements in this §10 should be evidenced on a certificate of insurance acceptable to the City. The certificate shall, at a minimum, contain the following: (1) authorized agent information; (2) insured information; (3) insurance company information; (4) description of policies, including coverage types and amounts; (5) policy number(s) and period(s); (6) limits of liability; (7) City information as additional insured and certificate holder; and (8) cancellation information. The certificate of insurance must be received by the City prior to the Effective Date of this Lease.

C. Additional Insured. Each required insurance policy as it relates to the buildings and lands covered by this Lease (with the specific exception of professional liability and workers compensation) shall name the City as an additional insured and loss payee.

D. Cancellation. All certificates shall contain a provision stating that the coverages afforded under said policies will not be cancelled, materially changed, or not renewed without at least thirty (30) days written prior notice to the City, or fifteen (15) days for non-payment. The policies shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives, and shall contain a clause to the effect that such policies and the coverage evidenced thereby shall be primary with respect to any policies carried by the City, and that any coverage carried by the City shall be excess insurance. In no event shall the limits of said policies be considered as limiting the liability of Lessee under Lease.

E. Insurance Coverages. During the Term, Lessee agrees to purchase and maintain the following types of insurance coverages, consistent with the policies and requirements of the City, and provide evidence of continuing coverage to the City:

(i) Commercial General Liability Insurance. Lessee shall procure Commercial General Liability Insurance, on an occurrence form, providing all major divisions of coverage, including but not limited to: (1) Premises Operations; (2) Products and Completed Operations; (3) Personal Injury and Advertising liability; and (4) Fire Legal Liability. The Commercial General Liability Insurance shall provide the following minimum limits:

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

(ii) Workers' Compensation/Employers' Liability Insurance. Lessee shall provide Workers' Compensation coverage in accordance with the statutory limits as established by the State of Vermont and with a minimum limit for employer's liability no lower than the following: Bodily Injury by Accident - \$500,000 each accident; Bodily Injury by Disease - \$500,000 each employee. Lessee shall require all contractors and subcontractors performing work or

occupying the Leased Premises under this Lease to obtain an insurance certificate showing proof of Workers' Compensation coverages and Lessee shall require from its general contractor(s) that all subcontractors submit certificates of such insurance to the City prior to performing work or occupying the Leased Premises.

(iii) Commercial Business Automobile Liability Insurance. Lessee shall provide Commercial Business Automobile Liability Insurance, which shall include coverage for bodily injury and property damage liability arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limits for each accident.

F. Application to Others. Lessee shall require all contractors, subcontractors, agents, or workers performing work or occupying the Leased Premises to obtain an insurance coverage meeting the requirements of this §10 as evidence on a certificate of insurance. Lessee shall require that all such persons submit certificates of such insurance to the City prior to performing work or occupying the Leased Premises.

G. Maintaining Coverage. The City may require copies of any insurance policies entered into by Lessee, and Lessee is responsible for annually verifying and confirming in writing to the City that all sub-contractors, agents, operators or workers meet the minimum coverage and limits plus maintain current certificates of coverage, and that all work activities related to this Lease shall meet minimum coverage and limits, with any sub-contractors, agents, operators or workers complying with the same insurance requirements as Lessee.

H. Continuing Obligation. Unless otherwise expressly provided herein, the obligation to insure as provided herein continues throughout the term of this Lease and shall not terminate until this Lease has expired or been terminated, and the right to occupy the Leased Premises is returned to the City.

I. Waiver of Subrogation. The City and Tenant shall have no liability to one another, or to any insurer, by way of subrogation or otherwise, on account of any loss or damage to their respective property, the Premises or its contents, the Building or the Project, regardless of whether such loss or damage is caused by the negligence of the City or Tenant, arising out of any of the perils or casualties insured against by the property insurance policies carried, or required to be carried, by the parties pursuant to this Lease. The insurance policies obtained by the City and Tenant pursuant to this Lease shall permit waivers of subrogation which the insurer may otherwise have against the non-insuring party. In the event the policy or policies do not allow waiver of subrogation prior to loss, either the City or Tenant shall, at the request of the other party, deliver to the requesting party a waiver of subrogation endorsement in such form and content as may reasonably be required by the requesting party or its insurer.

11. INDEMNIFICATION & LIABILITY

A. Indemnification. Lessee shall indemnify, defend, and hold harmless the City, its officers, agents and employees, including the City of Burlington Parks Commission, their successors and assigns, individually or collectively, from and against all liability and any claims, suits, expenses, losses, judgments, proceedings, damages, expenses, demands, suits, costs (including costs of defense, reasonable attorney fees, and reasonable professional fees incurred in defense or incurred in

enforcement of this indemnity), and causes of action, including but not limited to, claims arising out of or in connection to the following:

1. This Lease;
2. The Leased Premises;
3. Actions on the Leased Premises;
4. Lessee's possession, use, occupation, or control of the Leased Premises ;
5. Actions or omissions of the Lessee, its agents, employees, licensees, visitors, or contractors;
6. Breach or default of this Lease by Lessee, its agents, employees, licensees, or contractors.

Lessee shall give prompt and timely notice to the City (and copying the Burlington City Attorney's Office) of any claim made or suit instituted which, in any way, directly or indirectly, contingently or otherwise, affects or may affect the City, the Leased Premises, or the BPRW.

Lessee shall reimburse the City for costs associated with violations issued by state and federal regulatory authorities resulting from Lessee's misconduct, incompetence, or negligence as determined by the City.

- B. Liability.** The City shall not be liable to the Lessee, any assignees claiming by, through, or under Lessee, any subtenants claiming, by, through, or under Lessee, and any of their respective agents, contractors, employees, and invitees, for any injury to or death of any person or persons or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (collectively and individually a "loss") caused by casualty, theft, fire, third parties, repair, or failure to repair, or alteration of any part of this building, or any other cause, unless due to the negligence or willful misconduct of any indemnified party, in whole or in part.

12. HAZARDOUS WASTES

- A. Disposal.** Lessee shall properly handle, remove, and dispose of any and all lubricants, grease, and/or hazardous waste and shall maintain the Leased Premises in a clean and safe condition.
- B. Hold Harmless.** Lessee shall indemnify, defend, and hold harmless the City, its officers, and employees from and against all loss, cost and expense (including, without limitation, attorney fees) of whatever nature suffered or incurred by the City on account of the existence, release, or discharge of Hazardous Substances on or from the Leased Premises including, without limitation, any claims, costs, losses, liabilities, and expenses arising from the violation (or claimed violation) of any environmental laws or the institution of any action by any party against the City or the Leased Premises based upon nuisance, negligence or other tort theory alleging liability due to the improper generation, storage, disposal, removal, transportation or treatment of Hazardous Substances or the imposition of a lien on any part of the Leased Premises under the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., as amended ("CERCLA"), or any other laws pursuant to which a lien may be imposed due to the existence of Hazardous Substances. Lessee further unconditionally, absolutely, and irrevocably guarantees the payment of any fees and expenses incurred by the City in enforcing or seeking enforcement of the

liability of Lessee under this indemnification.

13. WARRANTIES AND REPRESENTATIONS

- A. Regarding the Leased Premises.** The City represents that it is the owner of the Leased Premises or the authorized representative or agent of said owner. During the terms of this Lease, the City represents and warrants that the Lessee may have, hold, and enjoy peaceful and uninterrupted possession of the Leased Premises and rights herein leased and granted, subject to performance by Lessee of its obligations herein.
- B. Regarding Legal Authority.** Lessee warrants that it possesses the legal authority to enter into this Lease and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Lease and to bind Lessee to its terms. The person signing and executing this Lease on behalf of Lessee hereby represents, warrants, and, guarantees that they have full authorization to do so. If requested by the City, Lessee shall provide the City with proof of Lessee's authority to enter into this Lease within 15 days of receiving such a request.

14. CASUALTY

If the Leased Premises are damaged by fire, flood, or another casualty, either Party may terminate this Lease within 30 days of the date the terminating Party becomes aware of such occurrence if, in the opinion of the terminating Party, the Leased Premises have been so damaged as to render them wholly or partially untenable or unfit for the Lessee's purposes. If so elected, the terminating Party shall give the other Party written notice to the City and termination shall be effective 30 days from the date of mailing of the notice of termination.

If the Parties elect not to terminate this Lease, the City shall reasonably estimate the time, restoration work, and commencement date that the City reasonably anticipates is required for the performance of restoration work. Lessee's obligation to pay rent shall equitably and proportionately abate with respect to the damaged portion of the Leased Premises from the date of damage until restoration is sufficiently complete to enable Lessee to recommence its use and occupancy of the Leased Premises for the purposes set forth in this Lease.

15. TITLE TO IMPROVEMENTS

Upon the expiration or termination of this Lease, all permanently fixed improvements made upon the Leased Premises by Lessee shall become a part of the realty and remain on the Leased Premises as the property of the City. Lessee shall not be entitled to compensation of any kind for such improvements nor shall the City be required to provide Lessee with any consideration of any kind for such improvements.

16. TERMINATION

In addition to the termination rights granted in other sections of this Lease, the Parties may terminate this Lease in accordance with this §16.

- A. Termination by the City.** The City may terminate this Lease upon thirty (30) days' advance written notice to Lessee under the following conditions:

(i) **Past Due.** If Lessee fails to pay required rental charges or money payments more than thirty (30) days after the due date.

(ii) **Abandonment.** If Lessee or any approved sub-lessee voluntarily abandons or discontinues the conduct and operation of its service at the bike racks for a continuous period of sixty (60) days.

B. Termination by Lessee. Lessee may terminate this Lease upon thirty (30) days' advance written notice to the City under the following conditions:

(i) **Injunction.** The issuance by any court of competent jurisdiction of an injunction, order, or decree preventing or restraining the use by Lessee of all or any substantial part of the Leased Premises or preventing or restraining the use of the bike racks for usual BPRW purposes in its entirety, or the use of any part thereof which may be used by Lessee and which is necessary for Lessee's operations at the bike racks, which remains in force, unvacated or unstayed for a period of at least sixty (60) days.

C. Damage to Improvements. Either Party may terminate this Lease upon providing thirty days written notice to the other Party if the fixed improvements upon the Leased Premises are so totally destroyed or so extensively damaged that it would be impracticable or uneconomical to restore the same to their previous condition.

D. Breach.

(i) **Defined.** In addition to any breaches specified in other sections of this Lease, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Lessee, or the appointment of a receiver or similar officer for Lessee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

(ii) **Notice and Cure Period.** In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the non-breaching Party may terminate this Lease by sending a notice of termination, which shall be effective 30 days after the notice of termination is sent. Notwithstanding anything to the contrary herein, the City, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Lease in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

17. CONDITION ON TERMINATION

At the termination or expiration of this Lease, Lessee shall surrender and deliver the Leased Premises in as substantially good order and condition as exists at the inception hereof; excepting, however, loss by fire, inevitable accident, act of God, and ordinary wear and tear.

18. LIENS

Lessee shall cause to be removed any and all mechanic's or materialman's liens of any nature arising out of or because of any construction performed by Lessee upon the Leased Premises or arising out of or because of the performance of any work or labor upon or the furnishing of any materials for use at the Leased Premises, by or at the direction of Lessee within a reasonable time not to exceed six (6) months from the completion of any such construction.

19. HOLDING OVER

In the event Lessee shall hold over and remain in possession of the Leased Premises after cancellation or termination of this Lease, such holding over shall not be deemed to operate as a renewal or extension of this Lease, but rather shall only create a tenancy from month-to-month which the City may terminate at any time upon thirty (30) days' advance written notice.

20. FORCE MAJEURE

Neither Party shall be deemed to have breached this Lease if it is prevented from performing any of its obligations hereunder by reason of acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not under its control, and the Party experiencing force majeure gives written notice to the other party identifying the nature of such force majeure, and when it began. The Party experiencing force majeure shall take immediate action to attempt to remove such causes of force majeure as may occur from time to time and its operations under this Lease shall be resumed immediately after such cause has been removed, provided that neither Party shall be required to settle any labor dispute except upon terms that the Party deems acceptable. The suspension of any obligations under this section shall not cause the term of this Lease to be extended and shall not affect any rights accrued under this Lease prior to the occurrence of the force majeure. The Party giving notice of the force majeure shall also give notice of its cessation.

21. PUBLIC EMERGENCIES

Lessee must comply with all local, state, federal orders, directives, regulations, guidance, advisories during public emergencies. Public emergencies include, but are not limited to, national, state and local security emergencies; public health emergencies and pandemics; evacuations; chemical spills; shelter-in-place alerts; severe weather advisories; boil water advisories; and roadway interruptions. A Lessee's failure to comply with any local, state, federal orders, directives, regulations, guidance, or advisories during a public emergency shall constitute a breach of the Lease pursuant to Section 16 (Termination). The City shall have sole discretion in determining if Lessee is compliant with the above. If a public emergency is declared, the City will not be responsible for any expenses or losses incurred as a result of any public emergency.

22. DISPUTE RESOLUTION

The Parties shall make their designation representative available to meet within a reasonable time to discuss issues relating to the Lease or the Leased Premises. Each Party shall take such actions as reasonably necessary to address any issues within a reasonable time.

Either Party may enforce this Lease and/or seek appropriate remedies in Chittenden Superior Court under the laws of the State of Vermont.

23. NOTICES AND REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

For the City: Cindi Wight
645 Pine St., Ste. B, Burlington, VT 05401
802-495-1919
cwight@burlingtonvt.gov

For Lessee: Rick Sharp
277 Pine St., Burlington, VT 05401
802-879-3507
burlingtonsegways@comcast.net

24. GENERAL CIVIL RIGHTS PROVISIONS

Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the Lessee.

This provision obligates the Lessee for the period during which the property is owned, used, or possessed by the Lessee. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

25. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this Lease, the Lessee, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations:** The Lessee will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Lessee, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the

Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Lessee of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

26. FEDERAL CIVIL RIGHTS PROVISION

No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of property and facilities made available or leased to Lessee; the construction of any improvements on, over, or under said property and facilities; or the furnishing of services thereon. Lessee shall comply with the Nondiscrimination Acts and Authorities as set out below and as they may be amended from time to time.

A. The Lessee shall maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Authorities such that no person on the grounds of race, color, or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier shall be notified by Lessee of Lessee's obligations under this Agreement and the Nondiscrimination Acts and Authorities.

C. In the event of breach of any of the above non-discrimination covenants, the City shall have the right to terminate the Agreement and re-enter and repossess the underlying property and facilities and hold the same as if the Agreement had never been made or issued.

D. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Lessee") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- ii. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- iv. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- v. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- vi. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- vii. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- viii. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- ix. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- x. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

27. LIVABLE WAGE

The City has in effect a livable wage ordinance. This livable wage ordinance is applicable to service contracts with the City (as opposed to the purchasing of goods) where the total amount of the contract or contracts with the same person or entity exceeds \$15,000 for any twelve-month period.

Lessee shall comply with the livable wage ordinance to the extent that it is a covered employer under

the ordinance and the ordinance is otherwise applicable. Lessee shall also require any contractors or agents performing work at the Leased Premises to comply with the livable wage ordinance.

28. RECORDING LEASE

This Lease is not being recorded. However, the Parties expressly agree to, at the request of either Party, execute a short-form notice of Lease complying with the terms of 27 V.S.A. § 341(c) which may be recorded by either the City or Lessee.

29. MORTGAGES

At the option of the City, this Lease shall be subordinate to any mortgage or other security interest by the City which from time to time may encumber all or part of Leased Premises so long as the City's lender shall agree in writing in a form reasonably acceptable to Lessee that such lender will not disturb Lessee's possession and rights under Lease so long as Lessee remains in compliance with Lease.

30. ESTOPPEL CERTIFICATE

Each Party shall—within thirty (30) business days after request by the other Party—execute and deliver to the requesting Party, or the party designated by the requesting Party, a statement certifying: (i) that Lease is unmodified and in full force and effect (or, if there have been modifications, stating the modifications, and that the modified Lease is in full force and effect); (ii) whether, to the responding Party's knowledge, either Party is in default in performance of any of its obligations under Lease, and, if so, specifying each default; and (iii) any other information reasonably requested concerning Lease.

31. BROKER COMMISSIONS

The City shall have no obligation to pay any real estate commissions to any agents or brokers claiming by or through Lessee, and Lessee agrees to indemnify and hold harmless the City for all claims or demands of any other real estate agent or broker claiming by, through, or under Lessee. This indemnification shall also include payment of costs and attorney fees incurred by the City in defense of a claim for such real estate commissions or fees.

32. GENERAL PROVISIONS

- A. Assignment.** Lessee shall not assign this Lease or sublet any part of the Leased Premises without the expressed written consent of the City.
- B. Binding Effect.** All provisions of this Lease, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.
- C. Captions.** The captions and headings in this Lease are for convenience of reference only and shall not be used to interpret, define, or limit its provisions.
- D. Counterparts.** This Lease may be executed in multiple identical counterparts, all of which shall constitute one agreement.
- E. Entire Understanding.** This Lease represents the complete integration of all understandings

between the Parties and all prior representations and understandings—oral or written—are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

- F. Extinguishment and Replacement.** This Lease extinguishes and replaces any prior leases between the Parties related to the Leased Premises upon the Effective Date hereof.
- G. Modification.** Modifications of this Lease shall not be effective unless agreed to in writing by both Parties in a formal written amendment to this Lease, properly executed and approved by both Parties.
- H. Interpretation.** The language in all parts of this Lease shall in all cases be construed simply according to its fair meaning and not strictly construed against the City. This Lease shall be construed and performance thereof shall be determined in accordance with the laws of the State of Vermont.
- I. Severability.** Provided this Lease can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable, and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.
- J. Survival of Certain Lease Terms.** Notwithstanding anything herein to the contrary, provisions of this Lease requiring continued performance, compliance, or effect after expiration or termination shall survive such expiration or termination and shall be enforceable by the City if Lessee fails to perform or comply as required.
- K. Third Party Beneficiaries.** Enforcement of this Lease and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Lease are incidental to the Lease and do not create any rights for such third parties.
- L. Waiver.** No acceptance by the City of rentals, fees, charges or other payments in whole or in part, for any period or periods after a default of any of the terms, covenants, and conditions hereof, to be performed, kept or observed by Lessee, shall be deemed a waiver of any right on the part of the City to terminate this Lease. A waiver by the City of any breach of a term, provision, or requirement of this Lease or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.
- M. Public Records.** All records submitted to the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act. The determination of how those records must be handled is solely within the purview of the City. All records considered to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, shall be identified by Lessee, as shall all other records considered to be exempt under the Act. It is not sufficient to merely state generally that a document or record is proprietary, a trade secret, or otherwise exempt. Particular records, pages, or sections that are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

N. Illegal Substance. Lessee, Lessee's employees, and Lessee's patrons are prohibited from possessing, using, transporting, cultivating, selling, growing, or donating any substance prohibited under local, state, or federal law, including but not limited to marijuana.

33. ATTACHMENTS

The following attachments are adopted, made part of, and incorporated by reference into this Agreement:

A. Attachment A: Leased Premises Description and Map

B. Attachment B: Certificate of Insurance

— Signature Pages to Follow —

34. SIGNATURE PAGE 1.

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

The Parties hereto have executed this Lease Agreement

LESSEE
BURLINGTON SEGWAYS, INC.
277 Pine St., Burlington, VT 05401

By: _____

Name: Rick Sharp

Title: Owner

Date: _____

State of Vermont, County of _____. This record was acknowledged before me on
_____ (date) by _____ (authorized signatory's name).

Signature of Notary Public: _____

Stamp or certificate number: _____

Title of office: _____

My commission expires: _____

35. SIGNATURE PAGE 2.

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

The Parties hereto have executed this Lease Agreement

CITY OF BURLINGTON
149 Church St., Burlington, VT 05401

By: _____

Name: Mayor Miro Weinberger

Title: Mayor of the City of Burlington, Vermont

Date: _____

State of Vermont, County of _____. This record was acknowledged before me on
_____ (date) by _____ (authorized signatory's name).

Signature of Notary Public: _____

Stamp or certificate number: _____

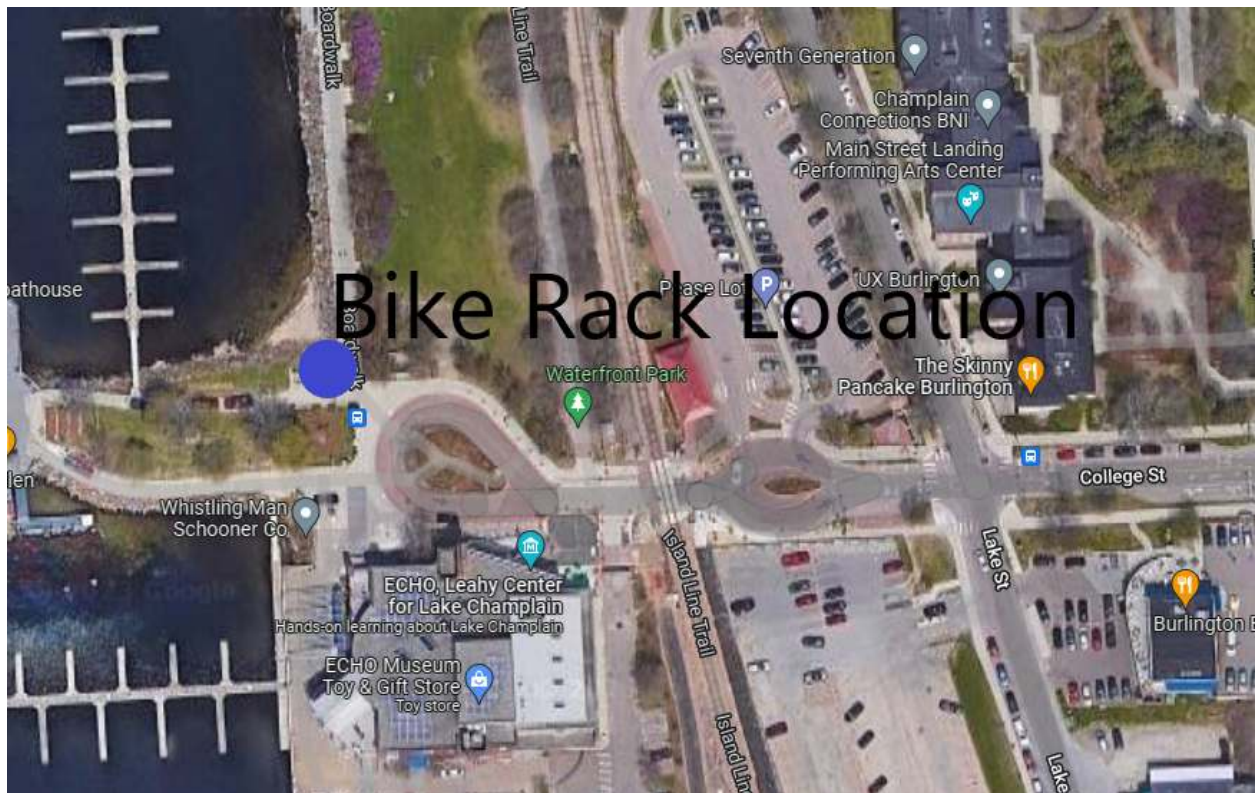
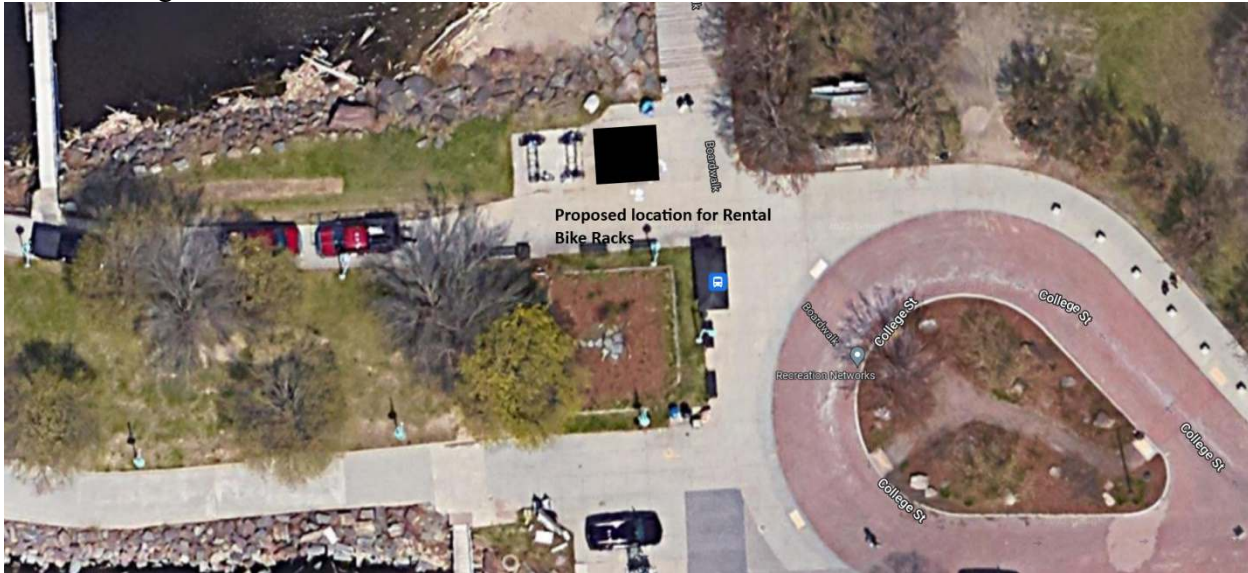
Title of office: _____

My commission expires: _____

ATTACHMENT A

Leased Premises Description and Map

260 square feet of space by the bike racks in the Southwest corner of waterfront next to the bus stop at the end of College Street.



ATTACHMENT B
Certificate of Insurance

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, provides notice of Tenant's interest in the leased premises and of the existence of the lease. In accordance with 27 V.S.A. § 341, the lease entered into by the parties is described as follows:

1. Names of the parties.

A. Landlord's Name: The City of Burlington, Vermont

B. Tenant's Name: Burlington Segways, Inc.

2. Statement of the rights of a party to extend or renew the lease. Upon mutual agreement of the Parties, this Lease may be extended for an additional two-year renewal term. As a condition of a possible renewal term, Lessee must provide written notice to the City of its intent to seek renewal, doing so at least 60 days' in advance of the last day of the initial term. A renewal term shall commence upon the expiration of either the initial term, and shall be upon the same terms contained herein.

3. Parties' addresses set forth in the lease.

A. Landlord's Address: Burlington City Hall, 149 Church Street, Burlington, VT, 05401.

B. Tenant's Address: 277 Pine Street, Burlington, VT 05401

4. Date of the execution of the lease. May 15, 2023

5. Term of the lease, the date of commencement, and the date of termination.

A. Term of the lease: 5 months 2 weeks.

B. Date of commencement: May 1, 2023

C. Date of termination: October 15, 2023

6. Description of the real property as set forth in the lease. The City-owned building and ground space known and numbered as 0 College Street in Burlington, Vermont, which consists of approximately 260 square feet of building space ("Leased Premises").

7. Statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto. Tenant has *no* rights to purchase the real property. Tenant has *no* rights to exercise a right of first refusal with respect thereto.

8. Statement of any restrictions on assignment of the lease. Tenant shall not assign the lease or sublet any part of the Leased Premises without the expressed written consent of the City.

9. The location of an original lease.

Burlington Parks Recreation and Waterfront 645 Suite b Burlington, VT 05401

IN WITNESS WHEREOF, the parties have executed or have caused this instrument to be executed by their proper officers duly authorized to do so.

THE CITY OF BURLINGTON

By: _____
Name: Mayor Miro Weinberger
Title: Mayor of the City of Burlington, Vermont
Address: 149 Church St., Burlington, VT 05401

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

Signature of Notary Public: _____
Stamp or certificate number: _____
Title of office: _____
My commission expires: _____

Rick Sharp

By: _____
Name: _____
Title: _____
Address: _____

State of Vermont, County of _____. This record was acknowledged before me on _____
(date) by _____ (authorized signatory's name).

Signature of Notary Public: _____
Stamp or certificate number: _____
Title of office: _____
My commission expires: _____



MEMO

Date: April 24, 2023

To: Board of Finance / City Council

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

CC: Dave Hammond, Fleet Manager; Lee Perry, Assistant Director of Public Works; Chapin Spencer, Director of Public Works, Ashley Parker, Capital Program Director

Re: Purchase of a bucket truck for the BPRW Arborist team

I. Purpose

The Department of Parks, Recreation & Waterfront (BPRW) seeks approval and authorization to purchase a bucket truck for the arborist team for \$316,101. The new truck would replace a vehicle that is 30 years old. With more than 12,000 street and park trees to maintain and an annual contract with Burlington Electric Department (BED) to clear lines, BPRW consistently uses both of our bucket trucks, so they need to be in good shape.

II. Background

At its July 18, 2022 meeting, the City Council approved the purchase of several fleet vehicles for FY23, which included a bucket truck for the BPRW arborist team. In the July 18, 2022 memo, the City Team did not specify the funding source for the bucket truck, but did note that it would come from BPRW funding. Since the approval of this purchase list, the cost of the bucket truck has significantly increased due to continued high inflation and supply chain limitations. We are returning to the Board of Finance and City Council for approval of this truck at the new purchase price and to also identify the funding source.

III. Process

The Fleet Manager Posted the RFP on the City's website along with sending the RFP to local vendors. We received three quotes ranging from \$316,101 to \$423,100. The proposed delivery times ranged from 18 months for the most expensive to 36 months for the least expensive. All quotes met specifications. The City selected the least expensive quote in compliance with our purchasing policy.

IV. Funding Source

BPRW has a dedicated Greenbelt fund, which receives a portion of the dedicated street tax specifically to care for the City's trees. Understanding the need to replace the aging truck, the department has set aside money annually from the Greenbelt fund to replace the truck. The department will transfer the money from the Greenbelt Fund to the Fleet capital fund to purchase the truck. Once approved, BPRW will do a budget adjustment of the \$316,101 purchase price to DPW Fleet to keep all fleet purchases in the DPW Fleet program.



Sources of Funds	
Greenbelt fund	\$316,101
Total	\$316,101
Current Greenbelt Fun	
FY22 end-of-year balance	\$273,087
FY23 inter-fund street tax revenue	\$280,690
FY23 Secured Conservation Law Foundation grant	\$10,000
FY23 Stormwater garden contract with DPW	\$34,797
FY23 Annual Greenbelt fund projected expenses	(\$203,859)
Total estimated available funds at end of FY23	\$394,715

V. SCHEDULE

- May 2023: Order truck
- May 2026: Truck arrives

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To approve and recommend that the City Council authorize the Fleet Committee to purchase a bucket truck on behalf of BPRW from Altec Industries for a price not to exceed \$316,101 utilizing identified Greenbelt street tax revenues, and to execute any related documents needed to carry out the project, subject to review by the City Attorney's Office.

City Council Motion:

To approve and authorize the Fleet Committee to purchase a bucket truck on behalf of BPRW from Altec Industries for a price not to exceed \$316,101 utilizing identified Greenbelt street tax revenues, and to execute the contract and any related documents needed to carry out the project, subject to review by the City Attorney's Office.

Board of Finance and City Council Submission ChecklistDepartment: BPRW Submitter: Cindi WightTitle/Subject: Bucket truck purchase

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/13/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/17/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A		Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/19/2023	Kyle Clauss
CAO has reviewed budget, financing, and memo	Yes	4/17/23	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.



MEMO

Date: April 24, 2023

To: Board of Finance and City Council

From: Cindi Wight, Parks, Recreation & Waterfront Director

CC: Chris Beaudry, Park Facilities Manager; Deryk Roach, Parks & Facilities Superintendent

Re: Red Stone Cottage Restoration Contract Amendment

I. Purpose

The Department of Parks, Recreation & Waterfront (BPRW) seeks approval and authorization to amend a contract with Farrington Construction for the rehabilitation of the annex of the Red Stone Cottage to include significant portions of the work that we value-engineered out before signing the original contract. The work is made possible through the proposed use of ARPA funds for community infrastructure. The citywide survey identified community gathering spaces as a high priority with the one-time ARPA funds. With the funds, we will be able to add back into the project the completion of the annex's main floor, which will serve as a community gathering space available for public rental. The space includes a kitchenette area, and we will include tables, chairs and technology for hybrid meetings. In addition, BPRW will offer programs out of the space that are available to the public.

II. Background

The Board of Finance and City Council approved a contract with Farrington Construction for \$596,191 plus a contingency of \$59,619 for the first phase of the restoration work for the Red Stone Cottage on April 25, 2022. Please note that, at this time, the initial bid received was \$1,156,219, which was much higher than the available budget. We value-engineered \$560,000 from the initial budget, allowing us to continue moving the project forward and open the Red Stone Cottage to the public as required by the \$500,000 Land, Water and Conservation Fund grant that the City received in 2016 to purchase the land. On January 30, 2023, the Board of Finance approved an amendment to the contract on for an additional \$55,109 plus a contingency of \$5,511 to add exterior work and complete a portion of the work in the basement to the scope.

Initial value engineering removed the following scope from the \$1.15 million to stay within the \$596,000 project budget:

- All exterior and interior work on the annex (most significant reduction)
- Restoring fireplaces on the first and second floor of the Stone Cottage
- Heat pump systems in both buildings
- Removed cedar shingles on Stone Cottage roof and instead used asphalt shingles
- Burial of outside electric services



First amendment - Work added back in (we used \$43,220 from the \$59,619 contingency) – January 5, 2023

- Replaced and improved the existing hydronic heating system due to removal of heat pump systems and gas fireplaces (82% of the additional funds)
- Upgraded fir decking for better longevity
- Changed flooring surface on the second floor
- Added additional electric work to improve project

Second amendment (\$55,109 +\$5,511 contingency = \$60,620) – January 30, 2023

- Install paneling on the deteriorating lower level of the west and south exterior walls of the annex, replace windows and paint the full exterior of the annex
- Demolish and add structural capacity to the lower “dorm rooms” of the annex to create a heated, functioning garage space for the Conservation team (currently no heated garage space) including an overhead door
- Paint the full exterior of the annex

Proposed third amendment (\$238,000 plus \$25,035 contingency)

- Complete renovations to the annex

III. Budget

Funding for the additional work comes from ARPA and was awarded through the community infrastructure grant program.

Project Funding Sources	Original	1st & 2nd amendments	Proposed 3rd amendment
City of Burlington – Conservation Legacy Fund	\$250,000	\$250,000	\$250,000
Vermont Housing and Conservation Board	\$60,000	\$60,000	\$68,000
Private Donations and Preservation Vermont Grant	\$293,627	\$293,627	\$291,500
General Fund – Park Division (FY22 and FY23)	\$65,150	\$90,150	\$90,150
GO Bond – Facilities Contingency		\$25,000	\$25,000
General Fund Assigned Fund Balance		\$11,171	\$11,171
ARPA funds			\$250,000
Penny for Parks			\$6,513
Total Approved Construction Budget	\$668,777	\$729,948	\$992,334



		1 st & 2 nd amendments and department expenses	Proposed 3 rd amendment
Construction Budget	Original		
Project budget	\$596,191	\$694,520	\$932,520
Project Contingency	\$59,619	\$21,910	\$46,945
Permits	\$7,005	\$7,005	\$3,544
1% art	\$5,962	\$6,513	\$9,325
Total Estimated Budget	\$668,777	\$729,948	\$992,334

The Vermont Housing and Conservation Board approved an adjustment to our grant in April 2023, allocating the \$8,000 set aside for the submission of the National Historic Preservation application towards construction, as Jay White and Devin Coleman volunteered to write the application using the extensive work already completed by a UVM graduate class.

Board of Finance Motion:

To approve and recommend that the City Council authorize Cindi Wight, Director of Parks & Recreation, to amend the contract with Farrington Construction for restoration services to the annex of the Redstone Cottage to increase the maximum limiting amount by an additional \$238,000, for a price not to exceed \$932,520 and an additional project contingency of \$25,035, for a total authorized expenditure for the full project not to exceed \$992,334, and to execute any related documents needed to carry out the project, subject to review by the City Attorney's Office.

City Council Motion:

To approve and authorize Cindi Wight, Director of Parks & Recreation, to amend the contract with Farrington Construction for restoration services to Redstone Cottage to increase the maximum limiting amount by an additional \$238,000, for a price not to exceed \$932,520 and an additional project contingency of \$25,035, for a total authorized expenditure for the full project not to exceed \$992,334, and to execute any related documents needed to carry out the project, subject to review by the City Attorney's Office.

Board of Finance and City Council Submission ChecklistDepartment: BPRW Submitter: Cindi WightTitle/Subject: Red Stone Cottage – contract amendment

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/13/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/18/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/19/2023	Kyle Clauss
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/19/2023	Kyle Clauss
CAO has reviewed budget, financing, and memo	Yes	4/17/23	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

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

MEMO

Date: April 19, 2023
To: Board of Finance & City Council
From: Sophie Sauvé, Parks Comprehensive Planner;
Cindi Wight, Director, Department of Parks, Recreation & Waterfront
Re: Authorization to Accept Grant Funds for the Calahan Park Shared Use Path – Phase 1

I. Purpose

The Department of Parks, Recreation & Waterfront (BPRW) seeks approval and authorization to accept the Vermont Agency of Transportation (VTrans) SFY 2023 Transportation Alternatives Program (TAP) grant for Calahan Park Shared Use Path – Phase 1. The grant amount is \$286,400, to be paid upfront by the City of Burlington (City) and then reimbursed by VTrans. The local match is \$71,600.

II. Background

BPRW submitted a proposal to design and construct 700 feet of an 8- to 10-foot-wide shared-use path along the north side of Calahan Park along Locust Street. This is the first phase of the shared-use path, as described in the Calahan Park Comprehensive Plan. Phase 1 will run from Locust Terrace, connecting the existing crosswalk that leads into the park at Locust Street, continuing east to connect to crosswalks at Charlotte and Caroline Streets. The path will connect these crosswalks, the playground, and the Locust Street on-street parking area to the north-south connecting path that leads to the tennis and basketball courts in the upper and eastern section of the park. The path will provide accessible entry into the upper section of this terraced park.

This work will also include expansion of the bioretention area in the park at the corner of Locust Street/Locust Terrace. Calahan Park is terraced from the high point at the eastern end and is prone to flooding and erosion. The bioretention expansion will allow stormwater discharge from impervious surfaces to be treated onsite in accordance with stormwater best management practices. .

PROJECT FUNDING SOURCES, BUDGET, AND ESTIMATES

As part of the State of Vermont's TAP, this grant will cover 80 percent of the project scope as a step towards increased accessibility and connectivity with the park. Below is the project breakdown and associated costs.

Calahan Park Shared Use Path – Phase 1	
City of Burlington (20% Match)	\$71,600
VTrans TAP Grant	\$286,400
Total Project Budget	\$358,000



\$65,000 of the local match is coming from the Parks FY23 capital bond allotment; \$5,005 is coming from the remaining FY23 Annual CIP; and \$1,595 is coming from Capital Contingency for a total of \$71,600.

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To approve and authorize the acceptance of grant funds in the amount of \$286,400 from the Vermont Agency of Transportation for the Calahan Park Shared Use Path – Phase 1 project and authorize the Director of Parks, Recreation and Waterfront to execute all documents necessary to accept the funding, subject to the final review and approval by the City Attorney's Office.

City Council Motion:

To approve and authorize the acceptance of grant funds in the amount of \$286,400 from the Vermont Agency of Transportation for the Calahan Park Shared Use Path – Phase 1 project and authorize the Director of Parks, Recreation and Waterfront to execute all documents necessary to accept the funding, subject to the final review and approval by the City Attorney's Office.

Board of Finance and City Council Submission ChecklistDepartment: CEDO Submitter: Samantha DunnTitle/Subject: UDAG Budget Amendment

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/14/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/20/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/12/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/13/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Support attachments
Draft Resolution or Motion?	Yes	Within the memo
If for submission to Council, are sponsors identified?	No	Click or tap here to enter text.

Board of Finance and City Council Submission ChecklistDepartment: Parks, Recreation and Waterfront Submitter: Sophie SauvéTitle/Subject: Calahan Park Multi-Use Path – Phase 1 Grant Acceptance

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/14/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/17/2023	Click or tap here to enter text.
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/19/2023	Kyle Clauss
CAO has reviewed budget, financing, and memo	Yes	4/17/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	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	Choose an item.	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	Click or tap here to enter text.

MEMO

Date: April 24, 2023

To: Board of Finance and City Council

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

CC: Deryk Roach, Parks and Central Facilities Superintendent, Zach Campbell, Friends of Frame, Samantha Dunn, Assistant Director - CEDO

Re: Lease of vendor space at Water Works Park

I. Purpose

In consultation with Friends of Frame, we opened up the first vendor space at FRAME for bicycle-related businesses. The intent is to bring more people into the space and eventually have additional vendor spaces. Our first vendor will provide bicycle repairs.

II. Background

BPRW and Friends of FRAME seek to begin to activate the FRAME @ Water Works Park. We are starting with bicycle-related businesses based on the interest from local businesses and from the advice of Zach Campbell from Friends of Frame, who is helping to provide a vision for the space. The vendor locations are under the FRAME with frontage facing to the south, still allowing for an uninterrupted view of the lake as you look down the path from the Burlington Greenway.

III. Process

On March 21, 2023, BPRW issued an RFP for bicycle-related businesses at FRAME using public advertising on the BPRW website, the City's website for active RFPs, and through BPRW's social media outlets. Bids were due to BPRW by April 6, 2023.

One complete joint bid was received and met the minimum requirements. Betty's Bikes and North Star Sports filed a bid together, showing support for sharing the allotted space. North Star Sports is not ready yet to commit to a lease. If they decide to utilize a vendor space, we will return to City Council for approval.

IV. Compensation to the City & Terms of Lease Agreement

The City will receive five percent of gross revenue from the businesses during the 2023 season. The lease also includes an option to extend for one additional season if both parties agree and if FRAME is not under construction for Phase 2.

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To recommend that the City Council approve the lease of the vendor space located at FRAME @ Water Works Park to Betty's Bikes, and to authorize Mayor Miro Weinberger to execute the lease agreement and any related documents, subject to review by the City Attorney's Office.



City Council Motion:

To approve the lease of the vendor space located at FRAME @ Water Works Park to Betty's Bikes, and to authorize Mayor Miro Weinberger to execute the lease agreement and any related documents, subject to review by the City Attorney's Office.



Board of Finance and City Council Submission ChecklistDepartment: BPRW Submitter: Cindi WightTitle/Subject: Bicycle Services lease

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/13/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/17/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/20/2023	Kyle Clauss
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/20/2023	Kyle Clauss
CAO has reviewed budget, financing, and memo	Yes	4/17/23	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

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

**CITY OF BURLINGTON
LEASE AGREEMENT
WITH
Betty's Bikes LLC**

This Lease Agreement ("Lease") is entered into by and between the City of Burlington ("City"), acting by and through its Parks, Recreation & Waterfront Department ("BPRW"), and Betty's Bikes LLC ("Lessee"), a Vermont corporation authorized to do business in the State of Vermont with a principal place of business at 193 St. Paul Street, #104, Burlington, Vermont 05401. The City and Lessee agree to the terms and conditions of this Lease.

1. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Lease shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Lease before the Effective Date and unless otherwise agreed to in writing, shall have no obligations for performance or expenses incurred before the Effective Date or after the expiration or termination of this Lease.

2. RECITALS

- A. Authority.** Authority to enter into this Lease exists in the City Charter. Required approvals, clearance, and coordination have been accomplished from and within each Party.
- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Lease.
- C. Purpose.** The City owns and operates the area known as FRAME @ Water Works Park in Burlington, Vermont. The City and Lessee wish to enter into an agreement leasing certain portions of the BPRW premises to Lessee to further and carry out the purposes of the operation of the BPRW. This Lease establishes the conditions and terms of Lessee's use of the Leased Premises.
- D. References.** All references in this Lease to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments, are references to sections subsections, exhibits, or other attachments contained herein or incorporated as part of this Lease, unless otherwise noted.

3. DEFINITIONS

- A. "Leased Premises"** means the City-owned building and ground space known and numbered as 381 Lake Street, in Burlington, Vermont, which consists of approximately 850 square feet of building space. A description and map of the Leased Premises are included as Attachment A.
- B. "Effective Date"** means the date on which this Lease is approved and signed by the City, as shown on the signature page of this Lease.
- C. "Hazardous Substance"** means and includes, but shall not be limited to, any element, substance, compound or mixture, including disease-causing agents, which after release into the environment or work place and upon exposure, ingestion, inhalation or assimilation into any organism, either directly or indirectly, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction or

physical deformations in such organisms or their offspring, and all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents), or any other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, CERCLA, and regulations adopted pursuant to such Acts, the Toxic Substances Control Act of 1976, as heretofore or currently in effect (“TSCA”) and the Resource Conservation and Recovery Act of 1976, as heretofore or currently in effect (“RCRA”).

- D. **“Lease”** means this Lease Agreement, its terms and conditions, attachments, and documents incorporated by reference under the terms of this Lease.
- E. **“Party”** means the City or Lessee and **“Parties”** means the City and Lessee.
- F. **“Termination Event”** means any event described in Section 16.B.i. (Termination by the City – Breach)

4. TERM AND RENEWAL TERM(S)

- A. **Initial Term.** This Lease and the Parties’ respective performance shall commence on the Effective Date and expire on December 31, 2023.
- B. **Renewal Term(s).** Upon mutual agreement of the Parties, this Lease may be extended for an additional one-year renewal term. As a condition of a possible renewal term, Lessee must provide written notice to the City of its intent to seek renewal, doing so at least 60 days’ in advance of the last day of the initial term. A renewal term shall commence upon the expiration of either the initial term, and shall be upon the same terms contained herein.

5. LEASE—USES AND PURPOSES

The City hereby leases to Lessee for its exclusive use the right to access and occupy the Leased Premises, subject to the terms of this Lease and the following conditions:

- A. **Use.** Unless otherwise approved in writing by the City, Lessee shall use and occupy the Leased Premises to provide bicycle repairs. .
- B. **Upkeep and Utilities.** Lessee shall furnish to the Leased Premises and pay all charges for telephone service, sewage service, stormwater, trash and/or hazardous waste removal, janitorial service, water, electric power, heat, gas, air conditioning and other utilities of every kind.
- C. **Condition.** Lessee shall keep and maintain all parts of the Leased Premises—including related and associated appurtenances—in good condition, order and repair during the term of this Lease. Such actions include but are not limited to: painting, lighting, removal of ground side snow and garbage, landscaping, replacement of broken glass with glass the same size and quality of that broken, and utility services.
- D. **Sublease.** Lessee shall not sublease any portion of the Leased Premises without the express prior written approval of the City. If such approval is obtained during the term of this Lease, then Lessee shall cooperate with other occupants of the building in which the Leased Premises is located so that

any common facilities shall at all times be kept and maintained in a clean, orderly and sanitary manner. Lessee may share in an equitable manner with the other occupants the expenses of maintaining said common facilities. If the common facilities are not kept and maintained in a clean, orderly, and sanitary manner, the City shall have the right, in its sole discretion, to assume such obligation and charge the full expenses thereof to Lessee. All maintenance shall be subject to general monitoring by the City to ensure a continuing high quality of appearance commensurate with maintenance and safety standards of the BPRW.

- E. Compliance with Law.** Lessee shall observe and comply with any and all present and future requirements of the constituted public authority and with all federal, state, or local statutes, ordinances, regulations, standards, conditions, and agreements applicable to Lessee for its use of the Leased Premises, including, but not limited to, ordinances, rules and regulations promulgated from time to time by or at the direction of the City for the administration of the BPRW. Further, Lessee shall—at its own expense—submit to and comply with the requirements of all state and federal regulatory agencies or municipal boards having jurisdiction over the construction of any fixed improvements on the Leased Premises, including, but not limited to, any Environmental Board or Board of Health.
- F. ADA.** Lessee shall—at its own expense—comply with the standards for accessible design known as the Americans with Disabilities Act (“ADA”) Accessibility Guidelines in connection with any new construction or alteration of the Leased Premises. Lessee shall bear the burden of this obligation regardless of whether any such Agency or Board shall require that the City be the applicant of record.
- G. Waste and Nuisance.** Lessee shall not make any actionable waste or nuisance upon the Leased Premises and shall not do or permit to be done anything which may result in the creation, commission, or maintenance of any such waste or nuisance on said premises or the BPRW. Lessee shall properly handle, remove, and dispose of any and all lubricants and/or hazardous waste and maintain the Leased Premises in a clean and safe condition.
- H. Improvements.** Should Lessee desire to make infrastructure and Lessee-specific modifications or improvements to the Leased Premises, Lessee shall obtain advanced written approval by the City. Lessee shall be solely responsible for all costs associated with improvements without reimbursement or further consideration from the City. All approved additions or improvements must comply with the standards for accessible design known as the Americans with Disabilities Act Accessibility Guidelines and shall, on expiration or termination of this Lease, belong to the City without compensation to Lessee.
- I. Supervision.** Lessee shall ensure that the management, maintenance, and operation of the Leased Premises shall at all times be under the supervision and direction of an active, qualified, competent representative of Lessee, and Lessee shall identify its representative, and any successor, in writing to the City.

6. RENT

Lessee shall, in accordance with the provisions of this section, pay the City rent and other amounts due hereunder in the amounts and using the methods set forth below:

- A. Leased Space Rent.** Lessee shall pay the City rent for access and use of the Leased Premises at a rate of five percent (5%) of gross sales at the Leased Premises per month.

- B. Time for Payment.** Lessee shall make the rental payment due under this §6 on or before the first day of each calendar month during the term of this Lease. Payment shall be made to:

Joanne Putzier, BPRW
645 Pine Street, Burlington, VT 05401
802-922-3381
jputzier@burlingtonvt.gov

- C. Electronic Payment.** The City shall have the right, on not less than thirty (30) days prior written notice to Lessee (the “Electronic Payment Notice”), to require Lessee to make subsequent payments of monthly rent, any additional back rent, and other monies due pursuant to the terms of this Lease by means of electronic funds transfer determined by the City in its sole and absolute discretion (the “Electronic Payment”). The Electronic Payment Notice shall set forth the proper bank ABA number, account number and designation of the account to which such Electronic Payment shall be made. Lessee shall promptly notify the City in writing of any additional information that will be required to establish and maintain Electronic Payment from Lessee’s bank or financial institution. The City shall have the right, after at least ten (10) days prior written notice to Lessee, to change the name of the depository for receipt of any Electronic Payment and to discontinue payment of any sum by Electronic Payment.”
- D. Late Payment.** Any required payment which has not been paid when due shall incur interest at the rate of 1.5% per month.

7. CITY OBLIGATIONS

- A. Access.** The City shall ensure reasonable ingress and egress to and from the Leased Premises.
- B. Snow Removal.** The City shall provide for snow removal from access roads.

8. ENTRY OF LEASED PREMISES

The City and its authorized officers, employees, agents, contractors, sub-contractors and other representatives shall have the right to enter upon the Leased Premises for the following purposes:

- A. Inspection.** To inspect the Leased Premises at reasonable intervals during regular business hours (or at any time in case of emergency) to determine whether Lessee has complied and is complying with the terms and conditions of this Lease.
- B. Facilities.** To perform essential maintenance, repair, relocation or removal of existing underground or overhead wires, pipes, drains, cables and conduits now located on or across the Leased Premises, and to construct, maintain, repair, relocate and remove such facilities in the future if necessary to carry out the master plan of development of the BPRW provided, however, that said work shall in no event disrupt or unduly interfere with the operations of Lessee. Nothing herein shall be construed to impose upon the City any obligations to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure to do so. Lessee is and shall be in exclusive possession of the Leased Premises and the City shall not, in any event, be liable for any damage to the premises or any property of Lessee or any other persons located in or thereupon, other than to repair or remedy such damage as may be occasioned by negligence of the City, its employees

or agents.

9. TAXES AND ASSESSMENTS

- A. Direct Tax.** Lessee shall pay directly to the taxing authority any and all personal property inventory taxes or assessments which may be assessed against the Leased Premises and its contents during the term hereof or any renewal term.

10. INSURANCE

Prior to the Effective Date of this Lease, Lessee shall obtain insurance coverage meeting each requirement and condition set forth in this §10.

- A. Carrier.** Lessee shall obtain insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-financial size category VIII or better by the latest *Best Insurance Report*, or has an analogous rating from a comparable rating service approved by the City.
- B. Certificate of Insurance.** Proof of insurance and compliance with all requirements in this §10 should be evidenced on a certificate of insurance acceptable to the City. The certificate shall, at a minimum, contain the following: (1) authorized agent information; (2) insured information; (3) insurance company information; (4) description of policies, including coverage types and amounts; (5) policy number(s) and period(s); (6) limits of liability; (7) City information as additional insured and certificate holder; and (8) cancellation information. The certificate of insurance must be received by the City prior to the Effective Date of this Lease.
- C. Additional Insured.** Each required insurance policy as it relates to the buildings and lands covered by this Lease (with the specific exception of professional liability and workers compensation) shall name the City as an additional insured and loss payee.
- D. Cancellation.** All certificates shall contain a provision stating that the coverages afforded under said policies will not be cancelled, materially changed, or not renewed without at least thirty (30) days written prior notice to the City, or fifteen (15) days for non-payment. The policies shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives, and shall contain a clause to the effect that such policies and the coverage evidenced thereby shall be primary with respect to any policies carried by the City, and that any coverage carried by the City shall be excess insurance. In no event shall the limits of said policies be considered as limiting the liability of Lessee under Lease.
- E. Insurance Coverages.** During the Term, Lessee agrees to purchase and maintain the following types of insurance coverages, consistent with the policies and requirements of the City, and provide evidence of continuing coverage to the City:
- (i) Commercial General Liability Insurance.** Lessee shall procure Commercial General Liability Insurance, on an occurrence form, providing all major divisions of coverage, including but not limited to: (1) Premises Operations; (2) Products and Completed Operations; (3) Personal Injury and Advertising liability; and (4) Fire Legal Liability. The Commercial General Liability Insurance shall provide the following minimum limits:

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

(ii) Workers' Compensation/Employers' Liability Insurance. Lessee shall provide Workers' Compensation coverage in accordance with the statutory limits as established by the State of Vermont and with a minimum limit for employer's liability no lower than the following: Bodily Injury by Accident - \$500,000 each accident; Bodily Injury by Disease - \$500,000 each employee. Lessee shall require all contractors and subcontractors performing work or occupying the Leased Premises under this Lease to obtain an insurance certificate showing proof of Workers' Compensation coverages and Lessee shall require from its general contractor(s) that all subcontractors submit certificates of such insurance to the City prior to performing work or occupying the Leased Premises.

(iii) Commercial Business Automobile Liability Insurance. Lessee shall provide Commercial Business Automobile Liability Insurance, which shall include coverage for bodily injury and property damage liability arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limits for each accident.

F. Application to Others. Lessee shall require all contractors, subcontractors, agents, or workers performing work or occupying the Leased Premises to obtain an insurance coverage meeting the requirements of this **§10** as evidence on a certificate of insurance. Lessee shall require that all such persons submit certificates of such insurance to the City prior to performing work or occupying the Leased Premises.

G. Maintaining Coverage. The City may require copies of any insurance policies entered into by Lessee, and Lessee is responsible for annually verifying and confirming in writing to the City that all sub-contractors, agents, operators or workers meet the minimum coverage and limits plus maintain current certificates of coverage, and that all work activities related to this Lease shall meet minimum coverage and limits, with any sub-contractors, agents, operators or workers complying with the same insurance requirements as Lessee.

H. Continuing Obligation. Unless otherwise expressly provided herein, the obligation to insure as provided herein continues throughout the term of this Lease and shall not terminate until this Lease has expired or been terminated, and the right to occupy the Leased Premises is returned to the City.

I. Waiver of Subrogation. The City and Tenant shall have no liability to one another, or to any insurer, by way of subrogation or otherwise, on account of any loss or damage to their respective

property, the Premises or its contents, the Building or the Project, regardless of whether such loss or damage is caused by the negligence of the City or Tenant, arising out of any of the perils or casualties insured against by the property insurance policies carried, or required to be carried, by the parties pursuant to this Lease. The insurance policies obtained by the City and Tenant pursuant to this Lease shall permit waivers of subrogation which the insurer may otherwise have against the non-insuring party. In the event the policy or policies do not allow waiver of subrogation prior to loss, either the City or Tenant shall, at the request of the other party, deliver to the requesting party a waiver of subrogation endorsement in such form and content as may reasonably be required by the requesting party or its insurer.

11. INDEMNIFICATION & LIABILITY

A. Indemnification. Lessee shall indemnify, defend, and hold harmless the City, its officers, agents and employees, including the City of Burlington Parks Commission, their successors and assigns, individually or collectively, from and against all liability and any claims, suits, expenses, losses, judgments, proceedings, damages, expenses, demands, suits, costs (including costs of defense, reasonable attorney fees, and reasonable professional fees incurred in defense or incurred in enforcement of this indemnity), and causes of action, including but not limited to, claims arising out of or in connection to the following:

1. This Lease;
2. The Leased Premises;
3. Actions on the Leased Premises;
4. Lessee's possession, use, occupation, or control of the Leased Premises ;
5. Actions or omissions of the Lessee, its agents, employees, licensees, visitors, or contractors;
6. Breach or default of this Lease by Lessee, its agents, employees, licensees, or contractors.

Lessee shall give prompt and timely notice to the City (and copying the Burlington City Attorney's Office) of any claim made or suit instituted which, in any way, directly or indirectly, contingently or otherwise, affects or may affect the City, the Leased Premises, or the BPRW.

Lessee shall reimburse the City for costs associated with violations issued by state and federal regulatory authorities resulting from Lessee's misconduct, incompetence, or negligence as determined by the City.

B. Liability. The City shall not be liable to the Lessee, any assignees claiming by, through, or under Lessee, any subtenants claiming, by, through, or under Lessee, and any of their respective agents, contractors, employees, and invitees, for any injury to or death of any person or persons or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (collectively and individually a "loss") caused by casualty, theft, fire, third parties, repair, or failure to repair, or alteration of any part of this building, or any other cause, unless due to the negligence or willful misconduct of any indemnified party, in whole or in part.

12. HAZARDOUS WASTES

- A. Disposal.** Lessee shall properly handle, remove, and dispose of any and all lubricants, grease, and/or hazardous waste and shall maintain the Leased Premises in a clean and safe condition.
- B. Hold Harmless.** Lessee shall indemnify, defend, and hold harmless the City, its officers, and employees from and against all loss, cost and expense (including, without limitation, attorney fees) of whatever nature suffered or incurred by the City on account of the existence, release, or discharge of Hazardous Substances on or from the Leased Premises including, without limitation, any claims, costs, losses, liabilities, and expenses arising from the violation (or claimed violation) of any environmental laws or the institution of any action by any party against the City or the Leased Premises based upon nuisance, negligence or other tort theory alleging liability due to the improper generation, storage, disposal, removal, transportation or treatment of Hazardous Substances or the imposition of a lien on any part of the Leased Premises under the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., as amended (“CERCLA”), or any other laws pursuant to which a lien may be imposed due to the existence of Hazardous Substances. Lessee further unconditionally, absolutely, and irrevocably guarantees the payment of any fees and expenses incurred by the City in enforcing or seeking enforcement of the liability of Lessee under this indemnification.

13. WARRANTIES AND REPRESENTATIONS

- A. Regarding the Leased Premises.** The City represents that it is the owner of the Leased Premises or the authorized representative or agent of said owner. During the terms of this Lease, the City represents and warrants that the Lessee may have, hold, and enjoy peaceful and uninterrupted possession of the Leased Premises and rights herein leased and granted, subject to performance by Lessee of its obligations herein.
- B. Regarding Legal Authority.** Lessee warrants that it possesses the legal authority to enter into this Lease and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Lease and to bind Lessee to its terms. The person signing and executing this Lease on behalf of Lessee hereby represents, warrants, and, guarantees that they have full authorization to do so. If requested by the City, Lessee shall provide the City with proof of Lessee’s authority to enter into this Lease within 15 days of receiving such a request.

14. CASUALTY

If the Leased Premises are damaged by fire, flood, or another casualty, either Party may terminate this Lease within 30 days of the date the terminating Party becomes aware of such occurrence if, in the opinion of the terminating Party, the Leased Premises have been so damaged as to render them wholly or partially untenable or unfit for the Lessee’s purposes. If so elected, the terminating Party shall give the other Party written notice to the City and termination shall be effective 30 days from the date of mailing of the notice of termination.

If the Parties elect not to terminate this Lease, the City shall reasonably estimate the time, restoration work, and commencement date that the City reasonably anticipates is required for the performance of restoration work. Lessee’s obligation to pay rent shall equitably and proportionately abate with respect to the damaged portion of the Leased Premises from the date of damage until restoration is sufficiently complete to enable Lessee to recommence its use and occupancy of the Leased Premises

for the purposes set forth in this Lease.

15. TITLE TO IMPROVEMENTS

Upon the expiration or termination of this Lease, all permanently fixed improvements made upon the Leased Premises by Lessee shall become a part of the realty and remain on the Leased Premises as the property of the City. Lessee shall not be entitled to compensation of any kind for such improvements nor shall the City be required to provide Lessee with any consideration of any kind for such improvements.

16. TERMINATION

In addition to the termination rights granted in other sections of this Lease, the Parties may terminate this Lease in accordance with this §16.

A. Breach. The failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner constitutes a breach.

B. Termination by the City.

(i) Breach. The City may terminate this Lease, if Lessee fails to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner, including, but not limited to, the following conditions:

- a. Past Due.** If Lessee fails to pay required rental charges or money payments more than thirty (30) days after a due date.
- b. Abandonment.** If Lessee or any approved sub-lessee voluntarily abandons or discontinues the conduct and operation of its service at the FRAME @ Water Works Park for a continuous period of sixty (60) days.
- c. Bankruptcy.** The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Lessee, or the appointment of a receiver or similar officer for Lessee or any of its property, which is not vacated or fully stayed within twenty (20) days after the institution or occurrence thereof, shall constitute a breach.
- d. Public safety.** If terminating the lease is reasonably necessary to preserve public safety or to prevent an immediate public crisis.

(ii) Notice and Cure Period. In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within thirty (30) days, or if a cure of the breach has not begun within 30 days and pursued with due diligence, the non-breaching Party may terminate this Lease by sending a notice of termination, which shall be effective thirty (30) days after the notice of termination is sent. Notwithstanding anything to the contrary herein, the City, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Lease in whole or in part if reasonably necessary to preserve public safety or to prevent an immediate public crisis.

(iii) Repeated Breaches. If the same Termination Event has occurred on four separate occasions during any rolling 12-month period (having been duly remedied or waived on each occasion), a cure period for remedying the next occurrence of such Termination Event occurring within the relevant 12-month rolling period will only be available if City so permits in its sole discretion.

(iv) Rights and Remedies Not Exclusive. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

C. Termination by Lessee. Lessee may terminate this Lease upon thirty (30) days' advance written notice to the City under the following conditions:

(i) Injunction. The issuance by any court of competent jurisdiction of an injunction, order, or decree preventing or restraining the use by Lessee of all or any substantial part of the Leased Premises or preventing or restraining the use of the FRAME @ Water Works Park for usual BPRW purposes in its entirety, or the use of any part thereof which may be used by Lessee and which is necessary for Lessee's operations on the FRAME @ Water Works Park, which remains in force, unvacated or unstayed for a period of at least sixty (60) days.

D. Damage to Improvements. Either Party may terminate this Lease upon providing thirty (30) days' written notice to the other Party if the fixed improvements upon the Leased Premises are so totally destroyed or so extensively damaged that it would be impracticable or uneconomical to restore the same to their previous condition.

17. CONDITION ON TERMINATION

At the termination or expiration of this Lease, Lessee shall surrender and deliver the Leased Premises in as substantially good order and condition as exists at the inception hereof; excepting, however, loss by fire, inevitable accident, act of God, and ordinary wear and tear.

18. LIENS

Lessee shall cause to be removed any and all mechanic's or materialman's liens of any nature arising out of or because of any construction performed by Lessee upon the Leased Premises or arising out of or because of the performance of any work or labor upon or the furnishing of any materials for use at the Leased Premises, by or at the direction of Lessee within a reasonable time not to exceed six (6) months from the completion of any such construction.

19. HOLDING OVER

In the event Lessee shall hold over and remain in possession of the Leased Premises after cancellation or termination of this Lease, such holding over shall not be deemed to operate as a renewal or extension of this Lease, but rather shall only create a tenancy from month-to-month which the City may terminate at any time upon thirty (30) days' advance written notice.

20. FORCE MAJEURE

Neither Party shall be deemed to have breached this Lease if it is prevented from performing any of its obligations hereunder by reason of acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not under its control, and the Party experiencing force majeure gives written notice to the other party identifying the nature of such force majeure, and when it began. The Party experiencing force majeure shall take immediate action to attempt to remove such causes of force majeure as may occur from time to time and its operations under this Lease shall be resumed immediately after such cause has been removed, provided that neither Party shall be required to settle any labor dispute except upon terms that the Party deems acceptable. The suspension of any obligations under this section shall not cause the term of this Lease to be extended and shall not affect any rights accrued under this Lease prior to the occurrence of the force majeure. The Party giving notice of the force majeure shall also give notice of its cessation.

21. PUBLIC EMERGENCIES

Lessee must comply with all local, state, federal orders, directives, regulations, guidance, advisories during public emergencies. Public emergencies include, but are not limited to, national, state and local security emergencies; public health emergencies and pandemics; evacuations; chemical spills; shelter-in-place alerts; severe weather advisories; boil water advisories; and roadway interruptions. A Lessee's failure to comply with any local, state, federal orders, directives, regulations, guidance, or advisories during a public emergency shall constitute a breach of the Lease pursuant to Section 17 (Termination). The City shall have sole discretion in determining if Lessee is compliant with the above. If a public emergency is declared, the City will not be responsible for any expenses or losses incurred as a result of any public emergency.

22. DISPUTE RESOLUTION

The Parties shall make their designation representative available to meet within a reasonable time to discuss issues relating to the Lease or the Leased Premises. Each Party shall take such actions as reasonably necessary to address any issues within a reasonable time.

Either Party may enforce this Lease and/or seek appropriate remedies in Chittenden Superior Court under the laws of the State of Vermont.

23. NOTICES AND REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

For the City: Cindi Wight, BPRW Director
645 Pine St., Burlington, VT 05401
802-495-1919
cwight@burlingtonvt.gov

For Lessee: Julie Williams, Betty's Bikes

193 St. Paul St. #104, Burlington, VT 05401

bettysbikes@gmail.com

24. GENERAL CIVIL RIGHTS PROVISIONS

Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the Lessee.

This provision obligates the Lessee for the period during which the property is owned, used, or possessed by the Lessee. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

25. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this Lease, the Lessee, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations:** The Lessee will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Lessee, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Lessee of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

26. FEDERAL CIVIL RIGHTS PROVISION

No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of property and facilities made available or leased to Lessee; the construction of any improvements on, over, or under said property and facilities; or the furnishing of services thereon. Lessee shall comply with the Nondiscrimination Acts and Authorities as set out below and as they may be amended from time to time.

A. The Lessee shall maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Authorities such that no person on the grounds of race, color, or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier shall be notified by Lessee of Lessee's obligations under this Agreement and the Nondiscrimination Acts and Authorities.

C. In the event of breach of any of the above non-discrimination covenants, the City shall have the right to terminate the Agreement and re-enter and repossess the underlying property and facilities and hold the same as if the Agreement had never been made or issued.

D. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Lessee") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- ii. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- iv. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- v. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- vi. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- vii. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and

private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- viii. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- ix. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- x. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

27. FEDERAL REQUIREMENTS FOR CONSTRUCTION ACTIVITIES

Lessee for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that Lessee will use the Leased Premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts and Authorities.

With respect to Lessee, in the event of breach of any of the above nondiscrimination covenants, the City will have the right to terminate this Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said this Agreement had never been made or issued.

28. LIVABLE WAGE

The City has in effect a livable wage ordinance. This livable wage ordinance is applicable to service contracts with the City (as opposed to the purchasing of goods) where the total amount of the contract or contracts with the same person or entity exceeds \$15,000 for any twelve-month period.

Lessee shall comply with the livable wage ordinance to the extent that it is a covered employer under the ordinance and the ordinance is otherwise applicable. Lessee shall also require any contractors or

agents performing work at the Leased Premises to comply with the livable wage ordinance.

29. RECORDING LEASE

This Lease is not being recorded. However, the Parties expressly agree to, at the request of either Party, execute a short-form notice of Lease complying with the terms of 27 V.S.A. § 341(c) which may be recorded by either the City or Lessee.

30. MORTGAGES

At the option of the City, this Lease shall be subordinate to any mortgage or other security interest by the City which from time to time may encumber all or part of Leased Premises so long as the City's lender shall agree in writing in a form reasonably acceptable to Lessee that such lender will not disturb Lessee's possession and rights under Lease so long as Lessee remains in compliance with Lease.

31. ESTOPPEL CERTIFICATE

Each Party shall—within thirty (30) business days after request by the other Party—execute and deliver to the requesting Party, or the party designated by the requesting Party, a statement certifying: (i) that Lease is unmodified and in full force and effect (or, if there have been modifications, stating the modifications, and that the modified Lease is in full force and effect); (ii) whether, to the responding Party's knowledge, either Party is in default in performance of any of its obligations under Lease, and, if so, specifying each default; and (iii) any other information reasonably requested concerning Lease.

32. BROKER COMMISSIONS

The City shall have no obligation to pay any real estate commissions to any agents or brokers claiming by or through Lessee, and Lessee agrees to indemnify and hold harmless the City for all claims or demands of any other real estate agent or broker claiming by, through, or under Lessee. This indemnification shall also include payment of costs and attorney fees incurred by the City in defense of a claim for such real estate commissions or fees.

33. GENERAL PROVISIONS

- A. Assignment.** Lessee shall not assign this Lease or sublet any part of the Leased Premises without the expressed written consent of the City.
- B. Binding Effect.** All provisions of this Lease, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.
- C. Captions.** The captions and headings in this Lease are for convenience of reference only and shall not be used to interpret, define, or limit its provisions.
- D. Counterparts.** This Lease may be executed in multiple identical counterparts, all of which shall constitute one agreement.
- E. Entire Understanding.** This Lease represents the complete integration of all understandings between the Parties and all prior representations and understandings—oral or written—are merged

herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

- F. Extinguishment and Replacement.** This Lease extinguishes and replaces any prior leases between the Parties related to the Leased Premises upon the Effective Date hereof.
- G. Modification.** Modifications of this Lease shall not be effective unless agreed to in writing by both Parties in a formal written amendment to this Lease, properly executed and approved by both Parties.
- H. Interpretation.** The language in all parts of this Lease shall in all cases be construed simply according to its fair meaning and not strictly construed against the City. This Lease shall be construed and performance thereof shall be determined in accordance with the laws of the State of Vermont.
- I. Severability.** Provided this Lease can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable, and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.
- J. Survival of Certain Lease Terms.** Notwithstanding anything herein to the contrary, provisions of this Lease requiring continued performance, compliance, or effect after expiration or termination shall survive such expiration or termination and shall be enforceable by the City if Lessee fails to perform or comply as required.
- K. Third Party Beneficiaries.** Enforcement of this Lease and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Lease are incidental to the Lease and do not create any rights for such third parties.
- L. Waiver.** No acceptance by the City of rentals, fees, charges or other payments in whole or in part, for any period or periods after a default of any of the terms, covenants, and conditions hereof, to be performed, kept or observed by Lessee, shall be deemed a waiver of any right on the part of the City to terminate this Lease. A waiver by the City of any breach of a term, provision, or requirement of this Lease or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.
- M. Public Records.** All records submitted to the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act. The determination of how those records must be handled is solely within the purview of the City. All records considered to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, shall be identified by Lessee, as shall all other records considered to be exempt under the Act. It is not sufficient to merely state generally that a document or record is proprietary, a trade secret, or otherwise exempt. Particular records, pages, or sections that are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.
- N. Illegal Substance.** Lessee, Lessee's employees, and Lessee's patrons are prohibited from

possessing, using, transporting, cultivating, selling, growing, or donating any substance prohibited under local, state, or federal law, including but not limited to marijuana.

34. ATTACHMENTS

The following attachments are adopted, made part of, and incorporated by reference into this Agreement:

- A. Attachment A:** Leased Premises Description and Map
- B. Attachment B:** FRAME @ Water Works Park Rules & Regulations
- C. Attachment C:** Lessee's Certificate of Insurance

— *Signature Pages to Follow* —

35. SIGNATURE PAGE 1.

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

The Parties hereto have executed this Lease Agreement

LESSEE
Betty's Bikes LLC

193 St Paul Street, #104 Burlington, VT 05401

By: _____

Name: _____

Title: _____

Date: _____

State of Vermont, County of _____. This record was acknowledged before me on _____ (date) by _____ (authorized signatory's name).

Signature of Notary Public: _____

Stamp or certificate number: _____

Title of office: _____

My commission expires: _____

36. SIGNATURE PAGE 2.

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

The Parties hereto have executed this Lease Agreement

City of Burlington
149 Church Street, Burlington, Vermont 05401

By: _____

Name: Mayor Miro Weinberger

Title: Mayor of the City of Burlington, Vermont

Date: _____

State of Vermont, County of _____. This record was acknowledged before me on _____ (date) by _____ (authorized signatory's name).

Signature of Notary Public: _____

Stamp or certificate number: _____

Title of office: _____

My commission expires: _____

ATTACHMENT A

Leased Premises Description and Map

DRAFT



ATTACHMENT B

FRAME @ Water Works Park

RULES & REGULATIONS

DRAFT

FRAME @ Water Works Park
RULES & REGULATIONS

1. These Rules and Regulations are in addition to and shall not be construed to in any way modify or amend, in whole or in part, the agreements, covenants, conditions, and provisions of the Lease.
2. The City reserves the right to waive any one of these rules or regulations, and/or as to any particular tenant, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such tenant.
3. The City reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the building and its occupants. The City shall provide Lessee with copies of any new and/or modified rules or regulations prior to the effective date thereof. Lessee agrees to abide by these and such other rules and regulations.
4. The City shall have exclusive control over the entrances, corridors, and passages.. The entrances, corridors, and passages shall not be obstructed, or used by the Lessee for any other purpose than ingress and egress to and from the Leased Premises; and the City shall have the right to control ingress and egress to and from the building at all times.
5. The City reserves the right to refuse access to any persons the City in good faith judges to be a threat to the safety or property of the building and/or its occupants.
6. The Lessee shall not make or permit any noise or odors that annoy or interfere with other tenants or persons having business within the building.
7. The Lessee shall not interfere in any way with other tenants or those having business in the park.
8. The Lessee shall not make, suffer, or permit litter, except in appropriate receptacles for that purpose.
9. The Lessee assumes all risks from theft or vandalism to the Leased Premises and agrees to keep the Leased Premises locked as may be required.
10. The Lessee shall be responsible for the inappropriate use of electricity. No foreign substances of any kind are to be inserted therein. The expense of any repair caused by the Lessee or the Lessee's employees' misuse of the facilities is the responsibility of the Lessee.
11. The Lessee shall not deface the walls, partitions, or other surfaces of the Leased Premises or the building.
12. The Lessee shall not suffer or permit anything in or around the Leased Premises that causes excessive vibration or floor loading in any part of the park.
13. The Lessee shall move furniture, significant freight, and equipment into or out of the park only with the City's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by the City. The Lessee shall be responsible for any damage to the Leased Premises and building arising from any such activity.

14. The Lessee shall not employ any service or contractor for services or work to be performed in the park, except as approved by the City.
15. The Lessee shall not install or use any window coverings, shades, or awnings, except as approved by the City and with the City's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.
16. The Lessee shall not be permitted, nor permit any employee or invitee, to go upon the upper levels of FRAME, except as approved by the City.
17. The Lessee shall not be permitted, nor permit any employee or invitee, to smoking, including e-cigarettes in all areas of the Leased Premises.
18. The Lessee shall not be permitted, nor permit any employee or invitee, to use the Leased Premises for lodging.
19. The Lessee shall comply with all safety, fire protection, and evacuation regulations established by the City or any applicable governmental agency.
20. The Lessee shall not put up nor operate any engine, boiler, dynamo, or machinery of any kind, nor carry on any mechanical business in said Leased Premises nor place any explosive therein, nor use any kerosene or oils or burning fluids in the Leased Premises without first obtaining written consent of the City.
21. The City will adopt and furnish to Lessee general guidelines relating to signs in the park. All approved signs or lettering on doors shall be printed, painted, affixed or inscribed at the expense of Lessee by a person or entity approved by City. The Lessee shall not cause any sign, placard, picture, name, advertisement, or notice to be visible from the exterior of the Leased Premises without the prior written consent of the City.
22. The Lessee shall ensure that the electric box of its Premises is closed and locked before Lessee and Lessee's employees leave the Leased Premises.. The Lessee shall make good all injuries sustained by other tenants or occupants of the building or City for any default or carelessness in this regard.
23. The Lessee shall not install any radio, television, or other data transmission antenna, or any satellite dish, loudspeaker, or any other device on the roof or exterior walls of the building, without the prior written consent of the City. No television, radio, or recorder shall be played in such a manner as to cause a nuisance to any other tenant.
24. The Lessee shall not be permitted, nor permit any employee or invitee, to canvas, solicit, distribute of handbills or any other written material and peddling in the building are prohibited, and each tenant shall cooperate to prevent the same.
25. There is no dedicated parking for the vendor. No overnight parking will be allowed without the prior written consent of the City.

ATTACHMENT C

Lessee's Certificate of Insurance

DRAFT

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, provides notice of Tenant's interest in the leased premises and of the existence of the lease. In accordance with 27 V.S.A. § 341, the lease entered into by the parties is described as follows:

1. Names of the parties.

A. Landlord's Name: The City of Burlington, Vermont

B. Tenant's Name: Betty's Bikes LLC

2. Statement of the rights of a party to extend or renew the lease. Upon mutual agreement of the Parties, this lease may be extended for a one (1) year renewal term. The renewal term shall automatically commence upon the expiration of the initial term under the same terms contained herein, except that either Party may decline the extension by providing 60 days written notice to the other Party.

3. Parties' addresses set forth in the lease.

A. Landlord's Address: Burlington City Hall, 149 Church Street, Burlington, Vermont, 05401.

B. Tenant's Address: 193 St. Paul Street #104, Burlington, Vermont, 05401

4. Date of the execution of the lease. [Date]

5. Term of the lease, the date of commencement, and the date of termination.

A. Term of the lease: One season with a one year extension if both parties agree and the site is not under construction.

B. Date of commencement: [Date]

C. Date of termination: December 31, 2023

6. Description of the real property as set forth in the lease. The City-owned building and ground space known and numbered as 381 Lake Street in Burlington, Vermont, which consists of approximately 850 square feet of building space ("Leased Premises").

7. Statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto. Tenant has *no* rights to purchase the real property. Tenant has *no* rights to exercise a right of first refusal with respect thereto.

8. Statement of any restrictions on assignment of the lease. Tenant shall not assign the lease or

sublet any part of the Leased Premises without the expressed written consent of the City.

9. The location of an original lease.

Burlington Parks, Recreation & Waterfront
645 Pine St.
Burlington, VT 05401

IN WITNESS WHEREOF, the parties have executed or have caused this instrument to be executed by their proper officers duly authorized to do so.

THE CITY OF BURLINGTON

By: _____
Name: Mayor Miro Weinberger
Title: Mayor of the City of Burlington, Vermont
Address: 149 Church St, Burlington, VT 05401

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

Signature of Notary Public: _____
Stamp or certificate number: _____
Title of office: _____
My commission expires: _____

BETTY'S BIKES LLC

By: _____
Name: _____
Title: _____
Address: _____

State of Vermont, County of _____. This record was acknowledged before me on _____
(date) by _____ (authorized signatory's name).

Signature of Notary Public: _____
Stamp or certificate number: _____
Title of office: _____
My commission expires: _____



OFFICE OF THE CITY ASSESSOR

City of Burlington

City Hall, Ground Floor, 149 Church St, Burlington, VT 05401 - Voice (802) 865-7114

To: Board of Finance
City Council

From: John Vickery, City Assessor
Katherine Schad, CAO
Kerin Durfee, Director of Human Resources
Tony Berry, Human Resources Manager

Date: Monday, April 24, 2023

Subject: Reclassification of one (1) position in the Assessor's Office

Executive Summary

We propose the reclassification of one (1) position in the Assessor's office as summarized below:

- Reclassification of the Associate Assessor, a Regular, a Full-Time, Non-Exempt, AFSCME, Grade 15, role to Associate Assessor, a Regular, Full-time, Non-Exempt, AFSCME, Grade 16, role in the Assessor's Office and authorize retroactive pay to May 1, 2022, in an amount not to exceed \$3500.

Background for Associate Assessor Role

The Associate Assessor position was approved in 2008 as a full time AFSCME position in the Assessor's office after the Administrative Secretary position was eliminated. The new position includes administrative tasks, and residential property valuation appraisal duties. Raising the grade to a 16 will bring this role into alignment with similar roles in our region and assist in the retention of our current incumbent. The increased compensation will also bring our salaries into a more competitive range.

Financial Impact

The financial impact of the reclassifications can be covered in our approved FY23 budgets.

Position	Current Grade	Proposed Grade	Current Starting Salary Range	Proposed Starting Salary Range	Budget Impact
Assistant Residential Appraiser	15	16	\$53,600-\$63,805	\$57,024-\$67,914	\$3,424-\$4,109
Total Budget Impact					\$3,424-\$4,109

We also seek a retro payment from 5/1/2022 to current, which is approximately \$3,400. The Assessor's budget has ample funds to cover the retro payment.

Motions

Board of Finance Motion:

To recommend that City Council approve the:

- Reclassification of the Associate Assessor, a Regular, a Full-Time, Non-Exempt, AFSCME, Grade 15, role to Associate Assessor, a Regular, Full-time, Non-Exempt, AFSCME, Grade 16, role in the Assessor's Office and authorize retroactive pay to May 1, 2022, in an amount not to exceed \$3500.

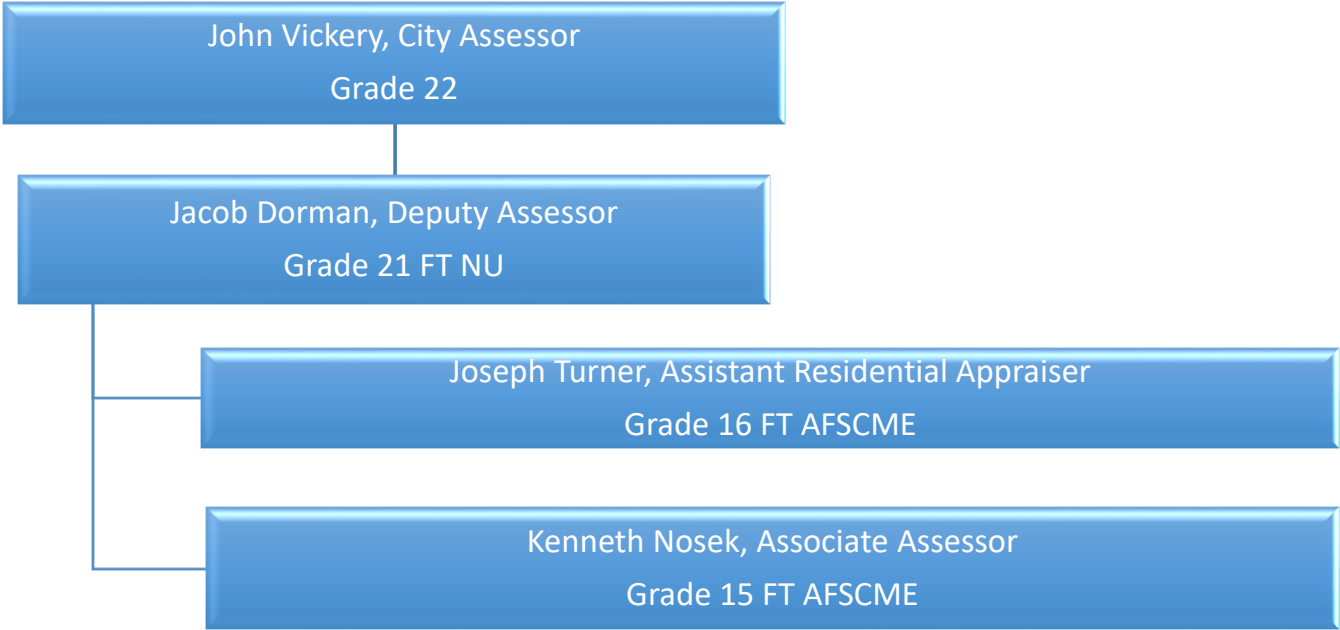
City Council Motion:

To approve the:

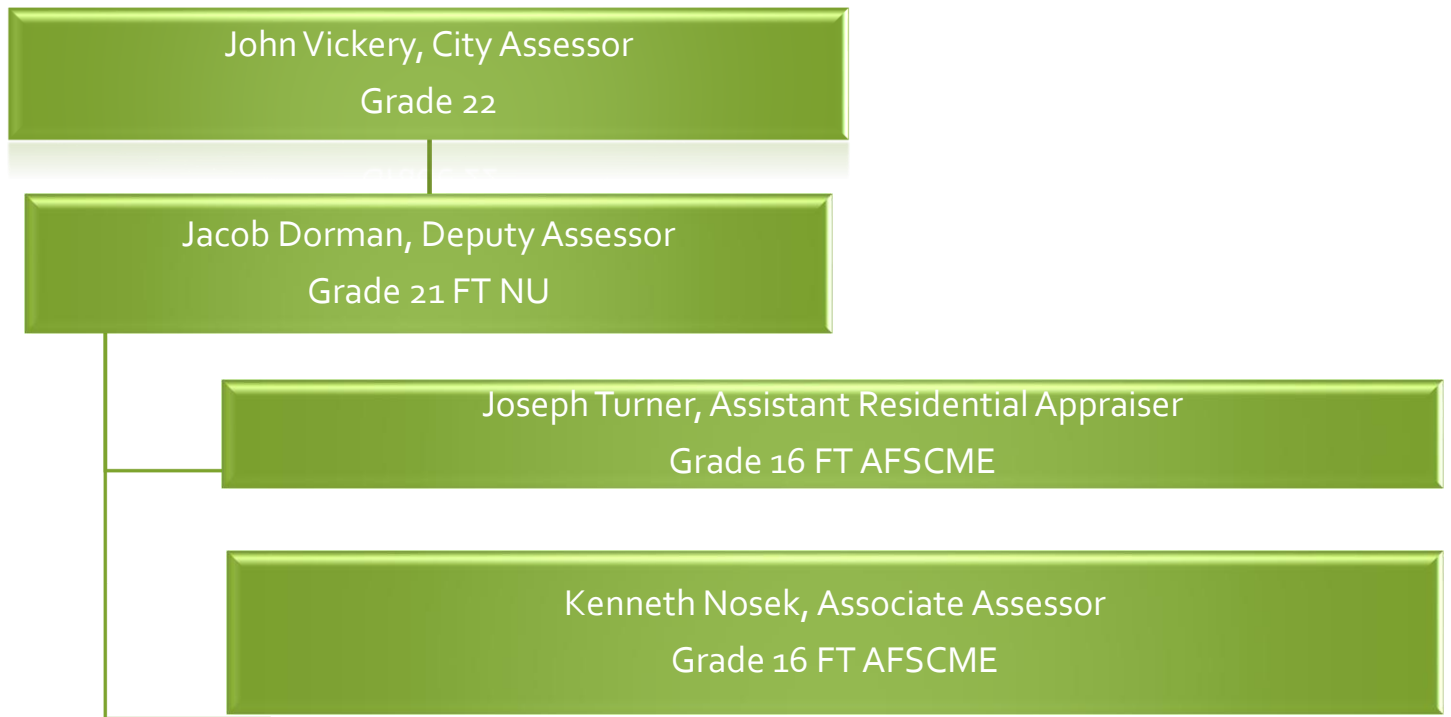
- Reclassification of the Associate Assessor, a Regular, a Full-Time, Non-Exempt, AFSCME, Grade 15, role to Associate Assessor, a Regular, Full-time, Non-Exempt, AFSCME, Grade 16, role in the Assessor's Office and authorize retroactive pay to May 1, 2022, in an amount not to exceed \$3500.

Current Organizational Chart of the Assessor's office

FY2023



Proposed Organizational Chart



**City of Burlington
Job Description**

Position Title: Associate Assessor

Department: Assessor's Office

Reports to: City Assessor

Pay Grade: ~~15~~ 16

Job Code: 1118

Exempt/Non-Exempt: Non-Exempt

Union: AFSCME

General Purpose: This position is responsible for the daily administrative operations of the Assessors Department, to include conducting inspections of real estate; assisting in the preparation, review and analysis of setting fair appraised values for the Grand List. This position is also responsible for the administrative and clerical support duties for the City Assessor and Deputy Assessor

Essential Job Functions: (This section outlines the fundamental job functions that must be performed in this position. The related job requirements and physical, mental and reasoning requirements outlined in the next two sections state the underlying requirements that an employee must meet in order to perform these essential functions. The three sections together describe the essential functions of this position)

Essential Job Functions:

- Prepares property inspections ~~list~~ and desk review of properties schedule by reviewing permits, property record cards, CAMA reports and other documents (such as deeds and maps).
- Scheduling of any property inspections performed by this role. e-property inspections.
- Provide customer service to individuals who walk in, telephone, or email as needed.
- Conducts dData cCollection from field inspections of all types of real property and business personal property.
- Maintain field property data collection data and other related real estate market information obtained by a physical inspection and by digital methods.
- Enter a variety of data on the Computer Assisted Mass Appraisal system (CAMA) and other record keeping systems.
- Estimate appraisal valuations of real property and personal property with review by the Deputy Assessor or City Assessor.
- Perform Review property transfers to determine market sale conditions.
- Assist Assessor and Deputy Assessor with the market analysis and other statistical work as required.
- Assist Administrate in the tax-property valuation appeals process including but not limited to; scheduling, mailings, assistance to tax payer with required forms and preparing the hearing packets.
- Assist the Assessor, Deputy Assessor and Board of Assessors with property valuation reviews, and notifications of the assessor's decisions.
- Maintain budget by monitoring expenditures, receive and receipt fees and funds and safeguard cash.

- Prepares and maintains the departments financial and other administrative records.
- Order department inventory of office supplies and equipment; requisition, receive, store, inventory and prepare vouchers; maintain records of filled requisition, receive, records and current inventory.
- Serve as liaison between supervisor, staff, other offices and outside groups. Provide information on department programs and policies and / or supervisor's activities and availability.
- Screen incoming mail; compose and issue routine correspondence; draft more complex responses for supervisor as needed.
- ~~Serve as administrative support to property appeal~~ Administrate for the Board of Assessors and Tax Abatement Committee liaison for taxpayer grievance, compile petitioner documents, gather evidence, and prepare addenda and record meeting minutes, tax abatement boards, compile, and prepare addenda items, background information and related documents, records, and records meeting minutes.
- Schedule appointments and make arrangements for meetings, notifying persons involved and briefing supervisors.
- Supervise and train ~~Coordinate~~ the work of a temporary staff assigned to seasonal special projects.
- Participates in preparing a variety of list and forms for the State of Vermont tax department relating to obtain state approval of the education tax rates and municipal tax rates, homestead declarations, and state sales study.
- Assist with the revision of maps.
- Maintain records and department filing system; update and add data in accordance with City retention requirements and storage schedule. Maintain resolutions, ordinances, meeting minutes, which pertain to the Assessor's office (Tax Rate Resolutions, Tapes of meeting minutes).
- Maintain and update front facing web pages of the Assessor website. This involves editing descriptive language, and posting documents. This does not include coding.
- Research, compile and organize information of land records, surveys, maps and other legal documents as required.
- Research site plan, land records and permits.
- Provide administrative support to the City Assessor and Deputy Assessor as needed.
- Perform other duties as required.

Qualifications/Basic Job Requirements:

- High school diploma or equivalent required
- ~~College degree preferred, with a minimum of t~~ Two years of real estate appraisal valuation is required or six years in a related field of real estate with
Successfully ~~successfully~~ completed courses directly related to the fundamentals of real estate appraisal methods to value.
- A basic mass appraisal certification or license in real estate appraisal is highly preferred. The certification or license will require completed courses on the fundamentals of real estate appraisal.
- Experience in the public sector preferred.
- Ability to establish and maintain positive relations with co-workers, supervisor, staff, public officials, general public and other departments.
- Ability to learn and maintain knowledge of the purpose, objectives, legal

requirements, operations, policies and procedures for area of assignment.

- Ability to operate proficiently basic office equipment (computer, phone, copier, fax, and other).
- Ability to operate in a Windows based operating environment using word-processing, spreadsheets and database software required.
- Ability to plan, organize and coordinate workload and to meet deadlines.
- Ability to assume administrative responsibility for a departmental area and carry out tasks with minimal instruction.
- Ability to work occasional nights and weekends required.

|

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	Verbal contact with others	X	Lifting 25 pounds
X	Hearing/Listening	X	Face-to-face contact	X	Driving (local/over the road)
X	Clear Speech	X	Inside work	X	Analysis/Comprehension
X	Touching, X Dexterity, X Hand, X Finger	X	Ability to move distances within and between warehouses and offices	X	Judgment/decision making
X	Reading - Complex	X	Math skills - complex	X	High places
X	Writing - Complex	X	Clerical skills		
X	Works alone	X	Outside work		
X	Works with others	X	Carrying 25 pounds		

Supervision:

Directly Supervises: 0 Indirectly Supervises: 1-2

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.

Clean Version of the updated Job Description Below

City of Burlington Job Description

Position Title: Associate Assessor

Department: Assessor's Office

Reports to: City Assessor

Pay Grade: 16

Job Code: 1118

Exempt/Non-Exempt: Non-Exempt

Union: AFSCME

General Purpose: This position is responsible for the daily administrative operations of the Assessors Department, to include conducting inspections of real estate; assisting in the preparation, review and analysis of setting fair appraised values for the Grand List. This position is also responsible for the administrative and clerical support duties for the City Assessor and Deputy Assessor

Essential Job Functions: (This section outlines the fundamental job functions that must be performed in this position. The related job requirements and physical, mental and reasoning requirements outlined in the next two sections state the underlying requirements that an employee must meet in order to perform these essential functions. The three sections together describe the essential functions of this position)

Essential Job Functions:

- Prepares property inspections and desk review of properties by reviewing permits, property record cards, CAMA reports and other documents (such as deeds and maps).
- Scheduling of any property inspections performed by this role.
- Provide customer service to individuals who walk in, telephone, or email as needed.
- Conducts data collection from field inspections of all types of real property and business personal property.
- Maintain property data and other related real estate market information obtained by a physical inspection and by digital methods.
- Enter a variety of data on the Computer Assisted Mass Appraisal system (CAMA) and other record keeping systems.
- Estimate appraisal valuations of real property and personal property with review by the Deputy Assessor or City Assessor.
- Review property transfers to determine market sale condition.
- Assist Assessor and Deputy Assessor with the market analysis and other statistical work as required.
- Administrate the property valuation appeals process including but not limited to; scheduling, mailings, assistance to tax payer with required forms and preparing the hearing packets.
- Assist the Assessor, Deputy Assessor and Board of Assessors with property valuation reviews, and notifications of the assessor's decisions.
- Maintain budget by monitoring expenditures, receive and receipt fees and funds and safeguard cash.
- Prepare and maintain the departments financial and other administrative records.

- Order department inventory of office supplies and equipment; requisition, receive, store, inventory and prepare vouchers; maintain records of filled requisition, receive, records and current inventory.
- Serve as liaison between supervisor, staff, other offices and outside groups. Provide information on department programs and policies and / or supervisor's activities and availability.
- Screen incoming mail; compose and issue routine correspondence; draft more complex responses for supervisor as needed.
- Administrate for the Board of Assessors and Tax Abatement Committee liaison for taxpayer grievance, compile petitioner documents, gather evidence, and prepare addenda and record meeting minutes.
- Schedule appointments and make arrangements for meetings, notifying persons involved and briefing supervisors.
- Supervise and train the work of a temporary staff assigned to seasonal special projects.
- Participates in preparing a variety of list and forms for the State of Vermont tax department relating to the education tax rates and municipal tax rates, homestead declarations, and state sales study
- Assist with the revision of maps.
- Maintain records and department filing system; update and add data in accordance with City retention requirements and storage schedule. Maintain resolutions, ordinances, meeting minutes, which pertain to the Assessor's office (Tax Rate Resolutions, Tapes of meeting minutes).
- Maintain and update web pages of the Assessor website. This involves editing descriptive language, and posting documents. This does not include coding.
- Research, compile and organize information of land records, surveys, maps and other legal documents as required.
- Research site plan, land records and permits.
- Provide administrative support to the City Assessor and Deputy Assessor as needed.
- Perform other duties as required.

Qualifications/Basic Job Requirements:

- High school diploma or equivalent required
- Two years of real estate appraisal valuation is required or six years in a related field of real estate with successfully completed courses directly related to the fundamentals of real estate appraisal methods to value.
- A basic mass appraisal certification or license in real estate appraisal is highly preferred. The certification or license will require completed courses on the fundamentals of real estate appraisal.
- Experience in the public sector preferred.
- Ability to establish and maintain positive relations with co-workers, supervisor, staff, public officials, general public and other departments.
- Ability to learn and maintain knowledge of the purpose, objectives, legal requirements, operations, policies and procedures for area of assignment.
- Ability to operate proficiently basic office equipment (computer, phone, copier, fax, and other).
- Ability to operate in a Windows based operating environment using word-processing, spreadsheets and database software required.
- Ability to plan, organize and coordinate workload and to meet deadlines.
- Ability to assume administrative responsibility for a departmental area and carry out tasks with minimal instruction.
- Ability to work occasional nights and weekends required.

Board of Finance and City Council Submission Checklist

John Vickery, City Assessor
Katherine Schad, CAO
Kerin Durfee, Director of HR

Department: Assessor Submitter: Tony Berry, HR Manager

Title/Subject: Reclassification of one (1) position in the Assessor's Office

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/17/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/18/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/18/2023	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/18/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Yes	4/17/2023	Tony Berry
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

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

BCA and DPW

MEMORANDUM

TO: City of Burlington, Finance Board
City of Burlington, City Council

FROM: Doreen Kraft and Chapin Spencer

CC: Laura Wheelock, Sara Katz, Colin Storrs

DATE: April 24, 2023

SUBJECT: Authorization to Execute Contract for the Great Streets Main Street Public Art Project with Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and WOWHAUS.

REQUEST

The Department of Public Works (DPW) and Burlington City Arts (BCA) seek Board of Finance recommendation and City Council authorization to execute a contract with Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and WOWHAUS for the design and fabrication of public art installations as part of the Great Street Main Street project utilizing Downtown Tax Increment Financing (DT TIF) bond money from Fund 853 - Main Street Public Art, Downtown TIF.

EXECUTIVE SUMMARY

Background:

The Department of Public Works included funding for the commissioning of Public Art to be included in the larger renovation of Main Street. DPW partnered with BCA to issue a call to artists, support the selection process, and manage the implementation process. This project is a component of the City's Downtown TIF district, and as such is eligible to receive funding via the Downtown TIF bond that was approved by voters in March 2022.

Project Funding:

The total project budget of \$500,000 is earmarked for design (Phase 1) and fabrication (Phase 2) of the artwork within the Downtown TIF District and creation of the full project budget is also being requested within the FY23 Budget.

The City will collaborate with the artists to have completed design (Phase 1) requirements to include in the City's scope of work to be submitted by the June 23, 2023 design deadline. Budgets for fabrication and installation (Phase 2) will be finalized through the design

process (Phase 1). Estimates for the total project costs for each piece including Phase 1 and Phase 2 are as follows:

Artist	Phase 1	Phase 2 (estimate)	Preliminary Estimates
Nancy – Lakebones Archways	\$15,550.00	\$124,476.00	\$140,026.00
WOWHAUS - Snail Family AKA Magnus	\$14,561.00	\$84,439.00	\$99,000.00
Noa - Block by Block (w/lighting and small pcs)	\$28,500.00	\$116,500.00	\$145,000.00
Lydia - Anthology Single Walkthrough	\$8,085.00	\$82,515.00	\$90,600.00
TOTAL			\$474,626.00

As this is a capital project, any remaining project budget will carryover and be available in Fund 853 - Main Street Public Art, Downtown TIF to ensure funds are available for unforeseen contingency costs related to these various projects.

The public art procured shall be placed within the limits of the Great Streets Main Street Project that extends along Main Street from Battery Street to Union Street, and within the identified Downtown TIF District limits. The Great Streets Main Street design team, DPW, and BCA will work with each of the artists for final location of their piece(s) within the corridor.

Bidding and Contractor Selection:

A Call to Artists was issued on November 1, 2022, for a public art project to be included in the renovation of Main Street with a firm fixed budget of \$500,000 for the commissioning of artwork. The opportunity was advertised by BCA's social media and website. It was listed with Seven Days and on the Public Art opportunities website of Vermont Arts Council, Americans for the Arts, Public Artists.org, New York Foundation for the Arts, and was picked up by codaworks.com for dissemination. A total of 138 applicants submitted their qualifications. A Public Art Review Panel comprised of Burlington residents, business owners, artists, project design consultants and city staff, established by BCA, selected 15 artists to develop proposals, which were received in February of 2023. Each artist received a stipend of \$1,000 for developing a proposal. Finalists presented their proposals to the review panel and the panel selected the four artists by March 30, 2023. The BCA Board of Advisors recommended their approval to provide their certification to the Director BCA that the proposals are fitting and appropriate to the function and location, as per the Art in Public Places Guidelines. The project is estimated for completion by 2026.

Department Contact:

If you have any questions, please contact Colin Storrs, Public Art Manager, BCA cstorrs@burlingtoncityarts.org or 802.540.8376 or Laura Wheelock, P.E., Senior Public Works Engineer, LWheelock@burlingtonvt.gov or 802.338.2125.

ATTACHMENTS

- A. Budget Amendment Request Form
- B. Project Images and summaries

MOTIONS

DPW and BCA respectfully request the Board of Finance and City Council approve the following motions:

Board of Finance:

1. “To approve and recommend that the City Council authorize the Director of Burlington City Arts to execute the following Phase I Design-only contracts for public art designs to be placed along Main Street, for a total authorized Phase I project expenditure in the amount of \$66,696 , subject to review and approval by the City Attorney’s Office:
 - A contract with Lydia Kern in an amount not to exceed \$8,085 for final design of artwork;
 - A contract with WOWHAUS in an amount not to exceed \$14,561 for final design of artwork;
 - A contract with Pixel Patch Creative, LLC in an amount not to exceed \$28,500 for final design of artwork; and
 - A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$15,550 for final design of artwork. ”
2. “To approve and recommend that the City Council authorize a budget amendment to create the public art budget in furtherance of the Main Street Public Art Project by creating a project budget of \$500,000 under line 853-19-700.9500_236 within project 853 - Main Street Public Art, Downtown TIF, as further detailed in Attachment A, subject to the review and approval of the Chief Administrative Officer or their designee.”

City Council:

1. “To authorize the Director of Burlington City Arts to execute the following Phase I Design-only contracts for public art designs to be placed along Main Street, for a total authorized Phase I expenditure in the amount of \$ 66,696, subject to review and approval by the City Attorney’s Office:
 - A contract with Lydia Kern in an amount not to exceed \$ 8,085 for final design of artwork;

- A contract with WOWHAUS in an amount not to exceed \$14,561 for final design of artwork;
- A contract with Pixel Patch Creative, LLC in an amount not to exceed \$28,500 for final design of artwork; and
- A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$15,550 for final design of artwork. ”

2. “To authorize a budget amendment to create the public art budget in furtherance of the Main Street Public Art Project by creating a project budget of \$500,000 under line 853-19-700.9500_236 within project 853 - Main Street Public Art, Downtown TIF, as further detailed in Attachment A, subject to the review and approval of the Chief Administrative Officer or their designee.”

Thank you for your continued support.

CITY OF BURLINGTON, VT
PROJECT BUDGET AMENDMENT REQUEST

Date: Draft for BOF/CC

Creation of the Public Art Budget under the DT TIF Main Street - Public Art project under the FY23 budget. For the project revenue

Mayor Date (25K - 50K)

[illegible]

Attachment B: Project Images and Summaries

Lakebones Archway

Lead Artist: Nancy Winship Milliken

Nancy Winship Milliken, a Shelburne-based artist renowned for her environmental sculptures, combines cultural and natural histories of place in her work. Lakebones Archway will utilize charred and oiled wood post and beam, Lake Champlain driftwood, and pollinator habitat to create a kinetic and immersive piece. Using vernacular and materials drawn from Vermont's history, the artwork will reflect on the history of Burlington's waterfront and look towards the future health of the lake through sustainable forestry and management of Lake Champlain tributary watersheds.



Block by Block

Artist Team: Noa Younse and Brian Brush

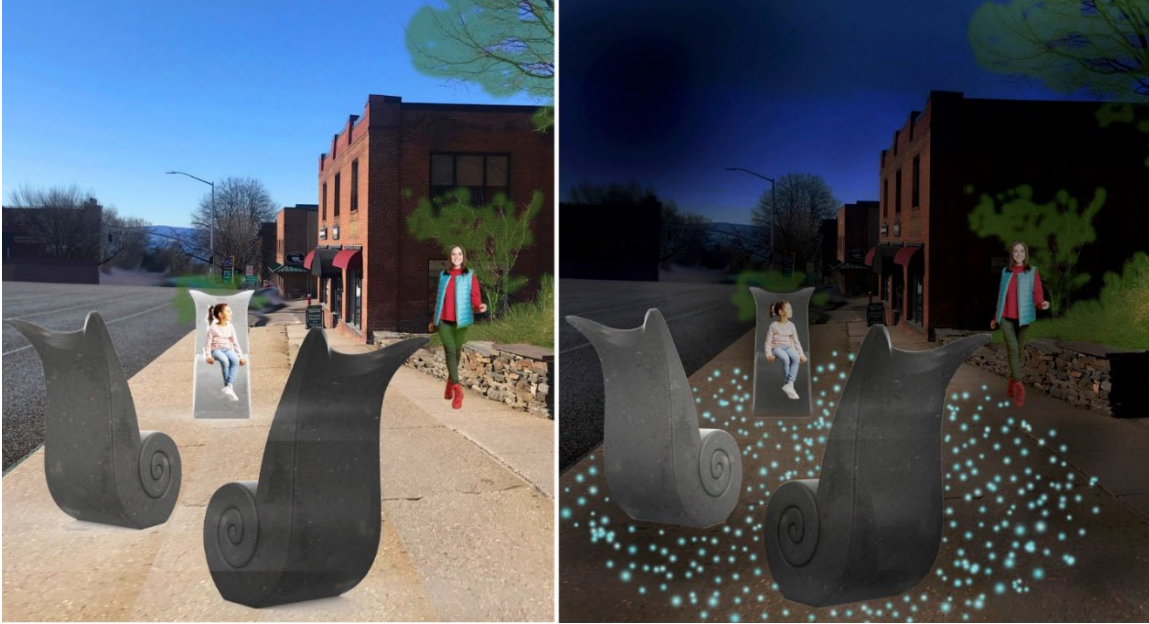
This project is comprised of a colorful monolith of powder-coated aluminum blocks that reflect Burlington as a tapestry of neighborhoods, people, ideals, and cultures. The concept of disparate parts coming together to build something new is the root of Block by Block. Each individual component may have its own characteristics, but can build off the common ground and generate a variegated patchwork. The central structure will be augmented by smaller stand-alone modular pieces that will create an extended footprint up and down the streetscape. Younse's work is characterized by his interest in exploring data sets as an interactive art feature.



Snail Family

Artist Team: WOWHAUS

Ene Osteraas-Constable and Scott Constable, the California-based studio known as WOWHAUS, will create Snail Family, a trio of small, approximately 43” height, stone snail sculptures that invite people to gather, sit, and play amidst these whimsical creatures inspired by Lake Champlain’s geological and natural history. These creatures, crafted out of granite, will provide moments of playfulness and community gathering along the main street corridor. The paving stones around the collection will be seeded with a non-toxic phosphorescent aggregate that will glow for many hours for 20 years or more.



Anthology

Lead Artist: Lydia Kern

Lydia Kern, an emerging public artist based in Burlington, will create a colorful archway out of metal and resin. Kern’s visual language draws from quilting, book making, and story-telling that honors flora of the land we share. Central to her process on the collective effort, community aid, and comfort of the quilting tradition, Kern’s installation celebrates the beauty of the local landscape represented by the preserved flowers suspended in the resin structure.



BCA and DPW

MEMORANDUM

TO: City of Burlington, Finance Board
City of Burlington, City Council

FROM: Doreen Kraft and Chapin Spencer

CC: Laura Wheelock, Sara Katz, Colin Storrs

DATE: April 24, 2023

SUBJECT: Authorization to Execute Contract for the Great Streets Main Street Public Art Project with Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and WOWHAUS.

REQUEST

The Department of Public Works (DPW) and Burlington City Arts (BCA) seek Board of Finance recommendation and City Council authorization to execute a contract with Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and WOWHAUS for the design and fabrication of public art installations as part of the Great Street Main Street project utilizing Downtown Tax Increment Financing (DT TIF) bond money from Fund 853 - Main Street Public Art, Downtown TIF.

EXECUTIVE SUMMARY

Background:

The Department of Public Works included funding for the commissioning of Public Art to be included in the larger renovation of Main Street. DPW partnered with BCA to issue a call to artists, support the selection process, and manage the implementation process. This project is a component of the City's Downtown TIF district, and as such is eligible to receive funding via the Downtown TIF bond that was approved by voters in March 2022.

Project Funding:

The total project budget of \$500,000 is earmarked for design (Phase 1) and fabrication (Phase 2) of the artwork within the Downtown TIF District and creation of the full project budget is also being requested within the FY23 Budget.

The City will collaborate with the artists to have completed design (Phase 1) requirements to include in the City's scope of work to be submitted by the June 23, 2023 design deadline.

Budgets for fabrication and installation (Phase 2) will be finalized through the design (Phase 1) process. Phase 2 estimates for each piece are as follows:

- Lydia Kern for \$90,600 for final design, fabrication and installation of the artwork.
- WOWHAUS for \$99,000 for final design, fabrication and installation of the artwork.
- Pixel Patch Creative LLC for \$145,000 for final design, fabrication and installation of the artwork.
- Nancy Winship Milliken Studio LLC for \$140,026, for final design, fabrication and installation of the artwork.

Any remaining project budget will be held within Fund 853 - Main Street Public Art, Downtown TIF to ensure funds are available for unforeseen contingency costs related to these various projects.

The public art procured shall be placed within the limits of the Great Streets Main Street Project that extends along Main Street from Battery Street to Union Street, and within the identified Downtown TIF District limits. The Great Streets Main Street design team, DPW, and BCA will work with each of the artists for final location of their piece(s) within the corridor.

Bidding and Contractor Selection:

A Call to Artists was issued on November 1, 2022, for a public art project to be included in the renovation of Main Street with a firm fixed budget of \$500,000 for the commissioning of artwork. The opportunity was advertised by BCA's social media and website. It was listed with Seven Days and on the Public Art opportunities website of Vermont Arts Council, Americans for the Arts, Public Artists.org, New York Foundation for the Arts, and was picked up by codaworks.com for dissemination. A total of 138 applicants submitted their qualifications. A Public Art Review Panel comprised of Burlington residents, business owners, artists, project design consultants and city staff, established by BCA, selected 15 artists to develop proposals, which were received in February of 2023. Each artist received a stipend of \$1,000 for developing a proposal. Finalists presented their proposals to the review panel and the panel selected the four artists by March 30, 2023. The BCA Board of Advisors recommended their approval to provide their certification to the Director BCA that the proposals are fitting and appropriate to the function and location, as per the Art in Public Places Guidelines. The project is estimated for completion by 2026.

Department Contact:

If you have any questions, please contact Colin Storrs, Public Art Manager, BCA cstorrs@burlingtoncityarts.org or 802.540.8376 or Laura Wheelock, P.E., Senior Public Works Engineer, LWheelock@burlingtonvt.gov or 802.338.2125.

ATTACHMENTS

A. Budget Amendment Request Form

MOTIONS

DPW and BCA respectfully request the Board of Finance and City Council approve the following motions:

Board of Finance:

1. “To approve and recommend that the City Council authorize the Director of Burlington City Arts to execute the following Phase I Design-only contracts for public art designs to be placed along Main Street, for a total authorized Phase I project expenditure in the amount of \$66,696 , subject to review and approval by the City Attorney’s Office:
 - A contract with Lydia Kern in an amount not to exceed \$8,085 for final design of artwork;
 - A contract with WOWHAUS in an amount not to exceed \$14,561 for final design of artwork;
 - A contract with Pixel Patch Creative, LLC in an amount not to exceed \$28,500 for final design of artwork; and
 - A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$15,550 for final design of artwork. ”
2. “To approve and recommend that the City Council authorize a budget amendment to create the public art budget in furtherance of the Main Street Public Art Project by creating a project budget of \$500,000 under line 853-19-700.9500_236 within project 853 - Main Street Public Art, Downtown TIF, as further detailed in Attachment A, subject to the review and approval of the Chief Administrative Officer or their designee.”

City Council:

1. “To authorize the Director of Burlington City Arts to execute the following Phase I Design-only contracts for public art designs to be placed along Main Street, for a total authorized Phase I expenditure in the amount of \$ 66,696, subject to review and approval by the City Attorney’s Office:
 - A contract with Lydia Kern in an amount not to exceed \$ 8,085 for final design of artwork;

- A contract with WOWHAUS in an amount not to exceed \$14,561 for final design of artwork;
- A contract with Pixel Patch Creative, LLC in an amount not to exceed \$28,500 for final design of artwork; and
- A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$15,550 for final design of artwork. ”

2. “To authorize a budget amendment to create the public art budget in furtherance of the Main Street Public Art Project by creating a project budget of \$500,000 under line 853-19-700.9500_236 within project 853 - Main Street Public Art, Downtown TIF, as further detailed in Attachment A, subject to the review and approval of the Chief Administrative Officer or their designee.”

Thank you for your continued support.

A. Budget Amendment Request Form

Department: DPW Requested by: Laura Wheelock Date: Draft for BOF/CC

[illegible]

Board of Finance and City Council Submission Checklist

Department: Burlington City Arts Submitter: Colin Storrs
Authorization to Execute Contract for the Great Streets Main Street Public Art Project
with Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and
Title/Subject: WOWHAUS.

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/17/2023	Doreen Kraft
Mayor's Office informed and approved memo	Yes	4/20/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/19/2023	Hayley McClenahan
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/19/2023	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	4/20/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

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



Burlington Fire Department

136 South Winooski Avenue
Burlington, Vermont 05401-8378

(802) 864-4554 • (802) 658-2700 (TTY)

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



To: Board of Finance and City Council

From: Michael LaChance, Fire Chief

RE: Agreement for CAD services between Burlington and South Burlington

Date: April 18, 2023

An agreement has been drafted between the City of Burlington and the City of South Burlington allowing for the City of South Burlington to share CAD (Computer Aided Dispatch) services which will allow for resource sharing and reduce redundancy.

All costs associated with the expansion of the CAD system will be paid by the City of South Burlington to Tyler Technologies. Those costs include a one-time fee of \$66,070.00 and a recurring fee of \$8,873.00. The City of South Burlington will also pay an annual fee of \$7,500.00 to the City of Burlington for server maintenance and upgrade costs. This agreement would be in effect until either party chose to terminate as outlined in the provisions of the contract.

This service expansion will lead to increased interoperability between the Burlington Fire Department and South Burlington Fire Department. It will allow us to know the status of each other's units which can be utilized if needed in a more efficient manner. This will increase the capability of our dispatch teams to get units on scene of emergencies during times of high stress on the emergency response system of our communities.

Request:

We respectfully request that the following be approved:

Board of Finance:

Move to approve and recommend that the City Council approve and authorize the Chief of the Burlington Fire Department to enter into an agreement with the City of South Burlington for their shared use of the City's Computer Aided Dispatch system with an annual maintenance fee of \$7,500.00, upon final review and approval of the City Attorney's Office.

City Council:

Move to approve and authorize the Chief of the Burlington Fire Department to enter into an agreement with the City of South Burlington for their shared use of the City's Computer Aided Dispatch system with an annual maintenance fee of \$7,500.00, upon final review and approval of the City Attorney's Office.



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

To: Board of Finance and City Council

From: Samantha Dunn, CEDO Assistant Director for Community Works

CC: Brian Pine, CEDO Director
Katherine Schad, Chief Administrative Officer

Date: April 24, 2023

Subject: Moran Frame Budget Amendment

Request

The Community & Economic Development Office is requesting Board of Finance and City Council approval of a Budget Amendment to reflect the use of eligible Moran Frame invoices (totaling \$500,842.46) to be paid from the Waterfront TIF \$7.8MM Vermont Bond Bank Bond as part of the Resolution of Waterfront Tax Increment Finance Audit Items.

Background

In 2014, Voters approved authorization of \$9.6MM of financing for TIF infrastructure in support of the City's Public Investment Action Plan (PIAP), which included transformation of the Moran Plant site.

In 2018, City Council voiced support for the use of \$5.4MM of TIF Funds to realize the Moran Frame concept, which included partial demolition of the building, stabilization of the steel frame, environmental abatement and remediation resulting in an iconic structure integrated with other northern waterfront amenities.

In 2019, the City Council approved the issuance of \$3.559MM of Waterfront TIF Bonds for the Moran Frame Project.

As we have disclosed at previous City Council meetings, throughout 2022, the City underwent a State audit of the Waterfront TIF District. During the audit the City discovered a series of ineligible invoices for TIF reimbursement and worked with the State Auditor's Office (SAO) to replace \$327,842 of ineligible invoices with eligible invoices from the Moran Frame project. Additional ineligible invoices for TIF reimbursement in the amount of \$173,056 were identified by the State Auditor and replaced with additional eligible Moran Frame invoices (per the February 13, 2023 BoF/CC memo). The State Auditors Office and the Vermont Bond Bank have approved these invoices to utilize the funds from the \$7.8MM Bond. We are now looking to finalize these corrections and need to make this budget amendment to complete the process.

Attachments

February 13/21, 2023 BoF/CC Memo

Board of Finance Motion

To approve and recommend that the City Council approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to increase the Moran Capital Budget by \$500,842.46 from the Waterfront TIF \$7.8MM Vermont Bond Bank Bond and to permit expenditure of such funds for future planning and construction phases in accordance with all necessary approvals and authorizations.

City Council Motion

To approve and authorize the City's Chief Administrative Officer or their designee, to execute a budget amendment to increase the Moran Capital Budget by \$500,842.46 from the Waterfront TIF \$7.8MM Vermont Bond Bank Bond and to permit expenditure of such funds for future planning and construction phases in accordance with all necessary approvals and authorizations.



OFFICE OF THE CLERK/TREASURER City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

Fax (802) 865-7014

Deaf/Hard of Hearing 711

Date: February 13, 2023 and February 21, 2023

To: Board of Finance, City Council

From: Katherine Schad, Chief Administrative Officer

CC: Richard Haesler, Projects & Policy Specialist
Ashley Parker, Capital Programs Director

Subject: Resolution of Waterfront Tax Increment Finance Audit Items

Background:

The State of Vermont Auditors Office conducted an audit of the Burlington Waterfront Tax Increment Finance (TIF) District for the period fiscal years 2011 to 2021 and the City participated in the audit process from September 2021 to January 2023. Audits of TIF Districts are set up the State Legislature and this is the second audit of this District. The objectives of the audit were to determine 1) whether, from FY2011-FY2021, the City obtained required authorizations to issue its TIF district debt and used those funds to finance eligible improvement projects, and 2) For the same period: a) whether the City retained the appropriate amount of education and municipal tax increment in its Waterfront TIF Fund and remitted the required annual payment to the State's Education Fund, and b) whether the City used tax increment for allowable purposes. The State Auditors Office (SAO) published its final Audit Report on January 20, 2023. A summary of key findings includes:

- The City struggled to produce accounting records that showed the cost for each improvement project that was funded with this TIF debt.
- Of the \$10.9M of TIF-funded improvement costs test, \$173,056 of bike path rehabilitation costs were found to be ineligible for TIF funding. All other costs were TIF eligible.
- The amount of incremental tax revenue the City kept in its WTF TIF Fund to pay for TIF District debt is lower than it should be due to errors in tax increment calculations.
- The City underpaid the State Education Fund and owes an additional \$197,510.
- The City spent \$1M more for project costs than authorized due to disarray in project cost records and lack of documented procedures for accounting for TIF improvement projects.

City Response:

The City has agreed with the SAO to promptly complete adjustments necessary to address the errors documented, which is the purpose of this memo.

- **The City will transfer a total of \$1,181,034 from its General Fund to Burlington's Waterfront TIF District fund.** This transfer will come from three sources:

- **\$681,040 from unexpended Waterfront Access North (WAN) sources that have not yet fully been drawn down** (because expenses were previously improperly applied to the Waterfront TIF District instead of WAN).
 - **\$40,857.93 from the balance of interest in the Vermont Municipal Bond Bank checking account.**
 - **\$459,136.07 from the City's Unassigned Fund Balance.** Please note that the Fund Balance Policy requires that the Unassigned Fund Balance (UAFB) remain at 5-15% of the City's annual operational costs in order to be able to pay for unanticipated expenses. After making these adjustments the City's UAFB ratio will continue to exceed the 10% target. **These adjustments will have no impact on the City's operations, nor will they trigger a need to increase tax rates.**
- **Correct the Waterfront TIF payment of \$173,056 of ineligible expenses by replacing the ineligible invoices with TIF eligible invoices from the Moran Frame Project** that have been accepted by the SAO. No Board of Finance or City Council action is required on this item.
 - **The City disputes the State Auditor's finding that Burlington owes the State Education Fund \$197,510.** Though the report characterizes certain increment calculations as City "errors," many of these calculation differences arose due to programming problems within the State's property tax data system, administered by the private contractor New England Municipal Resource Center (NEMRC) and it remains unclear what the actual discrepancies are. The City has worked with the State Tax Department and NEMRC over several years to resolve these problems and this process remains underway. The City will continue its conversation with the State Tax Department related to the Auditors calculation of \$197,510 due to the Education Fund. Should the conversations result in an amount due, the Clerk Treasurer's Office will return to the Board of Finance and City Council to request the payment but no further action is required at this time.
 - In conjunction with the SAO, the City has **amended its Waterfront Tax Increment Fund Balance** as of June 30, 2021 to:
 - a. Education Increment: \$2,398,893
 - b. Municipal Increment \$1,242,070
 - c. This is an overall increase of \$1.2 million to the balance
 No Board of Finance or City Council action is required at this time.

Additional City Progress Made to Date:

In addition to the steps above it is important to note that the City has been addressing the systemic issues raised in the report for many years. In fact, following the City's own annual audit in fiscal year 2017, beginning in 2018 the City recognized that its project accounting systems needed additional improvement, and has been taking actions since that time. Specifically:

- In January 2019 the City engaged the accounting and management consulting firm BerryDunn to review project accounting practices, procedures, and technology;
- In August 2019, the City created a Public Works project accountant position;
- In February 2020, the City hired the management consultant firm Clifton Larson Allen to develop and implement overall capital accounting policies and procedures for the City and to reconcile past accounts;
- In April 2021, the City hired a Senior Accountant to specialize in project accounting and hired MuniCap, a public finance consulting firm nationally recognized as TIF experts, to help the City manage the finances and administration of the Waterfront and Downtown TIF Districts;

- As of July 2021, the City had fully implemented project accounting for the City's capital funds allowing Clifton Larson Allen to focus on instituting project accounting for the City's TIF projects; and
- In August 2022, the City established a Trustee to hold TIF funds and pay invoices on the City's behalf. This Trustee provides another level of oversight to ensure that TIF administration is handled correctly.

Motions:

Board of Finance:

1. To approve and recommend that the City Council approve and authorize the Chief Administrative Officer to take all necessary steps to ensure reimbursement of Waterfront TIF Funds in the amount of \$1,181,034.00 from the following City accounts:
 - a. \$681,040 from the Waterfront North Access Project Fund balance (715-19-700-7900_162);
 - b. \$40,857.93 from the balance of interest in the Vermont Municipal Bond Bank checking account (101-00-000-7900_160); and
 - c. \$459,136.07 from the City Fund Balance. (110-00-000-000-7900_160).

City Council:

1. To approve and authorize the City's Chief Administrative Officer to take all necessary steps to ensure the reimbursement of Waterfront TIF Funds in the amount of \$1,181,034.00 from the following City accounts:
 - a. \$681,040 from the Waterfront North Access Project Fund balance (715-19-700-7900_162);
 - b. \$40,857.93 from the balance of interest in the Vermont Municipal Bond Bank checking account (101-00-000-7900_160); and
 - c. \$459,136.07 from the City Fund Balance. (110-00-000-000-7900_160).

Board of Finance and City Council Submission ChecklistDepartment: Fire Submitter: Chief LaChanceTitle/Subject: CAD Agreement with South Burlington

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/20/2023	MDL Approved
Mayor's Office informed and approved memo	Yes	Click or tap to enter a date.	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/20/2023	JP Approved
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/20/2023	JP Approved
CAO has reviewed budget, financing, and memo	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Memo
Draft Resolution or Motion?	Choose an item.	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	No	Click or tap here to enter text.

**AGREEMENT FOR CAD SERVICES BETWEEN THE CITY OF SOUTH
BURLINGTON & CITY OF BURLINGTON**

This agreement made on April ____ 2023, between the City of Burlington, a municipal corporation organized and existing under the laws of the state of Vermont, here and through its Fire Department, with its principal place of business at 136 South Winooski Avenue, Burlington, Vermont 05401 (“Burlington”) and the City of South Burlington, a municipal corporation organized and existing under the laws of the State of Vermont, here and through its Fire Department, with its principal place of business at 575 Dorset Street, South Burlington, VT 05403 (“South Burlington”) (Burlington and South Burlington shall collectively be referred to as the “Parties” or “Cities” or individually as “Party”)

For and in consideration of the mutual covenants contained in this agreement, and for other good a valuable consideration, the Parties agree as follows:

WHEREAS, Burlington has purchased, programmed, and is operating computer aided dispatch (CAD) software from Tyler Technologies to assist in the dispatching of its Fire Department: and,

WHEREAS, when the software was initially purchased, the RFP allowed it to be expanded to other communities within Chittenden County considering consolidated dispatch; and,

WHEREAS, South Burlington is now interested in utilizing the same CAD software in its dispatch center to support its Fire Department; and,

WHEREAS, South Burlington has been quoted from Tyler Technologies the cost of expanding the City of Burlington CAD system to be used in South Burlington and that costs is a one-time fee of \$66,070 and a recurring costs of \$8,873; and,

WHEREAS, sharing the same CAD system between the two Cities allows for resource sharing and reduced redundancy.

NOW, THEREFORE, BE IT RESOLVED, Burlington agrees to allow South Burlington usage of the Tyler Technologies CAD system under the following conditions:

1. **GENERAL PROVISIONS**South Burlington agrees to pay Tyler Technologies the one-time fee of \$66,070.00 and the annual recurring fee of \$8,873.00.
2. South Burlington will pay directly to the internet service provider of choice, any fees associated with establishing and maintaining an internet connection between South Burlington dispatch center and the servers located at the Burlington Police Department.
3. South Burlington shall pay Burlington \$7,500.00 annually on July 1st as a yearly maintenance and upgrade cost to host the CAD system on their server. This rate shall be evaluated every three years from the time that this agreement takes full force and effect, at which time said fee shall be subject to an increase of either 3% or the U.S. Bureau of Labor Statistics CPI-U Northeast Region 12-month percent change as reported for December of the previous year, whichever is less.

4. Burlington shall host the CAD software/system on their server and shall perform all necessary maintenance and upgrades so that South Burlington has continuous access to the CAD system and the system operates in the manner intended to provide reliable computer aided dispatch services to South Burlington.
5. This Agreement constitutes the entire agreement between the Parties and there are no further items or provisions, either oral or written.
6. Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by both Parties.
7. This Agreement shall be binding on and shall be for the benefit of the Parties. Neither Party may assign this Agreement without the prior written consent of the other Party.
8. Force Majeure. Except for your payment obligations, neither Party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the Party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
9. No Intended Third-Party Beneficiaries. This Agreement is entered into solely for the benefit of Burlington and South Burlington. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.
10. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
11. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either Party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such Party from enforcing each and every term of this Agreement thereafter.
12. The obligations of Burlington under this Contract are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of Burlington to make payments under this Contract shall constitute a current expense of Burlington and shall not be construed to be a debt or a pledge of the credit of Burlington. The decision whether or not to budget and appropriate funds during each fiscal year of Burlington is within the discretion of the Mayor and the Burlington City Council. Burlington shall deliver written notice to South Burlington as soon as practicable of any non-appropriation, and South Burlington shall not be entitled to any payment or compensation of any kind for work performed after Burlington has delivered written notice of non-appropriation.
13. The obligations of South Burlington under this Contract are subject to annual appropriation by the South Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of South Burlington to make payments under this Contract shall constitute a current expense of South Burlington.

and shall not be construed to be a debt or a pledge of the credit of South Burlington. The decision whether or not to budget and appropriate funds during each fiscal year of South Burlington is within the discretion of the South Burlington City Manager and the South Burlington City Council. South Burlington shall deliver written notice to Burlington as soon as practicable of any non-appropriation, and Burlington shall not be entitled to any payment or compensation of any kind for work performed after South Burlington has delivered written notice of non-appropriation.

14. This Agreement will be construed in accordance with and governed by the laws of the State of Vermont.

15. This Agreement may be executed in counterparts. Electronic signatures are binding and are considered to be original signatures.

TERM AND TERMINATION

a. Term. This Agreement will commence upon the execution of this agreement and shall continue thereafter until terminated in accordance with this section. The parties shall review this Agreement from time to time and revise if necessary by mutual agreement and reduced to writing (the “Term”).

b. Termination.

i. Termination for Convenience. Either Party shall also have the right to terminate this Agreement at any time by discontinuing use of the Service and sending a written notice to the other party stating its desire to terminate the Agreement with **sixty (60)** days’ notice. Notwithstanding the above, in the event this Agreement is terminated, any outstanding invoices for services provided in accordance with this Agreement shall become due in full.

ii. Breach of Agreement. Administrative remedies – either Party may terminate this Agreement due to a breach by the other Party. Prior to termination, the other Party shall have a reasonable period of time, not to exceed 30 days unless otherwise agreed, following written notice of the breach, to remedy the breach before this Agreement is terminated. Following termination, Burlington will allow South Burlington sixty (60) days of continued use of Burlington’s servers so as to provide time for South Burlington to migrate their technology off said servers.

iii. Termination for Cause. Either Party may, upon written notice to the other Party, terminate this Agreement, as of a date to be specified by the Party issuing notice if the other Party fails to maintain its obligations under this agreement. In the case of such an event, Burlington will allow for 60 days of continued use of Burlington’s servers by South Burlington so as to provide time for South Burlington to migrate their technology off of said servers.

iv. Unless the Agreement is being terminated for the failure of South Burlington to pay to Burlington the annual maintenance and upgrade cost to host the CAD system on Burlington’s server, in which case no reimbursement shall be required, upon termination of this Agreement by either Party, Burlington shall reimburse South Burlington, on a pro rata basis based on the date of termination, the portion of the annual maintenance, upgrade and hosting cost outlined in General Provision Section 3, above, paid by South Burlington.

INDEMNIFICATION

South Burlington shall indemnify, defend and hold harmless Burlington and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of South Burlington's acts and/or omissions in the performance of this Agreement. Burlington is responsible for its own actions. South Burlington is not obligated to indemnify Burlington or its officers, agents and employees for any liability of Burlington, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions. Burlington shall indemnify, defend and hold harmless South Burlington and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of Burlington's acts and/or omissions in the performance of this Agreement. South Burlington is responsible for its own actions. Burlington is not obligated to indemnify South Burlington or its officers, agents and employees for any liability of South Burlington, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

City of South Burlington, Vermont

City of Burlington, Vermont

By: _____

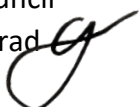
By: _____

Jessie Baker
City Manager
City of South Burlington

Miro Weinberger
Mayor
City of Burlington



**POLICE DEPARTMENT
CITY OF BURLINGTON**

To: Board of Finance and City Council
From: Acting Chief of Police Jon Murad 
Date: Friday, April 21, 2023
Re: Creation of one (1) new position, the Assistant Director of Alternative Response, within the Police Department

Executive Summary:

The Burlington Police Department (BPD) is requesting:

- The creation of an “Assistant Director of Alternative Response,” a Regular, Full-time, exempt, non-union, Grade 24 position

Background:

In accordance with the BPD’s efforts to develop alternative methods of response to public safety issues that do not automatically rely on armed, sworn police officers, the BPD seeks to create an Assistant Director of Alternative Response. This would be an executive-level position in the BPD, with an organizational rank equivalent to Deputy Chief, reporting directly to the Chief of Police. The position will oversee, supervise, manage, and administer the BPD’s alternative response capacities, which are collectively known as the Crisis, Advocacy, Intervention Programs (CAIP). The largest components of CAIP are the Community Support Liaisons, or CSLs, and the in-development Crisis Response Team.

CAIP includes the Domestic Violence Victim’s Advocate; the Community Support Supervisor (CSS) and the six CSLs; the Victims Service Specialist (who is also co-assigned to CEDO); and the Crisis Team Supervisor (CTS) and the four-person Burlington CARES team. The BPD’s Domestic Violence Prevention Officer, or DVPO, also sits in CAIP but reports to the Deputy Chief of Operations. CAIP addresses conditions that do not require police intervention but have a public safety, public health, or quality-of-life nexus—ranging from victim’s services to domestic violence to crisis intervention. This includes issues around houselessness, substance-use disorder, and mental health.

The Burlington Police Commission was consulted prior to seeking Council approval for this new position.

Financial Impact:

This position is a Grade 24, with a Step 1 salary of \$88,025 rising to a Step 15 salary of \$105,118. If this position is hired in FY23, there is sufficient funding within the Police Department budget. Mayor Weinberger plans to include ongoing funding for this position in the FY24 budget.

Motions:Board of Finance Motion

To approve and recommend that the City Council approve the:

- The creation of an “Assistant Director of Alternative Response,” a Regular, Full-time, exempt, non-union, Grade 24 position within the Burlington Police Department.

City Council Motion

To approve the:

- The creation of an “Assistant Director of Alternative Response,” a Regular, Full-time, exempt, non-union, Grade 24 position within the Burlington Police Department.

Cc: Kerin Durfee, Human Resources Director

Board of Finance and City Council Submission ChecklistDepartment: Police Submitter: Acting Chief of Police Jon MuradTitle/Subject: Creation of ADAR

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/20/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/20/2023	Click or tap here to enter text.
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A		Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/20/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/20/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Yes	4/21/2023	Kerin Durfee Lynn Reagan
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

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

City of Burlington Job Description

Position Title: **Assistant Director of Alternative Response**

Department: **Police**

Reports to: **Chief of Police**

Pay Grade: 24

Job Code: xxx

Exempt/Non-Exempt: Exempt

Union: Non-Union

General Purpose:

The Assistant Director of Alternative Response is an executive-level position in the Burlington Police Department (BPD), reporting directly to the Chief of Police. The position has an organizational rank equivalent to Deputy Chief but has no operational direction over sworn police officers. The Assistant Director of Alternative Response must be an inspirational leader who can oversee, supervise, manage, and administer the BPD's alternative response capacities, specifically the Crisis, Advocacy, Intervention Programs (CAIP). CAIP includes:

- The Domestic Violence Victim's Advocate
- The Community Support Supervisor (CSS) and the Community Support Liaisons, or CSLs
- The Victims Service Specialist
- The Crisis Team Supervisor (CTS) and Burlington's Crisis Assessment, Response, Engagement Service (Burlington CARES)

CAIP addresses conditions that do not require police intervention but have a public safety, public health, or quality-of-life nexus—ranging from victim's services to domestic violence to crisis intervention. This includes issues around houselessness, substance-use disorder, and mental health. CAIP uses person-centered approaches, provides trauma-informed care, and emphasizes culturally competent responses to support those who have experienced harm. CAIP works in conjunction with other social-service providers throughout Burlington and Chittenden County to help fill gaps and build bridges, and the Assistant Director of Alternative Response must be a proven bridge builder.

Essential Job Functions: (This section outlines the fundamental job functions that must be performed in this position. The "Qualifications/Basic Job Requirements" and the "Physical and Mental/Reasoning Requirements and Work Environment" state the underlying requirements that an employee must meet in order to perform these essential functions. In accordance with the Americans with Disabilities Act, reasonable accommodations may be made to qualified individuals with disabilities to perform the essential functions of the position.)

- Oversees and manages administrative work related to BPD's alternative response programs within CAIP, including direct supervision of the CSS, the Domestic Violence Victim's Advocate, and the CTS.

- Co-supervises the Victims Service Specialist in conjunction with supervisors at the Burlington Community & Economic Development Office (CEDO).
- Works closely with the sworn-officer Domestic Violence Prevention Officer.
- Responsible for the BPD's oversight of Burlington CARES, a co-response team consisting of qualified mental health providers and medical personnel, in conjunction with leadership in the Burlington Fire Department and at the University of Vermont Medical Center (UVMHC), each of which has certification jurisdiction over the medical personnel.
- Responsible for securing and managing grants to help fund CAIP-relevant work, such as reporting requirements associated with grants for the Burlington CARES program.
- Supports the CSS, who is the primary point of contact for the BPD's relationship with the Burlington Parks Recreation Waterfront department (BPRW), specifically the Urban Park Rangers, as well as other City of Burlington departments that address issues around homelessness, substance-use disorder, and chronic mental health conditions. Supervises the CSS on execution of the City's encampment policy.
- Serves as the BPD's primary point of contact for entity-level relationships with Howard Center (as opposed to the case-level or employee level), including but not limited to Street Outreach, First Call, and Act One.
- Serves as the BPD's primary point of contact for entity-level relationships with partner agencies in the social-service sphere, including but not limited to UVMHC, the Vermont Department of Mental Health, the National Alliance on Mental Illness (NAMI), NFI Vermont, the Champlain Valley Office of Economic Opportunity (CVOEO), etc.
- Represents the BPD at CommSTAT and other, similar multi-stakeholder meetings.
- Represents and serves as a voice for the BPD's alternative response capacities at public hearings or meetings and with the news media, as necessary.
- Guides the further development of new alternative response capacities as community needs become apparent.
- Performs administrative tasks related to managing CAIP, including scheduling, personnel evaluations, and performance management.
- Assists the Recruitment Officer in hiring new members of CAIP, including helping to interview and vet candidates.
- Along with the CSS, the Training Coordinator, sworn administrative staff, and sworn-officer instructors, helps co-design and administer field training for new CAIP members and recurring in-service training for Community Support Liaisons as necessary.
- Participates on hiring panels and promotional panels for BPD employees who are not part of CAIP.
- Reviews CAIP members' written work product, offering necessary guidance and applicable corrections.
- Prepares required paperwork and produces regular reports related to CAIP.

- Assists with administering the disciplinary process for personnel in CAIP, including but not limited to examining citizen complaints, conducting administrative reviews, and, in conjunction with sworn personnel, conducting internal investigations.
- Issues performance instruction and, together with the Chief of Police, offers discipline in keeping with Charter §3-185, personnel policy, and any applicable collective bargaining agreement.
- Performs all other duties as directed by the Chief of Police.

Qualifications/Basic Job Requirements:

- Ability to actively support City diversity, equity, and cultural competency efforts within stated job responsibilities and work effectively across diverse cultures and constituencies.
- Demonstrated commitment to diversity, equity and inclusion as evidenced by ongoing trainings and professional development.
- Bachelor's degree required, Master's Degree in Public Administration or Social Work or related field strongly preferred.
- Eight (8) years' work experience in social-services provision, and/or mental-healthcare work, and/or policing or the criminal-justice system required; must be able to demonstrate familiarity with trauma-informed approaches.
- Must be an engaging and motivational leader, capable of developing innovative programs and guiding, developing, and coaching the people who make programs work.
- Must possess very strong interpersonal and presentational communication skills. This position will require not only communicating within the Police Department but also with a variety of partner agencies, community groups, and governmental entities. Must communicate effectively in both oral and written formats.
- Must possess management and leadership experience, and be able to demonstrate a history of progressively increasing responsibilities as well as the supervision and motivation of teams.
- Ability to establish and maintain positive working relationships with co-workers, subordinates, and the public in a team environment.
- Comfort working in a law-enforcement environment.
- Ability to organize and prioritize workflow.
- Must possess a high level of personal creativity, initiative, and enthusiasm to work within a constantly changing organization and lead aspects of that change.
- Must complete a PHI and pass a fingerprint-supported criminal background check.
- Must be able to meet Criminal Justice Information Services (CJIS) standards established by the Federal Bureau of Investigation (FBI) within six (6) months of hire date. Obtain and maintain Vermont Criminal Information Center (VCIC) and National Crime Information Center (NCIC) certification.

- Must possess a strong working knowledge of standard office equipment and Microsoft Office applications; ability to learn and operate City scheduling software and related management systems
- Regular attendance is necessary and is essential to meeting the expectations of the job functions. Ability to work nights, weekends and holidays as required.
- Must pass physical examination by the Medical Board, including a drug test.
- Ability to travel to and from various work sites within the City of Burlington.
- Ability to obtain a valid driver's license within 45 days of hire and the continued maintenance of a valid driver's license. Operation of a City vehicle or personal vehicle to conduct City business without providing proof of a valid driver's license to Human Resources will not be permitted.
- Ability to understand and comply with City standards, safety rules, personnel policies, and collective bargaining parameters.
- Ability to work independently, and manage and prioritize multiple tasks.
- Ability to apply tact and discretion in working with the public.
- Ability to establish and maintain positive and effective employee and public relations.

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.

x seeing	x ability to move distances	x lifting(specify)
x color perception (red, green, amber)	within and between warehouses/offices	20 pounds
x hearing/listening	___ climbing	___ carrying (specify)
x clear speech	___ ability to mount and dismount forklift/truck	___ pounds
x touching	x pushing/pulling	___ driving (local/over the road)
x dexterity		
x hand		
x finger		
___ reading - basic	___ math skills – basic	x analysis/comprehension
x reading – complex	x math skills – complex	x judgment/decision making
___ writing – basic	x clerical	
x writing - complex		
___shiftwork	___ outside	___ pressurized equipment
x works alone	___ extreme heat	___ moving objects
x works with others	___ extreme cold	___ high places
x verbal contact w/others	___ noise	___ fumes/odors
x face-to-face contact	___ mechanical equipment	___hazardous materials

x inside

x electrical equipment

x dirt/dust

Supervision:

Directly Supervises: 4

Indirectly Supervises: 10

Approvals:

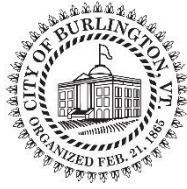
Department Head: _____ Date: _____

Human Resources: _____ Date: _____

04/14/2023

#

DRAFT



To: Board of Finance and City Council
From: Kara Alnasrawi, Director of Business & Workforce Development
Samantha Dunn, Assistant Director for Community Works, CEDO
CC: Mayor Miro Weinberger
CAO Katherine Schad
Date: April 14, 2023
Re: **Community Infrastructure Projects - \$2M ARPA**

BACKGROUND

On March 11, 2021, President Joe Biden signed the American Rescue Plan Act (ARPA). This legislation awarded funds to states, municipalities, and territories to help combat the impacts of the COVID-19 global pandemic. The City of Burlington was awarded a total of \$27 million as part of this once-in-a-generation legislation.

The Business and Workforce Development Team then launched a citywide survey to solicit feedback on community priorities for ARPA spending, receiving close to 4,000 responses, the most responses to any City survey. Members of our community identifying as BIPOC overwhelmingly chose 'investing in community gathering spaces to accommodate music, art, food, and more', as their top choice for community infrastructure. As part of the fiscal year 2023 budget resolution, the City Council approved the use of \$2,000,000 in ARPA funds towards the goal of creating and supporting community infrastructure.

While the initial legislation is strongly directed toward supporting the immediate response to the pandemic's devastating health and economic impacts, the [US Treasury's Final Rule](#) expands usage of funds to include capital expenditures deemed to be an appropriate response to the public health, mental health and economic impacts of the pandemic. Most importantly, these funds should be expended to improve the lives of those disproportionately impacted by Covid and those in qualified census tracts. Creating and investing in opportunities for physical activity, space for social gatherings and community events, and exposure to nature has been linked to a range of public health (physical, social, psychological) benefits.

City staff have identified five projects that include investments in three public parks and two new indoor community gathering spaces which will enhance existing community gathering spaces and create new ones. These projects are spread equitably throughout the City and in qualified census tracts. The five projects either create community gathering spaces in areas that currently lack them or enhance existing infrastructure to better serve the community with the goal of ensuring vibrant community and civic infrastructure throughout the City.

With Board of Finance and City Council support, the use of \$2M in ARPA funds would be allocated as follows:

- ***New North End***
 - ***\$250,000, Redstone Cottage Community Space***
 - ***\$50,000, Upgrades to Fletcher Free Library's Satellite Location***
- ***Old North End***
 - ***\$250,00, Roosevelt Park Pavilion***
- ***South End***
 - ***\$500,000, 405 Pine St. Community Room with Kitchen***

- **Downtown**
 - **\$300,000, City Hall Park Kiosk**
- **Waterfront**
 - **\$600,000, Expanded Waterworks Park Connections & Amenities**
- **Contingency**
 - **\$50,000**

REDSTONE COTTAGE COMMUNITY SPACE (“the Annex”)– \$250,000

The “Annex” of the Red Stone Cottage at Kieslich Park will provide a new accessible community gathering space along the bus route and within walking distance of many New-North End Burlington residents. It has a standalone entrance allowing the space to be used independently from the historic cottage, or be used in combination with the cottage for one larger rental and programmable space. We envision it as a community space open for programming, meetings and small events. With recent investments in the historic cottage, completing the work on the Annex will provide the community with a gathering place for years to come.

FLETCHER FREE LIBRARY SATELLITE LOCATION - \$50,000

In December 2021 the Fletcher Free Library opened a pilot branch in the Ethan Allen Shopping Center in the New North End. Due to the wonderful success of this pilot branch, the Mayor’s Office approved its continuation. For the Library’s Fiscal Year 2023 Budget, the New North Branch Library was made permanent. The City has committed to a signed lease and to a permanent part-time position. This investment will allow for physical improvements that will enhance daily operations and allow for expanded programming resulting in a better library experience for all community members.

ROOSEVELT PARK PAVILION - \$250,000

Roosevelt Park is an active park within Burlington’s Old North End. Frequented by surrounding school classes and children from the Boys and Girls’ Club across the street, it is also a meeting point for the summer meals program and long-standing tennis instruction. With increasing temperatures due to climate change, investing in a pavilion at Roosevelt Park would provide a much-needed, free, shaded, community space within the park. It would also provide a space for quiet play, family get-togethers and shelter from inclement weather during summer camps or school outings.

PINE STREET COMMUNITY ROOM WITH KITCHEN - \$500,000

Located in the heart of Burlington’s arts and enterprise zone, the 405 Pine Street project is the redevelopment of an existing 32,800 SF industrial building that addresses the shortage of space available for artist and community use. The project is currently under construction and will complete a portion of the envelope improvements including new windows and doors, insulation, and siding that improve energy efficiency by the end of March 2023. This investment will leverage fundraising to make possible a subsidized community gathering space with an industrial kitchen designed to welcome immigrant and multicultural communities who associate creative intergenerational gathering with shared food. The community room kitchen is part of the interior renovations planned for completion by the end of 2026.

CITY HALL PARK KIOSK - \$300,000

City Hall Park serves as the geographic and cultural center of the City. The recent overhaul of the park prioritized a healthy functioning urban park, accessibility for all users in all seasons, and free arts and culture programming. This investment will realize the kiosk envisioned in the redevelopment plans which will serve a dual purpose of providing food and drink within the park as well as information/education. The kiosk will be custom designed for the City to include engaging net zero energy education, an “information station” with upcoming events and information on how to access important resources and services as well as the infrastructure required for new food and drink options. The RFP for the kiosk will include a requirement to donate a portion of profits to a local non-profit whose work is primarily in the fields of homelessness and/or hunger.

EXPANDED WATERWORKS PARK CONNECTIONS & MORAN FRAME ENHANCEMENTS - \$600,000

In November 2022, the City cut the ribbon on the first phase of the transformation of the former coal-powered Moran Municipal Generating Station into the Moran Frame – a new City Park. This work completed efforts to restore public access to the northern waterfront. Additional investments in the expanded Waterworks Park (including the Fishing Pier, Moran Frame, and A_Dog Skatepark) will incorporate public engagement and design to elevate opportunities for community gathering and public art. We anticipate this infrastructure investment will bring accessible connectivity, improved wayfinding, restrooms, play opportunities and shade, to support the use of this waterfront asset by multigenerational visitors of all abilities.

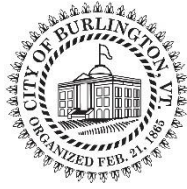
MOTIONS:

Board of Finance Motion (4/24/23):

1. To approve and recommend that City Council authorize the use of \$2,000,000 in American Rescue Plan Act funds to develop community infrastructure. These ARPA investments shall be \$250,000 at Red Stone Cottage, \$50,000 at Fletcher Free Library New North End location, \$250,000 at Roosevelt Park, \$500,000 at 405 Pine Street, \$300,000 at City Hall Park, and \$600,000 at Waterworks Park.

City Council Motion (5/1/23):

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Community Infrastructure Projects

Vibrant Community & Civic Infrastructure throughout the City

- City of Burlington awarded \$27MM American Rescue Plan Act (ARPA) Funding
- Citywide survey to solicit feedback on community priorities for ARPA: Community Gathering Spaces to accommodate music, art, food and more identified as top priority by BIPOC respondents
- City Council approved \$2MM in ARPA funds to be used towards the goal creating and supporting community infrastructure
- City has identified 5 projects spread throughout the City and in qualified census tracts; 3 investments in public parks; 2 new indoor community rooms



New North Branch Library Upgrades
\$50,000

Redstone Cottage Community Room
\$250,000

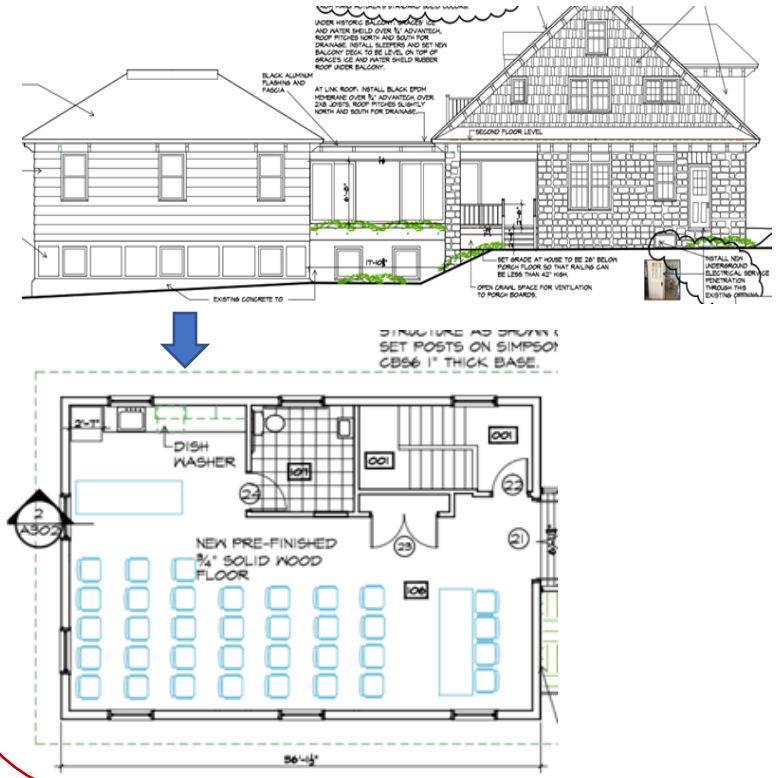
Roosevelt Park Pavilion
\$250,000

Waterworks Park / Moran Frame Amenities
\$600,000

City Hall Park Kiosk
\$300,000

405 Pine Community Room w/Kitchen
\$500,000

Redstone Cottage Community Room



405 Pine St. Community Room



Waterworks Park / Moran Frame



New North Branch Library Upgrades

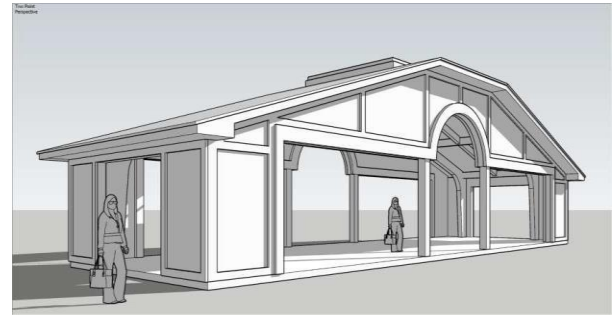


City Hall Park Kiosk



Roosevelt Park Pavilion

Example: pavilion



Board of Finance and City Council Submission Checklist

Department: Business & Workforce Development Submitter: Kara Alnasrawi

Title/Subject: \$2M ARPA Community Infrastructure Investment

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/17/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/17/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/17/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Choose an item.	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	No	Resolution pending BOF approval. Resolution for 5/1/23 CC meeting
If for submission to Council, are sponsors identified?	N/A	BOF will be sponsor if passed

Board of Finance and City Council Submission Checklist

MEMO

Date: April 19, 2023
To: Board of Finance
From: Sophie Sauvé, Parks Comprehensive Planner;
Cindi Wight, Director, Department of Parks, Recreation & Waterfront
Re: Oakledge Universally Accessible Playground Construction, Contract Amendment

I. Purpose

The Department of Parks, Recreation & Waterfront (BPRW) seeks approval and authorization to amend its contract agreement with Engineers Construction, Inc. (ECI) for an additional \$47,600, for a maximum limiting amount of \$1,051,988, for the construction of the Oakledge Universally Accessible Playground (OUAP) project. The contract amendment is requested to cover the addition of automatic gates at Oakledge Park.

II. Background

Oakledge Park is a large and popular day-use park with two beaches, tennis courts, bocce ball courts, two shelters, a tree house, volleyball courts, and soon, a new universally accessible playground. Per City ordinance, motor vehicles are prohibited in the park after 9:30 p.m. and without a gate, we cannot easily enforce the ordinance. Due to security concerns expressed by community members and staff, extensive after-hours graffiti, and continual traffic after hours, we determined that gates be installed to help deter traffic into and throughout the park during park closures.

The OUAP has been under construction since fall 2022 and will wrap up in the coming months.

III. Process

In late 2022, BPRW requested bids for the supply and installation of automatic swing arm gates at Oakledge Park and North Beach. We did not receive any bids. Follow-up with contractors indicated that the scope of work was too narrow to undertake in an already busy construction season.

As ECI is currently mobilized in the park to complete the construction of the OUAP, BPRW requested a proposal for adding the automatic gates to their project scope. ECI has supplied the City with a cost estimate of \$47,600 to supply the gates, run conduit to the gates, and install them on site. Their work on the playground and the additional accessible parking areas is adjacent to the proposed area for the gates.

IV. Project Funding Sources, Budget, and Estimates

The OUAP construction project, which was approved by the Board of Finance on August 8, 2022 and the City Council on August 15th, 2022, includes the following funding sources: Penny for Parks (PFP) and Park Impact Fees (PIF), bond funds, a grant from the State's Land and Water Conservation Fund (LWCF), a grant from the Christopher and Dana Reeve Foundation, a grant from the State of



Vermont Building and General Services, and donations raised by Oakledge for All (with the Parks Foundation acting as fiduciary representative).

Funds to amend the contract to add the automatic gates will come from General Fund – Assigned Fund Balance. Specifically, in the FY23 budget process the City Council authorized \$520,000 in one-time money for BPRW capital projects – sufficient funds remain to pay for this expense.

Oakledge Park Construction	
OUAP Project Total Funds	
FY22 Penny for Parks	\$200,000
FY23 Park Impact Fee Funds	\$100,000
FY22 Bond	\$200,000
FY22 Bond – Playground Surfacing	\$80,000
OFA Fundraising – Donations	\$130,000
LWCF Grant (forthcoming- also a match for restroom renovations to be universally accessible at Oakledge)	\$471,160
Dana and Christopher Reeve Foundation – Quality of Life Grant	\$25,000
State of Vermont – Buildings and General Services Building Communities Grant	\$25,000
OUAP Project Total	\$1,231,160
Oakledge Park Automatic Gates	
General Fund – Assigned Balance	\$75,000
Total	\$1,306,160
Use of Funds - Phase 2 OUAP Construction Costs	
Contractor - Engineers Construction, Inc.	\$1,051,988
Resident Engineer - EIV Technical Services	\$98,918
<i>Contingency – 5% (on above items)</i>	<i>\$57,545</i>
Playground Equipment – Goric (already purchased and paid)	\$70,175
Total Project Costs	\$1,278,626

The contingency on the contract amounts listed above are intended to cover any unanticipated costs that may come up as part of the OUAP project.

V. SCHEDULE

The updated Construction schedule is as follows:



- April 2023: Construction has resumed
- June 2023: Construction completed + Playground opening

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

To approve and recommend that the City Council authorize the execution of a contract amendment with Engineers Construction, Inc. for a price not to exceed \$1,051,988 for the Oakledge Universally Accessible Playground Project and to authorize Cindi Wight, Director of Parks, Recreation & Waterfront, to execute the contract amendment and any related documents needed to carry out the project, subject to review by the City Attorney's Office.



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

To: Board of Finance and City Council
From: Samantha Dunn, CEDO Assistant Director for Community Works
Cc: Brian Pine, CEDO Director
Date: April 20, 2023
Subject: Moran Frame Communication

Background

The Moran Plant was decommissioned in 1986 and the property transferred from the Burlington Electric Department to the City of Burlington. For decades, the City worked to solve the problem of cleaning up and activating the former Moran Plant. In 2014, Voters approved authorization of \$9.6M of financing for TIF infrastructure in support of the City's Public Investment Action Plan (PIAP), which included transformation of the Moran Plant site. In 2018-2019 City Council approved the use of Waterfront TIF Bonds to realize the Moran Frame concept, which included partial demolition of the building, stabilization of the steel frame, environmental abatement and remediation, creating an iconic structure integrated with other northern waterfront amenities. In the winter of 2020 given higher than anticipated costs, City Council approved a Moran Frame Project "Phase 1A" in which the major objectives of the vision would still be achieved but some components of the project as previously proposed (including public restrooms, brick/masonry paths, curbing, concrete walks, and tree plantings) were removed from the project. In the Spring of 2020 construction began on the Moran Frame.

The table below summarizes the sources and uses of funds for the first phase of the project.

Moran Frame Phase 1a Sources to Uses

Moran Frame Phase 1A Sources to Uses	
Phase 1A SOURCES	
TIF	\$3,559,000
Section 108	\$2,041,000
CDBG	\$111,965
BED/UDAG	\$950,715
Total Project Sources	\$6,662,680
Phase 1A USES	
Pre-Development Expenses	\$110,635
Construction Contract	\$4,422,710
Abatement Contract	\$1,304,069
Architecture & Engineering	\$610,354
Contingency	\$49,513
Total Project Costs	\$6,497,281
<i>Remaining Contingency</i>	<i>\$165,399</i>

On November 15, 2022, the City cut the ribbon on the first phase of construction, realizing the vision that peeled back the brick exterior to reveal the building's steel superstructure, while retaining Moran's distinctive tiered shape, resulting in an open-air park surrounding the historic structure of the Moran Plant, painted a striking red. The project has resulted in the activation of the abandoned site, improved public access to the waterfront, while creating an actual framework for activation and future phases of development.

Friends of The FRAME

Early in 2022, Zach Campbell launched a new organization, Friends of The FRAME (FotF), organized to facilitate the sustained use of the Moran Frame as an ever-evolving public space, FotF endeavors to present high-quality, inclusive public programming, support ongoing stewardship, and procure funding for the Moran Frame. The City contracted with FotF to pilot the concept of dedicated and ongoing support of the Moran Frame as a public amenity and destination. In 2022, FotF collaborated with Generator to design and manufacture two custom swinging benches hanging in the northwest bay of the Moran Frame structure and secured \$62,000 in funding from ACCD's *Better Places* program by launching a successful crowdfunding campaign which raised over \$22,000 in just five weeks (matched with \$40,000 by *Better Places*). Learn more about FotF at www.theframebtv.org

Next Steps

Over the next nine months CEDO, Burlington Parks, Recreation and Waterfront (BPRW), Burlington City Arts (BCA) and Friends of the Frame will collaborate to activate the Moran Frame site. FotF will lead additional investment at the Moran Frame and a series of activations, including the addition of accessible swinging benches, free wifi, tables and chairs, Movie Night series with food and beverage pop-ups and site-specific art and performance installations. This work will also include an "ideas board" with the opportunity to collect input from the public on the priorities for the next phase of development. This input will directly influence the development of phase 2 conceptual design and cost estimating which we anticipate will take place over the next six months.

Attachments

April 17, 2023 City Council Work Session Slides
Friends of the Frame Pilot Contract

The Moran Frame

April 17, 2023 Update



Transformation of the Northern Waterfront



Lake Champlain
Sailing Center

A_Dog Skate Park

Moran Frame

Waterworks Park

Burlington
Harbor Marina

Fishing Pier



An Abbreviated History



Figure 3.8: The Searles Generating Station in New Jersey. Source: Ike Voss, Environmental Protection Agency.

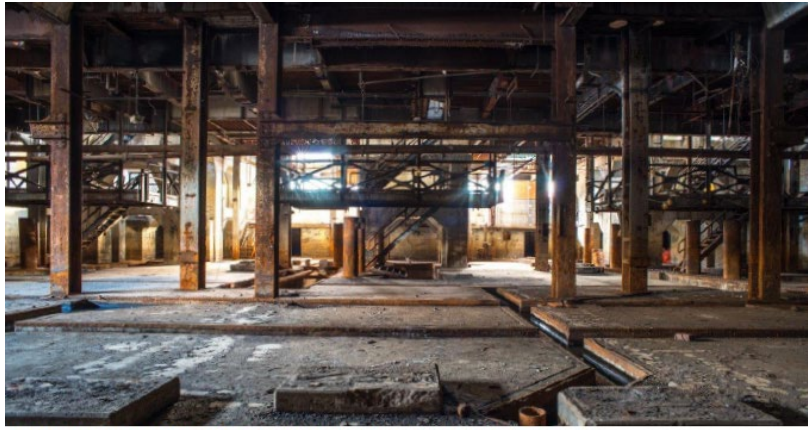
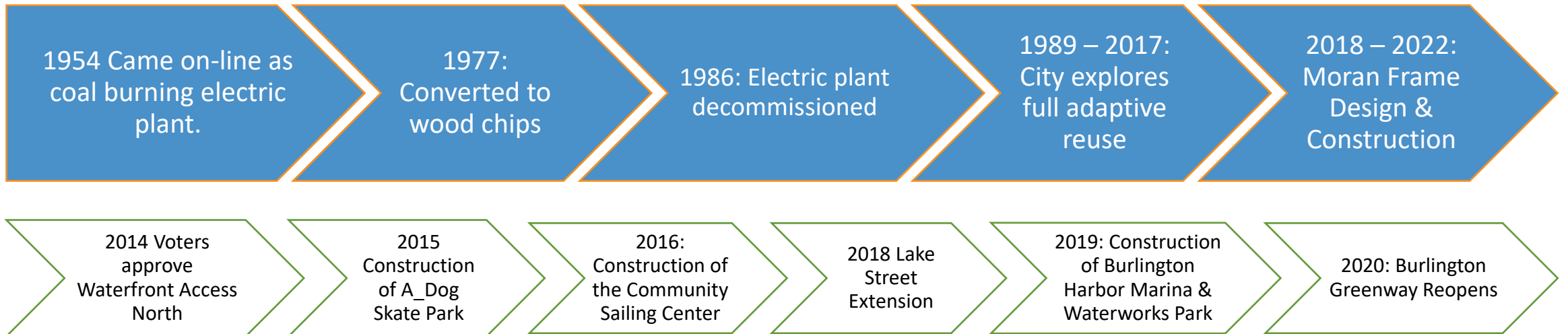


Figure 5.6: Interior of the Moran Plant in 2015 where the turbines were formerly located. Source: Daniel J. Cardon.



Figure 5.2: Model of the 1989 proposed Museum of Science and Education at the Moran Plant. Source: Freeman French Freeman.



Moran Frame Timeline



AUGUST 19, 2020
Moran Frame formal project kick-off with Mayor Miro Weinberger



SEPTEMBER 11, 2020
Most of the interior equipment had been dismantled and removed prior to dismantling the building itself.



DECEMBER 1, 2020
Majority of concrete, brick, and masonry are removed from the building to expose the frame - notice the former coal "hopper" structure in the upper level of the building.



MARCH 8, 2021
All brick and masonry are removed, lead paint abatement is in progress, and preparation for coating application is in progress.

> **AUG '20**

> **SEPT '20**

> **DEC '20**

> **MAR '21**

DISMANTLING STARTED IN AUGUST 2020 AND WAS COMPLETED MARCH 2021

OVER 922,000 BRICKS WEIGHING 1,844 TONS WERE DISPOSED
4,318 CUBIC YARDS OF GRANULAR MATERIAL BACKFILLED THE FOUNDATION

> **OCT '20**

> **NOV '20**

> **JAN '21**

> **OCT '21**

OCTOBER 7, 2020
Work continues on removal of the masonry.



NOVEMBER 9, 2020
The building envelope is peeled away and steel moment connections are installed to support the frame.



JANUARY 26, 2021
In progress is the finer removal of concrete and brick from the structure.

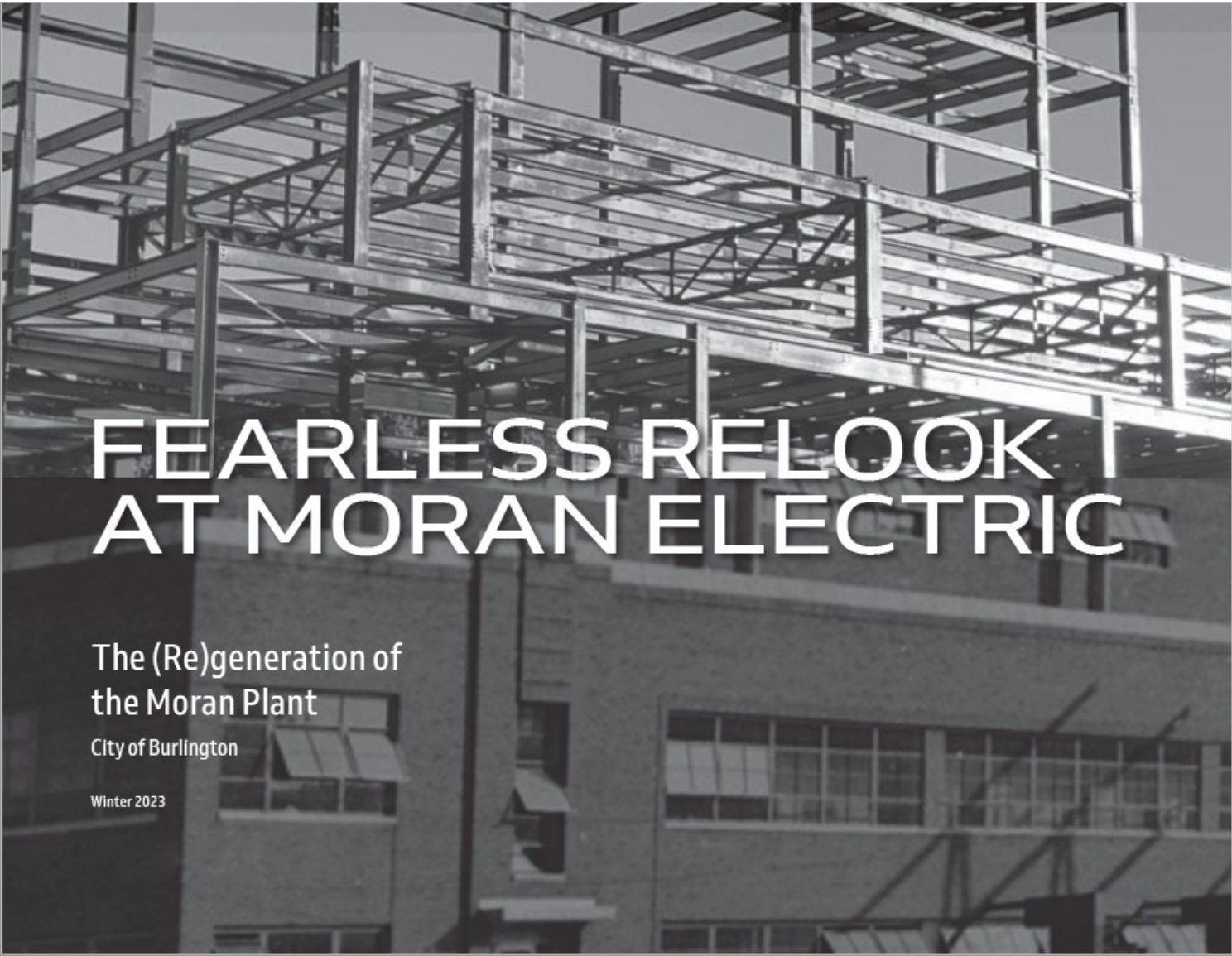


OCTOBER 20, 2021
The painted frame structure is completed.



Figure 6.3: Moran Plant deconstruction, August 2020 - October 2021. Source: VHB.

Historical Booklet



FEARLESS RELOOK AT MORAN ELECTRIC

The (Re)generation of
the Moran Plant
City of Burlington

Winter 2023



The J.F. Pritchard & Co. of Kansas City, Missouri, took over work on the generation plant.⁴⁸ The J.F. Pritchard & Co. of Kansas City, Missouri was a construction and engineering firm that specialized in industrial buildings and had branch offices throughout the country. That company also specialized in the design of power plants and built generating stations in communities such as Sioux City, New York, and New York City.⁴⁹ The J.F. Pritchard & Co. did not complete any additional projects in Burlington, however, they were needed in order to serve as the engineers for a proposed Burlington nuclear power plant.⁵⁰ Entering the design process, owing to Burlington's financial obligations with the Pritchard Consulting Engineering Company, the J.F. Pritchard & Co. immediately sent two engineers to Burlington to act as liaisons to the city and to supervise construction.⁵¹ While the local work began to lay the Moran Plant's concrete foundation, the engineering firm began the process of designing the new electric generating plant. By the time the J.F. Pritchard & Co.'s engineers came to Burlington, very little of the actual plant had been erected. The city had purchased most of the generating equipment and a massive concrete foundation had been laid by the City of Burlington Corporation of East Junction.⁵² The concrete work in the generating plant required 350 tons of steel and 2,200 tons of concrete laid in three massive pours of 800 yards, 600 yards,

and 750 yards.⁵³ Work on the plant recommenced in 1953 but was stalled by steel drives in 1954. The first turbine was finally put in motion in June 1954 and the plant was officially dedicated on October 20, 1954.⁵⁴ Good progress at the dedication included Senator George D. Aiken, Mayor Moran, and city attorney Robert Larner.⁵⁵ Originally named the Burlington Municipal Generating Station, the waterfront powerplant was renamed the J. Edgar Moran Plant in 1962 following the death of Mayor Moran.

Upon opening in 1954, the Moran Plant had a generating capacity of 17,000 kw with power generated by three General Electric turbines. Electricity generated at the plant was fed into five busbar lines that provided power to Burlington as well as two Open Mountain Power (OMP) lines that traveled north and south out of the city.⁵⁶ Just prior to opening the plant, BLD and OMP reached an agreement whereby OMP ran the Moran Plant, and the city sold the electricity to Burlington customers for 75 years.⁵⁷ The agreement ended nearly a half century of competition between BLD and OMP. This competition had led to the needless duplication of lines, power lines, and a general inefficient approach to allocating electricity. The agreement brought together BLD's approximately 10,000 residential customers with OMP's 3,000 industrial customers, effectively doubling the city's electrical generation business.⁵⁸ The issue ended in 1962 at which point BLD took back control of the Moran Plant and resumed generating electricity for the City of Burlington.



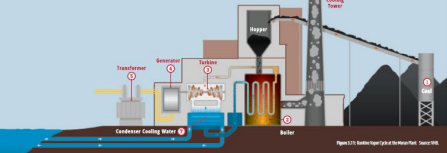
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Chapter 03

44

Rankine Vapor Cycle at the Moran Plant

1. Conveyor belts carried coal to the massive steel hoppers at the top floor of the Moran Plant.
2. The heat generated by burning coal superheated water in a boiler, creating steam.
3. Steam was passed through three 10 MW General Electric Westinghouse turbines at high pressure, causing them to rotate.
4. The rotating turbine drove an electrical generator, creating electricity.
5. Electricity was generated in a transformer where it was then distributed throughout the city.
6. Excess steam escaped into the atmosphere through the cooling towers.
7. Remaining steam was condensed and recycled through the plant.



By the time of the Moran Plant's construction, engineers had realized the Rankine Cycle and understood how best to design a coal-fired plant. The Moran Plant was designed to take advantage of its environment. The plant's location on the lake shore gave it access to a ready supply of fresh water to generate steam and a large intake channel fed directly from the lake to the Moran Plant. The nearby railroads were also critical to the plant, given the Moran Plant required 180,000 tons of coal to operate annually. BLD needed an efficient rapid network to supply the plant with fuel. BLD's coal was piled in a yard just north of the plant and carried into the building through a large elevated tower and conveyor belt system. The coal entered the building at its highest point where it was pulverized and blown down into hoppers that directly released the coal into the plant's furnaces. These furnaces heated the Moran Plant's water to produce steam, generated in these boilers traveled through pipes to the General Electric turbine at plant level. The electricity generated by these turbines was transmitted to a substation, which converted the direct current to alternating current to distribute the power through Burlington's electrical lines.

Development of the Moran Plant

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Re-envisioning the Moran Plant Early Envisioning

The Moran Plant was transformed from BLD to the city in 1986, and in the three decades that followed, there were numerous attempts to re-envision and redesign the space for the public benefit.



1986
The first concept was developed in 1986 by architect, Susan Reed of Thomas French Freeman for a proposed children's museum in the Moran Plant. The museum proposal was city effort by Mayor Mike Dowdle, CEO Director Michael Dowdle, and a steering committee of nine community members chaired by Carol Stewart. The newly renovated building was to be called the Museum of Science & Education and included a museum, planetarium, and winter garden that would have been built into the exposed portion of steel frame on the north side of the building. After years of development, the intensity of the project and \$8 million price tag stalled the project, which eventually became the grounds for the CDO, Leahy Center for Lake Champlain on the waterfront south of the Moran Plant.



1995
In the summer of 1995, an international sculpture symposium brought together artists from all over the world to create works of public art that would draw people to the area of the waterfront. The resulting art installation, arranged in a pattern inspired by the Adirondack Mountains and the Green Mountains, was situated in a green yard adjacent to the north of the Moran Plant - right where the coal hoops and conveyor pipes once stood. A hand-painted sign at the site of the installation proposed an idea for the adaptive reuse of the building that would be called the "Transformation Center for Science and the Environment." The sign read:

The SCULPTURE SYMPOSIUM represents the first public expression calling attention to the potential of this site and building.

**RENAISSANCE CENTER
for SCIENCE + the ENVIRONMENT**
It is a community vision for the adaptive reuse of the Moran Plant. Some day, we hope citizens + visitors will work with "hands-on" exhibits about science, culture, and the environment. Also housed here will be State-of-the-art research lab.

A RENAISSANCE PROJECT
Never intended to be a permanent work of art, it was dismantled in 2004 to make way for the redevelopment of this area around the Moran Plant.

In 2003, the city released a request for proposals to redevelop the industrial relic and attracted several interesting proposals. However, none had adequate funding. In 2005, the city issued a second request and selected a proposal from the University of Vermont Planning Museum. After several years of planning, the Planning Museum chose not to build and instead focused on improving their facility on the University's main campus.

As the city attempted to find an alternative use for the Moran Plant, the building sat empty, slowly deteriorating as the waterfront transformed around it. In 2004, the Moran Plant finally found a long-term tenant in the Lake Champlain Community Selling Center, which organized that same year. The organization's move into the building was facilitated by local architects including Rick Hopson of the firm Marval Bandieri and Associates.

Re-envisioning the Moran Plant



Lake Champlain Community Selling Center

Still in wilderness since it was established in the Moran Plant in 1984, the Lake Champlain Community Selling Center is a nonprofit organization dedicated to providing people of all experience and ability the opportunity to learn how to live. The selling center offers educational and recreational opportunities on Lake Champlain and uses the deep harbor near the Moran Plant as a watershed course to teach residents values the region.

The Community Selling Center maintained its office at the old Post Office Annex (Plant Room 1894) until 2008 and would be the only organization to occupy the building after their decommissioning in 2006. Initially, the Moran Plant was an ideal location for the organization's



providing easy access to the lake at an ample room to draw visitors to a local art gallery surrounding the building. However, the Moran Plant's steel base, involved and, due to the inconvenience of maintaining a portion of the decommissioned building, the Lake Champlain Community Selling Center moved to physical offices out of the Moran Plant in 2008 and erected a temporary office space in the building while continuing to drive visits to the surrounding area.

In 2016, work began on a new building for the organization, also designed by Marval Bandieri and Associates. Completed in 2017, the new Lake Champlain Center was the first new community waterfront building in the country. Based out of the new building, the Lake Champlain Community Selling Center continues to provide value of all those who live by the lake.

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Chapter 05

66



Interpretive Panels translated into BTV's top 10 languages

Electrical Power Production in Burlington

With the completion of the Champlain Canal in 1823 and bolstered by the arrival of the Rutland Railroad in 1849, the Burlington waterfront has a storied history of industrial use.

By the mid-1870s, Burlington was the third largest lumber port in the country and its waterfront, filled with lumber storage, rail sidings, factories and mills, drove the City's economy. Burlington's shoreline gradually moved westward with the repeated addition of fill. By the end of the 1950s, over 60 acres of new land had been added to the waterfront. By the mid-20th century, rail usage declined and the waterfront evolved into a bulk petroleum storage facility. At one time there were 83 above-ground oil storage tanks on the Burlington waterfront stretching from Calkins Beach to North Beach. Removal of the petroleum tanks and revitalization of the waterfront began in the 1980s with construction of Waterfront Park and the Burlington Bike Path.



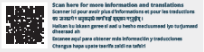
ELECTRICAL POWER PRODUCTION

Electricity first came to Burlington in 1886, when lights were installed throughout the City for its first Winter Carnival. Although several private companies provided electric power to Burlington in the late-19th century, by 1905, the Burlington Gas Light Company was the only provider. To compete with this privately owned company, residents voted to construct the City's first municipal power generating station in 1903. The City-owned, coal-fired Burlington Electric Light Plant opened in 1905, and still stands today just south of the Moran FRAME (see image above).

The demand for electricity increased in the first half of the 20th century and by 1950, the City's electrical system was undersized and outdated. In 1951, the City purchased land from the Central Vermont Railway for the construction of a new electric generating facility. The Moran Municipal Generating Station, commonly referred

to as the Moran Plant, began operations in 1955 on Burlington Electric Department's 50th anniversary. The Moran Plant facilitated the debut of electric heat to the City in 1957.

In part due to the energy crisis of the 1970s, in 1977, the City converted one of the coal-fired generators in the Moran Plant to wood burning. Within weeks, the Burlington Electric Department determined wood was more cost effective than coal and converted a second coal-fired generator to wood-fired in 1979. By 1980, construction began on the wood-fired McNeil Generating Station at the Intervale, is opened on March 17, 1984. Consequently, the Moran Plant was decommissioned in 1986. The building remained mostly vacant from 1986 until 2020, when it was dismantled except for the steel superstructure as part of the FRAME project.



- 1823 Champlain Canal opens
- 1843 Chambly Canal opens
- 1849 Rutland & Burlington Railroad built on the Burlington waterfront
- 1860 -1890 The waterfront's busiest industrial years
- 1886 Electricity comes to Burlington with the Brush Swan Electric Light & Power Company
- 1905 Burlington Electric Light Plant begins operation
- 1928 Green Mountain Power takes over Burlington Gas Light Company
- 1955 Moran Plant begins operation
- 1977 City converts two of the coal fired generating units in the Moran Plant to wood fired
- 1979 After 1977 when the Moran Plant converted to wood burning generation, the large pile of coal was replaced by the mountains of wood chips. This photograph looks south to the Moran Plant. Source: Burlington Electric Department archive
- 1984 McNeil Generating Station begins operation
- 1986 Moran Plant decommissioned
- 2020 Moran Plant dismantled, leaving the steel superstructure in place

How the Moran Plant Generated Power

RANKINE VAPOR CYCLE AT THE MORAN PLANT

1. Conveyor belts carried coal to the massive steel hoppers at the top floor of the Moran Plant.
2. The heat generated by burning coal evaporated water in a boiler, creating steam.
3. Steam was passed through three 50 MW General Electric Venturisteam turbines in bulk steam-turbine generators.
4. The rotating turbine drove an electrical generator, creating electricity.
5. Electricity was passed up to a transformer where it was then distributed throughout the city.
6. Exhaust steam escaped into the atmosphere through the cooling towers.
7. Remaining steam was condensed and recycled through the plant.

PURPOSEFUL DESIGN

Monumental power plants with ornate architectural details were favored in the early 1900s; but, by the 1950s, architects preferred simple, utilitarian designs that reflected the needs of the machinery and equipment housed inside. The Moran Plant's design reflected this mid-century utilitarian aesthetic. The plant was comprised of three stepped, flat-roofed units that were shaped by interior functions and reflected innovations and technological advancements in power plant design. Notably, the plant had an attached exterior steel boiler structure instead of a separate building to house the cooling and ventilation system, an important advancement in power plant design. The architecture intentionally projected a sense of clean, modern, unpretentious efficiency.

Although a small portion of the plant contained offices and locker rooms, most of the plant's interior consisted of large open spaces housing

power generating equipment. Steel beams were exposed and the lack of interior partitions enhanced light penetration from industrial and clerestory windows and electrical fixtures. The unfinished concrete floors, plain brick walls, and exposed steel were materials chosen because of their functionality, low cost, and ability to withstand the constant vibrations of coal conveyors and the rotation of turbines.

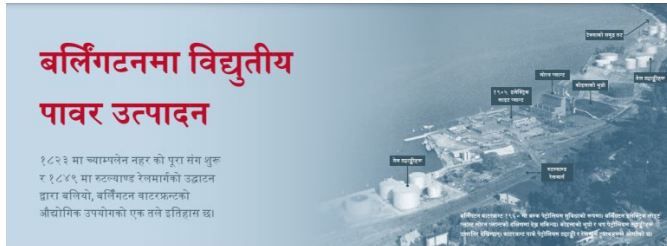
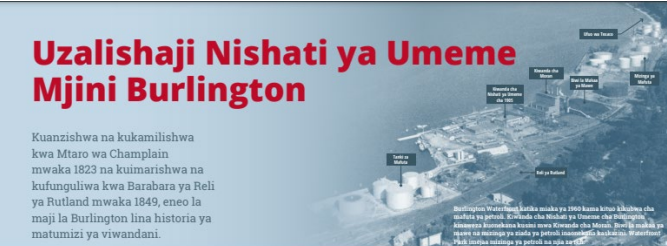
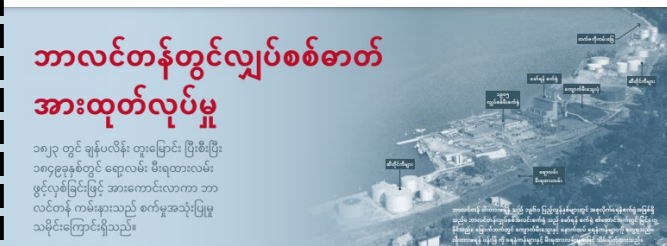
Today, the Moran Plant's tiered steel superstructure has been repurposed as the FRAME, a public landmark at the heart of the redeveloped Burlington waterfront. The FRAME consists of an open-air park surrounding the superstructure of the Moran Plant. The FRAME remains as one of the vital links in the chain of lakeside amenities developed by the City while also representing the waterfront's industrial heritage.



Inside the Turbine Room of the Moran Plant main Stack. The turbines are on the right and the boiler structure is on the left. Note the heavy steel beams visible today and the wide, unfinished concrete floors housing the generating equipment. Source: Burlington Electric Department



Moran Plant viewed from the southeast. The building's overall form reflected its historic industrial role, with the highest portion housing the hoppers that fed coal to the boilers. Source: Burlington Electric Department

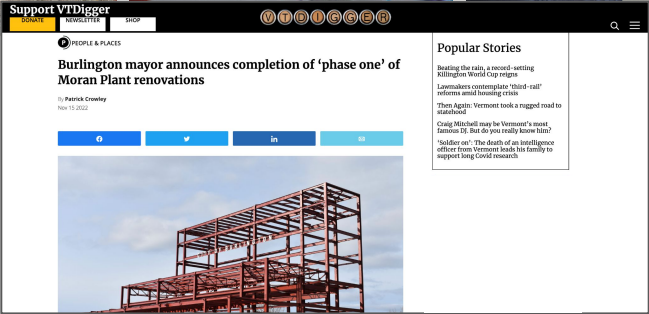
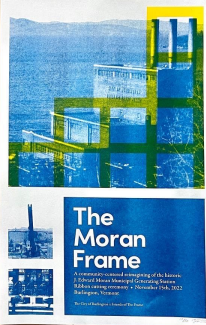


Moran Frame: Stabilize & Activate Derelict Site

- Abate and remediate hazardous building materials
- Complete remediation of soils @ Waterfront Access North
- Create iconic Burlington Landmark that alludes to the area's historical past
- Level grassy area for rest & play at the edge of Lake Champlain
- Lay framework for additional uses and improvements



Phase 1 ribbon cutting ceremony





Hi! I'm Zach. Here's a little bit about me:

- **I'm from Vermont and grew up splitting time between Shelburne and the South End**
- **Most of my work has been in the architecture and construction professions, though I started off pursuing music (and still love to play!)**
- **I was part of the team that collaborated with CEDO to propose the "FRAME" concept to City Council in 2019**
- **I founded Friends of The Frame in 2022 because I deeply believe in The Frame's potential to become a world-class, accessible destination for locals and visitors to gather, connect, enjoy and express creativity, and experience the natural beauty of Vermont**

Friends of The Frame

Organized to facilitate the sustained use of The Frame as an inclusive, ever-evolving public space, Friends of The Frame endeavors to present high-quality public programming, support ongoing stewardship, and empower local creativity in all of its forms.

The Frame Pilot

Purpose. The City of Burlington is wrapping up the first phase of redevelopment of the Moran Frame which restores public access to this part of the waterfront, stabilizes and activates a derelict site, and creates an iconic Burlington landmark that alludes to the area's industrial past. To build on this accomplishment and move toward the vision of a year-round destination with high quality free public programming, the City is interested in piloting the Friends of Frame concept that has been proposed to provide dedicated and ongoing support of the FRAME as a public amenity and destination. Friends of FRAME is an independent entity that is organized to support and advance the community offerings, activities and special projects at the FRAME. The pilot phase will allow Friends of FRAME to build a foundation of relationships and sponsors and programming experience at the FRAME with financial and staff support from the City. At the same time it will provide the activation and programming approved by the City to celebrate this new chapter at the Moran site and build support for future phases.

2022

The Frame website launch (theframebvtv.org)



[About](#)

[Visit](#)

[Phase 2](#)

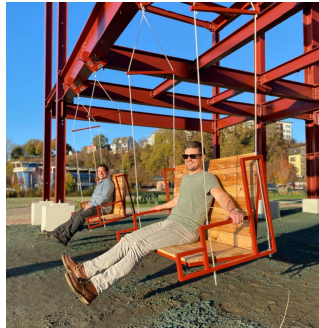
[Send Me Cool Stuff!](#)

Phase 1 now open.

**Empowering imagination
through art, nature, and
connection.**

[Donate](#)

Design and fabrication of first two “Frame” swings



First art installation



Crowdfunding campaign & grant award



\$22,674

USD
funded of \$20,000 USD goal

109

patrons

+



\$40,000 matching grant

=

\$62,000+

to support 2023
programming at The Frame

2023

Free public amenities

- + More custom-built “Frame” swings, including a wheelchair accessible version of the swing
- + WiFi hotspot
- + Outdoor seating and tables

Art & activation

- + Adding illumination to the iconic “City of Burlington” sign
- + Historical exhibit featuring rarely seen photos of the Moran Plant and the waterfront
- + Interactive community input and “idea” boards
- + Site-specific public art installations
- + Lawn games for all ages

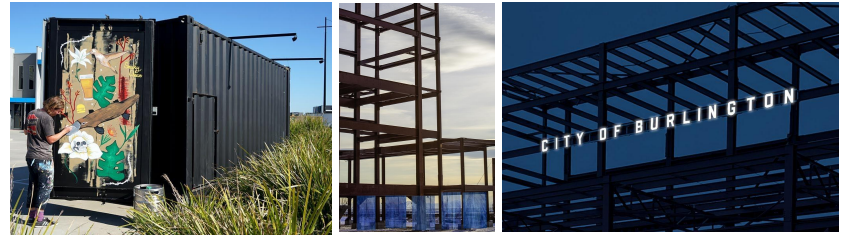
Events & performances

- + A new Thursday evening “Movie Nights at The Frame” event series
- + Pop-up performances
- + Community art pieces

Support infrastructure

- + 40’ shipping container that will be used for secure onsite storage
- + Public restroom pilot in partnership with Burlington-based startup, Wasted*
- + Landscaping and accessibility improvements

... and more!



What's Next:

- Continued Collaboration with Friends of The Frame
- Proof of Concept
- Community Input
- Waterworks Park Wayfinding
- Phase 2 Conceptual Design



CITY OF BURLINGTON CONTRACTOR CONTRACT

This Contractor Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and Friends of Frame, L3C (“Contractor”), a Vermont corporation located at 1085 Pine Street, Burlington, VT 05401.

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

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Contract Documents”** means all the documents identified in Section 4 (Scope of Work) of this Contract.
- B. **“Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- C. **“Party”** means the City or Contractor, and **“Parties”** means the City and Contractor.
- D. **“Project”** means the Friends of Frame Pilot Project
- E. **“Work”** means the services described in Section 5 (Payment for Services) of this Contract, along with the specifications contained in the Contract Documents as defined in Section 4 (Scope of Work) below.

2. RECITALS

- A. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. **Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. **Purpose.** The City of Burlington is wrapping up the first phase of redevelopment of the Moran Frame which restores public access to this part of the waterfront, stabilizes and activates a derelict site, and creates an iconic Burlington landmark that alludes to the area’s industrial past. To build on this accomplishment and move toward the vision of a year-round destination with high quality free public programming, the City is interested in piloting the Friends of Frame concept that has been proposed to provide dedicated and ongoing support of the FRAME as a public amenity and destination. Friends of FRAME is an independent entity that is organized to support and advance the community offerings, activities and special projects at the FRAME. The pilot phase will allow Friends of FRAME to build a foundation of relationships and sponsors and programming experience at the FRAME with

financial and staff support from the City. At the same time it will provide the activation and programming approved by the City to celebrate this new chapter at the Moran site and build support for future phases.

3. EFFECTIVE DATE & TERM

- A. Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Contractor for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.
- B. Term.** This Contract and the Parties' respective performance shall commence on the Effective Date and expire on January 30, 2023 or upon the satisfaction of the City, unless sooner terminated as provided herein.

4. SCOPE OF WORK

The Friends of FRAME Pilot Study is anticipated to last six months (from July 2022 through December 2022). During this time Friends of FRAME will:

- Coordinate with Burlington City Arts (BCA) and the Community & Economic Development Office (CEDO) to plan and provide a minimum of 5 activation events at The FRAME (including a ribbon cutting event);
- Develop and operate a website for The FRAME;
- Establish and operate social media accounts for The FRAME;
- Work in consultation with the BCA Development team and Parks Foundation on fundraising for ongoing financial support for Friends of FRAME and programming and activation of the site;
- In consultation with CEDO, support the development of Phase 2 conceptual design scope and development of materials;
- Work with Parks Foundation on Capital Fundraising Campaign for the second phase of FRAME design and construction.

5. PAYMENT FOR SERVICES

A. Amount. The City shall pay the Contractor for completion of the Work as follows:

Friends of FRAME administration, Website Development & Communications	\$18,000
Activation/Events/Infrastructure	<u>\$31,500</u>
	\$49,500

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

In addition to this contract, the City will budget \$5,000 to Burlington City Arts for support of these efforts and \$5,000 toward a holiday lights/Highlight collaboration at the Frame.

B. Payment Schedule. The City shall pay the Contractor in the manner and at such times as set forth in the Contract Documents or as follows:

Six (6) monthly payments of \$3,000 for Friends of FRAME administration with invoice backup of completed tasks and administrative reimbursables.

Payments for activation, events and infrastructure costs will be paid upon receipt invoice or upon the receipt of a cost proposal for each event (with invoice backup).

C. The City seeks to make payment within thirty days of receipt of an invoice and any backup documentation requested under subsection E (Invoice) below.

D. Maximum Limiting Amount. The total amount that may be paid to the Contractor for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$49,500. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval.

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

Samantha Dunn
 Community & Economic Development Office
 Room 32, City Hall, 149 Church Street
 Burlington, VT 05401
 (802) 865 – 7000
sdunn@burlingtonvt.gov

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

- D. Additional Monies Raised.** Monies fundraised by Friends of FRAME during the pilot period and as proscribed by the scope of work of this agreement will be split 50/50 between the Parties with half attributed to the City for additional investment in activations at the FRAME and half going to Friends of Frame to support further development of the entity. All funds raised will be properly documented under acceptable accounting principles and any and all documentation of such fundraising shall be made available to the City by the Friends of Frame upon request.

6. SECTION & ATTACHMENT HEADINGS

The article and attachment headings throughout this Contract are for the convenience of City and Contractor and are not intended nor shall they be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

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

The following documents constitute the Contract Documents:

Attachment A: Friends of FRAME Letter of Intent dated February 28, 2022

Attachment B: Burlington Standard Contract Conditions for Contractors

Attachment C: Burlington Livable Wage Ordinance Certification

Attachment D: Burlington Union Deterrence Ordinance Certification

Attachment E: Contractor's Certificate of Insurance

- B. Order of Precedent.** To the extent a conflict or inconsistency exists between the Contract Documents, or provisions therein, then the Contract take precedent. Any Invitation for Bids, Additional Contract Provisions, and the City Ordinance Certifications shall prevail over any inconsistency with the Contractor's Scope of Work and Cost Proposal.

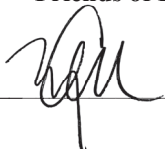
8. [Reserved]

— Signatures follow on the next page —

SIGNATURE

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

Contractor
Friends of Frame, L3C

By:  _____

Date: 7/11/2022

City of Burlington
Community & Economic Development Office

By: _____
DocuSigned by:
Brian T. Pine
00EEBA06894F413...
Brian Pine
Director

Date: 7/11/2022

Attachment A:
Friends of FRAME Letter of Intent

NON-BINDING LETTER OF INTENT

To: Friends of FRAME, L3C

From: City of Burlington

Date: February 28, 2022

Re: Friends of FRAME and FRAME Project

This non-binding letter of intent sets forth the preliminary agreement and understanding as to the essential terms of a potential relationship between the City of Burlington (the "City") and Friends of FRAME, L3C ("Friends") regarding the potential Project (as defined below).

The parties intend that this Letter of Intent ("LOI") not be binding. The exact structure of, and instrument to formalize, the Project and relationship between the City and Friends has yet to be determined by the parties.

BACKGROUND:

WHEREAS, the City owns certain lands on the Burlington waterfront and holds such lands in the public trust (the "Waterfront Parcel"); and

WHEREAS, situated on the Waterfront Parcel is the metal FRAME structure (hereinafter, the "FRAME") which was constructed between 2020-2021 as an adaptive reuse of the former Moran Generating Plant; and

WHEREAS, Friends is organized to support and advance the community offerings and other activities to be conducted on or near the FRAME in whatever way is deemed appropriate, including, but not limited to, facilitating programming, soliciting donations for special projects and promoting the FRAME; and

WHEREAS, Friends has submitted to the City a concept proposal for a project concerning the ongoing management, operations, and funding of the FRAME (hereinafter "the Project"); and

WHEREAS, following the City's initial expression of interest in the Project, Friends has worked diligently to initiate collaborative working relationships with City agencies such as CEDO, BPRW, and BCA, while also engaging with The Parks Foundation of Burlington to initiate a charitable fundraising partnership that would support space activations, temporary and permanent installations, events, and future phases of development at the FRAME, as well as the operational costs of Friends; and

WHEREAS, the parties agree that it is in their respective best interests to execute this LOI to outline their shared understanding of the criteria, deliverables and timeline for both parties to evaluate the feasibility of the Project and take measured responsible steps towards drafting and/or entering into a binding contractual agreement regarding the Project and the relationship between the parties (hereafter, an "Agreement");

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

A. TERMS:

1. Due Diligence Phase

- a. During the due diligence phase, the parties shall work together to explore a mutually beneficial relationship and provide information to one another which is pertinent to the parties' consideration of the Project (the "Due Diligence Phase").
- b. During the Due Diligence Phase, Friends will provide the City with the following items no later than 45 days from the date on which the parties execute this LOI:
 - (i) A draft budget for Friends for 2022-2023;
 - (ii) A draft of possible terms outlining the roles and responsibilities, resource commitments, decision making processes, and other logistical parameters of the "collaborative network" which includes, without limitation, BPRW, CEDO, and BCA; and
 - (iii) A list of potential Project donors with donor names redacted and a lump sum value of the (non-binding) committed funds up until such date.
- c. The parties will make reasonable efforts to decide whether to proceed to the Agreement Drafting Phase (as defined below) by no later than April 15, 2022.

2. Agreement Drafting Phase

- a. Should the parties choose to proceed beyond the Due Diligence Phase, they shall work collaboratively on the agreement drafting phase to draft a written, binding agreement with respect to the Project that will commit to writing the business, legal, and financial terms as well as the respective roles and responsibilities of each party, including individual City agencies such as BPRW, CEDO, and BCA (the "Agreement Drafting Phase"). The City shall prepare and present to Friends an Agreement targeted to be approved by City Council not later than April 30, 2022.
- b. Items to be addressed by the Agreement shall include, but will not be limited to, the following:

- Definition of Friends' roles and responsibilities;
- Definition of City (including specific City agency) roles and responsibilities;
- Definition of decision making processes and final decision makers;
- City funding obligations and conditions;
- Friends debt service obligations and conditions; and
- Funding model (fiscal sponsorship arrangement), timetable, milestones, and deadlines.

3. Confidentiality. During the Due Diligence Phase the parties will exchange information about their respective businesses (the "Due Diligence Information"). The parties will use the Due Diligence Information solely for the purpose of the due diligence investigation of the Project, and unless and until the parties consummate the Agreement, the parties, their affiliates, directors, officers, employees, advisors and agents (the "Representatives") will keep the Due Diligence Information strictly confidential to the extent legally permissible. The parties will disclose the Due Diligence Information only to those Representatives who need to know such information for the purpose of drafting and/or consummating the Agreement. The parties agree to be responsible for any breach of this section by any of their Representatives. In the event the Agreement is not consummated, the parties will each promptly return to the other party any materials containing Due Diligence Information or will certify in writing that all such materials or copies of such materials have been destroyed, except for one copy of the Due Diligence Information that may be retained by the parties' respective legal representatives. The existence and terms of this LOI and related discussions and documents are also subject to this section. The provisions of this section shall survive termination of this LOI.

4. Force Majeure. Neither the City nor Friends shall be deemed in violation of this LOI if it is prevented from performing any obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority, pandemics or epidemics (including the promulgation of, following the execution of this LOI, federal, state, or local governmental regulations, orders, or advisements with respect to COVID-19), severe weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not under its control, and the party experiencing force majeure gives written notice to the other party identifying the nature of such force majeure and when it began.

5. Notice. Any notice or other communication from any party to the other pursuant to this LOI shall be deemed sufficiently given or communicated if sent by email, where no delivery failure is received by the sender, or first class mail, postage pre-paid and addressed, to:

For City:

Miro Weinberger, Mayor
City of Burlington
City Hall
149 Church Street

Burlington, VT 05401
mayor@burlingtonvt.gov

For Friends:

Zachary Campbell, Manager
Friends of FRAME, L3C
103 Gravelle Road
Milton, VT 05468
zach.campbell89@gmail.com

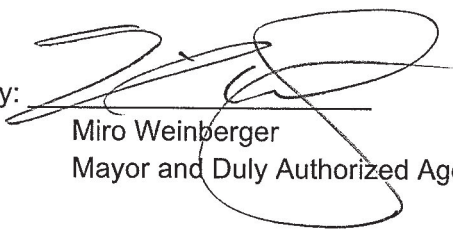
6. **Assignment.** This LOI represents the parties' entire intent with respect to the matters specified herein and may not be assigned by any party without the other party's prior written consent.
7. **Governing Law and Venue.** This LOI shall be governed by and construed under and in accordance with the laws of the State of Vermont without regard to conflicts of law principles. Venue for any actions arising under this agreement shall be the federal and/or state courts located in Burlington, Vermont. Any provision of the LOI which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.
8. **Counterparts.** This LOI may be signed in two or more counterparts (which may be exchanged by the parties by facsimile or by PDF via electronic mail with the same legal effect as if exchanged manually), any one of which need not contain the signature of more than one party, but all such counterparts taken together will constitute one and the same agreement.
9. **LOI Superseded by Agreement; Termination.** This LOI shall, where the parties elect to consummate a binding Agreement (as defined above), be superseded in its entirety by the execution of such Agreement which accords with the binding provisions (and any non-binding provisions upon which the parties may agree) set forth within this LOI. This LOI, in the absence of the consummation of such an Agreement, may be terminated by either party, for any reason, at any time with written notice to the other.

Upon receipt of a fully executed copy of this LOI, the City shall promptly undertake to work with Friends to proceed towards the Agreement Drafting Phase and collaboratively produce an initial draft of the Agreement.

This LOI is executed by the parties and their duly authorized representatives as of the dates set forth below.

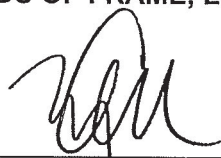
THE CITY OF BURLINGTON

Dated: 3/10/22

By: 
Miro Weinberger
Mayor and Duly Authorized Agent

FRIENDS OF FRAME, L3C

Dated: 2/28/2022

By: 
Zachary Campbell
Manager and Duly Authorized Agent

FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE FRIENDS OF FRAME, L3C AND THE CITY OF BURLINGTON REGARDING FRIENDS OF FRAME PILOT STUDY

A FIRST amendment to the Agreement between Friends of Frame, L3C and The City of Burlington regarding the Friends of Frame Pilot Study (the “First Amendment”) is made and entered into as of the 20th day of January, 2023, by and between the City of Burlington, a Vermont municipal corporation (“City”), and the Friends of Frame, L3C (Contractor) (collectively, “the parties”).

Background

- A. The parties entered into that certain agreement, dated as of July 11, 2022 (the “Agreement”) in order to pilot the Friends of FRAME concept to build a foundation of relationships, sponsors and programming experience at the FRAME.
- B. The parties agreed to a six month pilot study in which Friends of Frame would develop relationships with BPRW, BCA, Parks Foundation potential funders/members, develop a website and provide activations events at the FRAME.
- C. The parties desire to enter into this First Amendment in order to:
 - 1) Extend the time period of the contract.

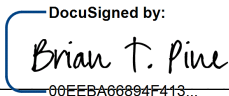
NOW THEREFORE, in consideration of the Background described above and other good and valuable consideration, IT IS AGREED by and between the City and Friends of Frame, L3C as follows:

- 1. In Section 3B (Term) paragraph 1 the original text shall be revised as follows, with deletions indicated by strikethroughs and additions indicated by underlines:

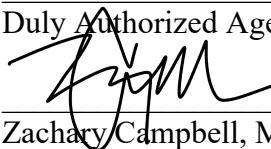
This Contract and the Parties’ respective performance shall commence on the Effective Date and expire on ~~January 30, 2023~~ December 31, 2023 or upon the satisfaction of the City, unless sooner terminated as provided herein.
- 2. Except as specifically amended by the terms of this first Amendment, the Agreement remains in full force and effect. Unless specifically defined in this first Amendment, all terms shall have the meanings contained in the Agreement.

IN WITNESS WHEREOF, this first Amendment is executed as of the day and date first above written.

CITY OF BURLINGTON, VERMONT

By: 
00EEBA00094F413...
Brian Pine, Director
Community & Economic Development Office
Duly Authorized Agent

Friends of Frame, L3C

By: _____
Duly Authorized Agent

Zachary Campbell, Manager

Board of Finance and City Council Submission ChecklistDepartment: Parks, Recreation and Waterfront Submitter: Sophie SauvéTitle/Subject: Oakledge Universally Accessible Playground Project Construction – Contract Amendment

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☐	City Council	Click or tap to enter a date.
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/17/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/17/2023	Click or tap here to enter text.
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/19/2023	Kyle Clauss
CAO has reviewed budget, financing, and memo	Yes	4/17/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	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	Choose an item.	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	Click or tap here to enter text.



MEMORANDUM

Date: April 24 2023
To: Board of Finance

From: Kim Carson, Director of Racial Equity, Inclusion, and Belonging
CC: Katherine Schad, Chief Administrative Officer

Re: **Amendment to Contractual Agreement for Juneteenth 2023**

Request

The Office of Racial Equity, Inclusion, and Belonging (REIB) is seeking approval and authorization to execute an amendment to the current OKAY!!OKAY!! Marketing and Creative contract to produce and manage the Juneteenth 2023 “Embrace & Belonging” Event. This amendment would add vendor and media management responsibilities for \$26,700 in addition to the current contract of \$64,750, making the contract a total of \$91,450.

Background

Due to a recent staff departure, REIB would like to outsource both vendor and media management roles for Juneteenth 2023 the former REIB employee held to OKAY!!OKAY!! Marketing and Creative. These roles will include both media management and vendor management, and below, is the breakdown on how the amendment expands on the current contractual agreement.

This amendment changes the role of OKAY!!OKAY!! from a supportive role to a management role, given the departure of staff members who were responsible for the planning and production of Juneteenth. Key responsibilities in the amendment include:

- Redesigning and managing the Juneteenth website and app so that attendees can find accurate information about the event and schedule.
- Lead the creation and execution of social media strategy.
- Manage and oversee event budget, ensuring that the event stays within the budgeted amounts.
- Manage vendor contracts, including payment to vendors.



Funding:

The amendment would provide REIB with the support to continue our goals of managing our Juneteenth budget and successfully planning our event within our current timeline and staff capacity. Upon approval, the \$26,700 would be allocated from the REIB's FY23 Professional and Consultant Services Line.

Contractor/Bid Selection

This purchase was previously approved as a sole source exception, therefore bid selection was not necessary.

Board of Finance Motions:

To approve and authorize the Director of Racial Equity, Inclusion & Belonging to execute a contractual amendment with OKAY!!OKAY!! Marketing and Creative for additional vendor and media management services in connection with Juneteenth 2023 for an additional \$26,700, for a total authorized expenditure in an amount not to exceed \$91,450, subject to review by the City Attorney's Office.

Board of Finance and City Council Submission Checklist

Department: Racial Equity, Inclusion, & Belonging Submitter: Sydney VanTassel

Title/Subject: Juneteenth Contract Amendment

	Approval:	Meeting Date:
☒	Board of Finance	04/24/2023
☐	City Council	
☐	Concurrent	

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	04/13/23	Department Head approved
Mayor's Office informed and approved memo	Yes	04/20/2023	Jordan Redell
Board/Commission, if required	N/A		
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	04/13/2023	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	04/13/2023	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	No		
CIO, if an IT-related investment/purchase			

Materials Included

	Included?	Note
Final Memo Attached?	Yes	
Contract Attached, if applicable?		
Additional Materials, if necessary		
Draft Resolution or Motion?		
If for submission to Council, are sponsors identified?		

Board of Finance and City Council Submission ChecklistDepartment: CEDO Submitter: Samantha DunnTitle/Subject: Moran Frame Budget Amendment

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/14/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/20/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/20/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/14/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Attachments
Draft Resolution or Motion?	Yes	Within the memo
If for submission to Council, are sponsors identified?	No	Click or tap here to enter text.



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

TO: Board of Finance/City Council
FROM: Brian Pine, CEDO Director
DATE: April 19, 2023
RE: Updating of Tax Increment Financing (TIF) District consulting services contract with White+Burke

This memo is intended to provide information pertaining to the proposed 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 are eligible as related costs under both the Downtown and Waterfront TIF District respectively and authorized by VEPC and the voters for reimbursement with current and future TIF revenues. As is our practice, we typically reimburse our related costs after the close of the fiscal year and make final budget amendments as necessary to reflect the final numbers. The scope for this consultancy is detailed in the attached Scope of Work as attachment A. Overall, the services involve coordinating the City's responsibilities and efforts with respect to both TIF Districts. This includes monitoring and maintaining project progress to ensure all milestones are met, and that the City can fulfill the obligations required by VEPC, the ARDA 2.0 and voter-approved authorizations.

The sheer magnitude of both TIF District projects requires continued dedicated project oversight, i.e., an individual with the experience, knowledge and capacity to provide sustained overall leadership to the project team, interact with the CityPlace developer team, and facilitate progress among the many parties with interests in both TIF Districts. As the CEDO Director, I will remain closely involved in project development and implementation for both District projects, but the duties of CEDO Director require me to focus on making timely progress on numerous key City and departmental goals and objectives.

Attached is a one-page summary of David's four decades of commercial real estate development experience. 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. He previously served as the City's lead consultant on an earlier plan for redeveloping the Moran Plant. White+Burke is also providing real estate advisory services to the Burlington School District relative to the new Burlington High School.

Requests:

Board of Finance:

To approve and recommend that the City Council approve and authorize the Director of the Community & Economic Development Office to execute a contract with White+Burke Real Estate Advisors with retroactive approval from January 1, 2023 to December 31, 2023, for TIF consulting in the Waterfront and Downtown TIF districts with a maximum limiting amount of \$120,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office.

City Council:

To approve and authorize the Director of the Community & Economic Development Office to execute a contract with White+Burke Real Estate Advisors with retroactive approval from January 1, 2023 to December 31, 2023, for TIF consulting in the Waterfront and Downtown TIF districts with a maximum limiting amount of \$120,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office.

Any contract extensions will be subject to Board of Finance and City Council review and approval.

ATTACHMENT A

Scope of Services

January 1, 2023 – December 31, 2023

D) Waterfront TIF District

1. In coordination with the Mayor, City Council, and legal counsel, coordinate the implementation of the Amended and Restated Development Agreement (ARDA 2.0) in such a manner to ensure compliance and to advance and protect the City's best interests.
2. Coordinate with city leadership to preserve and maximize potential TIF revenues from redevelopment of the project site, including reporting to VEPC as needed.
 - a. Coordinate with related City TIF initiatives.
3. Assist with exploration of alternate sources of funding for public improvements.
4. Prepare for and lead regular coordination meetings with DPW and CEDO leadership regarding design, construction, and financing of Public Improvements (PI) and Additional Public Improvements.
5. Regular one-on-one meetings/calls with the developer regarding implementation of the ARDA 2.0, as well as to monitor project progress, flag and review issues of concern, and to coordinate communications.
6. Provide detailed project updates to the CEDO Director and the Mayor as needed in response to key issues.
7. Meet with and provide project updates to other audiences and interest groups as the City may direct, including but not limited to City Council, individual councilors, and members of the media.
8. Coordinate with CEDO to monitor and forecast the project schedule (regarding City responsibilities).
9. Lead the effort to negotiate, close the acquisition of, and obtain any required permits for third-party rights of adjoining landowners associated with establishing the St. Paul Street and Pine Street rights of way.
10. Prepare materials as may be needed for substantial change submissions to VEPC; and represent the City, along with designated City staff, in discussions and meetings with VEPC staff and the VEPC Board regarding these submissions.
11. Prepare, monitor, and coordinate financial and other reporting and forecasting regarding the Waterfront TIF budget and the City's commitments,.
12. Coordinate with the CAO or designee on project financing.

13. Negotiating with the developer for support (financial and other) to mitigate the impacts of schedule delays, as well as the impacts of construction once re-started.
14. In consultation with City staff, coordinate with the City Attorney and the City's outside counsel regarding compliance with the Development Agreement.
15. Such other tasks and services as may be required by events and circumstances or as directed by the City.

II) Downtown TIF District

1. Analyze background of previous filings and substantial change requests to and decisions by VEPC regarding the Downtown TIF district, in particular related to the Champlain College development agreement.
2. Prepare application materials, including financial projections, for substantial change submissions to VEPC; and represent the City alongside designated City staff, in discussions and meetings with the VEPC Board regarding these submissions
3. In consultation with City staff, coordinate with the City Attorney and outside counsel regarding legal issues related to the Downtown TIF district.
4. Coordinate with City Administration, DPW staff, and CEDO staff on matters related to VEPC substantial change submissions for the Downtown TIF district.
5. As directed by the City, prepare for and meet with the City Council and Board of Finance, and participate in public hearings related to VEPC substantial change submissions for the Downtown TIF district.
6. Such other tasks and services related to the Downtown TIF district as may be required by events and circumstances or as directed by the City.



David G. White

David is founder and president of White + Burke Real Estate Advisors which is Vermont's foremost firm working on public-private partnerships to foster economic development. Among countless other achievements, White + Burke has set up seven of the last eight Tax Increment Financing (TIF) districts in Vermont.

David's career in economic development started over 40 years ago as the founding Executive Director of a non-profit downtown revitalization organization in Montpelier. He went on to earn a master's degree in Community Economic Development, and to take a stint as Director of Community Development for the City of Montpelier. He was a founding board member of the Vermont Community Loan Fund.

In addition to his master's degree, David has extensive training and certifications in real estate and business finance. He is certified by the National Development Council as an Economic Development Finance Professional. He earned the CCIM designation, which is commercial real estate's most coveted credential, representing proven expertise in investment analysis.

4/20/23

Board of Finance and City Council Submission ChecklistDepartment: CEDO Submitter: Brian PineTitle/Subject: Updating TIF District Consulting services contract with White+Burke

	Approval:	Meeting Date:
☒	Board of Finance	4/24/2023
☒	City Council	5/1/2023
☐	Concurrent	Click or tap to enter a date.

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

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	4/20/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	4/21/2023	Click or tap here to enter text.
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	4/20/2023	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	4/21/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	4/21/2023	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	No	SOW attached but final contract pending
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	Click or tap here to enter text.

Resolution Relating to

AUTHORIZATION FOR PUBLIC IMPROVEMENT BONDS
OR NOTES FOR THE CITY’S WATERFRONT TIF
DISTRICT

RESOLUTION_____

Sponsor(s): Bd. of Finance
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three

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

That WHEREAS, on January 22, 1996, the City Council created the Waterfront Tax Increment Finance (TIF) District along the central and northern end of the Burlington waterfront; and

WHEREAS, in June of 1997, the City Council authorized an expansion of the Waterfront TIF District to include property extending along the south side of Cherry Street from Battery Street to Church Street, utilizing a special TIF grandfathering provision of Act 60 (1997); and

WHEREAS, on May 25, 2016, the Vermont legislature authorized the City to extend by ten years the debt retention period within the Waterfront TIF District for the properties which together comprise the Burlington Town Center property (the “Property”), in accordance with a request from the City for purposes of enabling redevelopment of the Property; and

WHEREAS, at a special meeting of the City held on November 8, 2016 the voters authorized the City Council to pledge the credit of the City to secure the repayment of indebtedness or make direct payments for the purpose of funding one or more public improvements and related costs attributable to projects serving the Waterfront TIF District, including Pine Street Acquisition, Construction and Streetscape Improvements, St. Paul Street Acquisition, Construction and Streetscape Improvements, Cherry Street Streetscape Upgrades, Bank Street Streetscape Upgrades, and including reimbursement for TIF eligible related costs incurred by the City for the administration of the Waterfront TIF District, in a total principal amount not to exceed \$21,830,000.00, and to issue bonds, notes or make inter-fund loans for such purpose (together, the “Projects”); and

WHEREAS, several City residents challenged the results of the November 2016 special election, alleging that the City did not comply with certain technical and procedural requirements related to the public notice process; and

WHEREAS, the Vermont Superior Court found inconsistencies in the rules for public notices and held that the technical and procedural errors raised by the plaintiffs fell short of the threshold required to justify the extreme remedy of election invalidation; and

Resolution Relating to AUTHORIZATION FOR PUBLIC IMPROVEMENT BONDS OR NOTES
FOR THE CITY'S WATERFRONT TIF DISTRICT

WHEREAS, Act 134 (2016) passed by the Vermont legislature, effective in 2016 extended the time period by which the City could incur indebtedness against revenues of the Waterfront TIF District for the three properties located within the Waterfront TIF District at 49 Cherry Street and 75 Cherry Street (together, the "Parcels") to June 30, 2021 and extended the period in which the City could retain the municipal and education tax increment for the Parcels to June 30, 2035;

WHEREAS, in accordance with a request from the City, effective July 1, 2021, Act 73 (2021) of the Vermont legislature further extended the time period by which the City could incur indebtedness against revenues of the Waterfront TIF District for the three Parcels to June 30, 2023; provided, that, such extension is subject to the City's submission to the Vermont Economic Progress Council ("VEPC") of an executed construction contract with a completion guarantee by the owner of the Parcels evidencing commitment to construct not less than \$50 million of private development on the Parcels; and

WHEREAS, the City submitted a substantial change request to VEPC on February 2, 2023, providing the required executed construction contract and completion guarantee to VEPC and requesting formal authorization to incur the remainder of the authorized indebtedness under the Waterfront TIF District, which substantial change request was granted by VEPC on March 30, 2023; and

WHEREAS, the City previously issued \$801,000 of its General Obligation Waterfront Tax Increment Bonds, Series 2019B for the Projects and has previously spent \$619,000 in related costs attributable to the Projects; and

WHEREAS, the City is currently waiting on the determination of certain pending grant applications and the finalization of additional development plans for the Parcels, which may provide additional tax increment; and

WHEREAS, in order to limit the overall total debt to be incurred for the Projects and to provide an opportunity for a reduction in risk to the taxpayers if the City receives such pending grants and depending on the results of such additional development plans, the City is currently exploring the possibility of issuing one or more notes that may be subject to early redemption and prepayment at the City's option; and

WHEREAS, Section 801 of the Tax Increment Financing Districts rule adopted by VEPC permits the refinancing of existing TIF district debt in order to take advantage of improved rates or terms without the need for public vote or prior notification of VEPC; and

Resolution Relating to AUTHORIZATION FOR PUBLIC IMPROVEMENT BONDS OR NOTES
FOR THE CITY'S WATERFRONT TIF DISTRICT

53 WHEREAS, in connection with the City's submission of its substantial change request, the City
54 notified VEPC of its intention to issue one or more redeemable short-term notes in order to have the
55 opportunity to minimize the eventual indebtedness of the Waterfront TIF District; and

56 WHEREAS, the City is soliciting proposals from underwriting firms and financial institutions to sell,
57 in a negotiated or competitive sale, bonds or notes to finance the public improvements that serve the
58 Waterfront TIF District; and

59 WHEREAS, the City Council wishes to authorize the City's Chief Administrative Officer and Director
60 of Financial Operations to approve the final terms of such general obligation tax increment financing bonds or
61 notes without the requirement for prior approval by the City's Board of Finance so long as the true interest
62 cost of such bonds does not exceed five and one-half percent (5.50%) per annum, and to authorize the City's
63 Board of Finance to approve the final terms of such bonds in the event the true interest cost of such bonds
64 exceeds five and one-half percent (5.50%) per annum.

65 NOW, THEREFORE, BE IT RESOLVED that the City Council has determined that it is necessary to
66 pledge the credit of the City in an amount not to exceed \$18,840,000 in the aggregate and to issue bonds or
67 notes, including one or more notes that may be subject to early redemption and prepayment, in connection
68 therewith (the "Obligations") to finance the public improvements and related costs attributable to the Projects
69 within the Waterfront TIF District;

70 BE IT FURTHER RESOLVED, that the Obligations may be sold in a private placement, public
71 offering, competitive sale, or negotiated sale with one or more underwriters or underwriting firms, or to the
72 Vermont Municipal Bond Bank (the "Bond Bank") and the City may enter into a bond purchase agreement or
73 loan agreement with the lender, underwriter, or Bond Bank, as the case may be, for such purpose;

74 BE IT FURTHER RESOLVED that the pledging of the City's credit for such Obligations is hereby
75 authorized, with the amount, the term, and the form of the evidence of indebtedness to be issued, the interest
76 rates, and payment schedule, to be further determined by the Chief Administrative Officer or the Director of
77 Financial Operations; provided that the true interest cost for the Obligations as determined by the Chief
78 Administrative Officer, shall not exceed five and one-half percent (5.50%) per annum;

79 BE IT FURTHER RESOLVED that in the event that the true interest cost of the Obligations would
80 exceed five and one-half percent (5.50%) per annum, the prior approval of the City's Board of Finance shall
81 be required;

**Resolution Relating to AUTHORIZATION FOR PUBLIC IMPROVEMENT BONDS OR NOTES
FOR THE CITY'S WATERFRONT TIF DISTRICT**

82 BE IT FURTHER RESOLVED that the Obligations, when issued and delivered, shall be valid and
83 binding general obligations of the City payable according to the terms and tenor thereof from tax increments
84 from properties within the Waterfront TIF District, which tax increments may be pledged to the payment of
85 such Obligations;

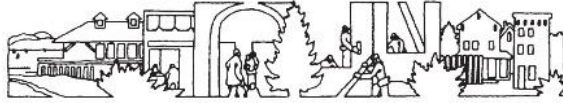
86 BE IT FURTHER RESOLVED that the full faith and credit of the City shall be pledged to payment of
87 the Obligations in the event that the tax increments from properties within the Waterfront TIF District are not
88 sufficient to pay the principal and interest on the Obligations;

89 BE IT FURTHER RESOLVED that the Mayor, the Chief Administrative Officer, and the Director of
90 Financial Operations are, and each one of them is, hereby authorized and directed to prepare one or more
91 Official Statements of the City as they deem necessary in the City's best interest. The Mayor, the Chief
92 Administrative Officer, and the Director of Financial Operations are, and each one of them is, hereby
93 authorized to execute and deliver one or more final Official Statements and to execute and deliver such
94 agreements, including one or more bond purchase agreement with the underwriter or underwriters for the
95 Obligations or a loan agreement with the Bond Bank, continuing disclosure certificates, certificates as to use
96 of proceeds and all other documents, agreements and instruments necessary or convenient in connection with
97 the issuance of the Obligations;

98 BE IT FURTHER RESOLVED that, if in the opinion of the Chief Administrative Officer and/or the
99 Director of Financial Operations, it is desirable and in the City's best interest to obtain bond insurance for the
100 Obligations, the Mayor, the Chief Administrative Officer, and the Director of Financial Operations are, and
101 each one of them is, hereby authorized, to enter into such agreements and instruments with the insurer in order
102 to obtain a bond insurance policy for the Obligations;

103 BE IT FURTHER RESOLVED, that any defect or irregularity in the holding of the November 6, 2016
104 or the public notice issued for such special meeting was the result of oversight, inadvertence or difference of
105 interpretation of applicable law and rules, and all acts and things heretofore done by the officers of the City
106 and its City Council, in, about, or concerning the public notice for such special meeting and the conducting the
107 vote at the meeting held November 6, 2016 are hereby validated and confirmed; and

108 BE IT FURTHER RESOLVED, that, as permitted by statute, the City intends to retain the municipal
109 and education tax increment for the Parcels for the maximum period permitted under applicable law, including
110 as authorized under Act 134 (2016).



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

To: Board of Finance
From: Brian Pine, CEDO Director
David G. White, White + Burke Real Estate Advisors
Date: April 20, 2023
Re: Resolution to authorize borrowing for Waterfront TIF District public improvements associated with CityPlace Burlington

Summary

At its April 24, 2023 meeting, the Board of Finance is asked to approve the attached resolution titled “Authorization for Public Improvement Bonds or Notes for the City’s Waterfront TIF District”. This resolution seeks authorization to borrow up to \$18,840,000 to advance the public infrastructure associated with the CityPlace project, and legally we must incur this debt by June 30. We have received all necessary approvals, including previously from the City Council, the Vermont Economic Progress Council, and the voters.

Background

This memo is intended to bring the Board of Finance and City Council up to date relative to the planned issuance of bonds or notes to help pay for the public improvements associated with CityPlace.

By way of a reminder, before the City is allowed to issue any TIF debt for the public improvements associated with the redevelopment of the property known as CityPlace Burlington, the City was required to provide the VT Economic Progress Council (VEPC) with construction contracts for the private development totaling not less than \$50 million along with a construction completion guarantee. This requirement was imposed by the VT General Assembly (state legislature) in 2016 when they authorized the extension of the Waterfront Tax Increment Financing (TIF) district for the three properties that formerly comprised the Burlington Town Center and LL Bean buildings. As the City shared during the Council appearance and public hearing in January 2023, the City has received a construction contract from City Place Partners for just under \$60 million, and subsequently received the construction completion guarantee from City Place Partners with respect to that contract. The City was also required to obtain a positive determination from VEPC with respect to the financial parameters of the Waterfront TIF District.

On March 30th, 2023, VEPC approved the City’s request to move forward with borrowing up to \$18,840,000 so has now met each of these requirements. The next step is to obtain Board of Finance and City Council authorization to issue this debt prior to the legislatively-mandated deadline of June 30, 2023. Failure to meet this deadline will result in the City losing the opportunity to use TIF financing for this project. The City’s modelling for staying within the limits of our debt policy already included the full amount of borrowing for the Waterfront TIF District.

Finances

The City Council, VEPC, and the voters previously authorized bonding and related costs up to \$21,830,000 for the public improvements associated with CityPlace. Of this, \$21.83 million, \$801,000 of bonds have already been issued, and \$814,380 in Related Costs spent. We also expect \$1,373,758 in future Related Costs between now and FY 2036. This leaves up to \$18,840,000 available for bonding or through project notes. In this case after consultation with bond counsel and our financial advisors the City intends to initially pursue one or more project notes, rather than a bond, for financing. Project notes are short-term debt obligations issued to finance a project past a specified milestone, or to fund multiple small projects on a short-term basis. The advantage of using project notes is that it allows the City to pre-pay any funds that are not needed or that exceed the amount that can be repaid from the tax increment of the TIF District, giving us substantial flexibility as we pursue the RAISE grant and the CityPlace developers finalize their development plans for the private improvements. Once the final amount of debt is determined, the City would refinance the notes and issue long-term tax-exempt bonds to lower the cost of borrowing.

One factor that may reduce the amount of debt that the City will ultimately incur is the decision on a pending “RAISE” grant from the US Department of Transportation (DOT). The DOT RAISE Discretionary Grant Program helps communities build transportation projects that have significant local or regional impact and improve safety and equity. The City’s RAISE grant application requested \$19.5 million to contribute to the capital costs associated with reconnecting Pine St. and St. Paul St. DOT has indicated that decisions on this application are likely to be issued sometime in the month of June. Based on prior experience with RAISE grants, the awards may not be announced until later in the summer. If the City’s application is successful, the amount of funding that must be covered with TIF debt is expected to decrease accordingly.

As part of the City’s submission of its substantial change request, the City notified VEPC of its intention to issue one or more redeemable short-term notes in order to have the opportunity to minimize the eventual indebtedness of the Waterfront TIF District and to minimize risk to the taxpayers. This also included a clear indication that long-term bonds would be used to refinance notes to obtain the most favorable terms. Approval by the Board of Finance and City Council of this approach, represented in the attached resolution, will enable the City to satisfy the June 30, 2023 deadline while exercising fiscal prudence to minimize potential financial risk to taxpayers.