



Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

5:45 pm, Contois Auditorium OR Remotely via ZOOM:

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

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

1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	1. Agenda
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to amend/adopt agenda as follows: add to the consent agenda item 6.16. Communication: Mark Bouchett, Chair, CSM Commission, re: Church Street Marketplace Commission Public Safety Resolution; add to the consent agenda item 6.17. Communication: Lina Swislocki, Member, Conservation Board, re: Resignation; add to the consent agenda item 6.18. Communication; Connor Wertz, re: 11.17.23 Petition Say No to Dirty Energy; add to the consent agenda item 6.19. Communication: Nicholas Persampieri, re: McNeil District Energy - Report; add to the consent agenda item 6.20. Communication: Nicholas Persampieri, re: November 20, 2023 City Council Meeting Agenda Item No. 7.6 - McNeil District Energy Resolution; add to the consent agenda item 6.21. Communication: Dan Quinlan, re: Letter to the City Council; add to the consent agenda item 6.22. Communication: Ashley Adams, re: Thermal Energy Ordinance and "District" Energy System votes tonight; add to the consent agenda item 6.23. Communication: Gary Scott, Interim Network SVP Facilities Planning and Design, UVM Health Network Corporate Leadership, re: Carbon Fee Ordinance; add to the consent agenda item 6.24. Communication: Luce R. Hillman, P.E., Executive Director of Facilities Management, The University of Vermont, re: Carbon Impact Fee Ordinance; add to the consent agenda item 6.25. Communication: Solveig Overby, re: Support for McNeil waste heat recovery project to get UHC off gas as it transition to non-combustion power production; add to the consent agenda item 6.26. Communication: Michael Long, re: BED Pipeline Project

2. Community Sailing Center Update (verbal) *5:45 pm - 6:00 pm *

Subject	2.1. Community Sailing Center Update (verbal)(15 mins.)
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	2. Community Sailing Center Update (verbal) *5:45 pm - 6:00 pm *
Department	Clerk/Treasurer's Office
Type	Information Presentation

3. Public Forum: Time Certain: 6:30 pm **See above for signup instructions**

Subject	3.1. Verbal Comments
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	3. Public Forum: Time Certain: 6:30 pm **See above for signup instructions**
Department	Council and Board
Type	Action Procedural

4. Public Health and Safety Emergency Updates (5 - 10 mins.)

Subject	4.1. Verbal reports
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	4. Public Health and Safety Emergency Updates (5 - 10 mins.)
Department	Council and Board
Type	Information

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

Subject	5.1. Verbal reports
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	5. Climate Emergency Reports (5 - 10 mins.)
Department	Council and Board
Type	Information

6. Consent Agenda

Subject	6.1. Motion to adopt the consent agenda (as amended) and take the actions indicated
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

Category	6. Consent Agenda
Department	Council and Board
Type	Action (Consent) Procedural
Recommended Action	Motion to adopt the consent agenda (as amended) and take the actions indicated
Subject	6.2. Communication: C/T Office, re: Accountability List
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading, accept the communication and place it on file
Subject	6.3. Approval of budget amendment for contract to prepare for FY23 audit - C/T
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent)
Recommended Action	to approve and authorize the Chief Administrative Officer to execute a first contract amendment in the amount of \$50,000 and to extend the maximum limiting amount of the contract to \$100,000 with Berry Dunn for accounting services, upon the review and approval of the City Attorney's Office
Subject	6.4. Communication: Kelly Devine, BBA, Executive Director, re: \$100,000 Investment in support of downtown businesses
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	6.5. Communication: Scott Miller, re: So sad for Burlington

Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	6.6. Downtown Vibrancy Grant - BWD
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Business and Workforce Development
Type	Action (Consent)
Recommended Action	to authorize the Director of Business & Workforce Development to enter into an agreement with the State of Vermont, subject to final review from the City Attorney's Office, to accept a grant award of \$25,000 in fiscal year 2024 as part of the State of Vermont's non-competitive Downtown Vibrancy Fund
Subject	6.7. Amendment to Tax Increment Financing (TIF) District consulting services contract with White+Burke - CEDO
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Community & Economic Development Office (CEDO)
Type	Action (Consent)
Recommended Action	1. To approve and authorize the Director of the Community & Economic Development Office to execute the proposed contract amendment with White+Burke Real Estate Advisors for TIF consulting services regarding the Waterfront and Downtown TIF districts with a maximum limiting amount of \$140,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office. 2. To approve and authorize the Chief Administrative Officer to make any and all necessary project budget amendments associated with the Waterfront TIF Related Cost Professional and Consultant project budget, up to a maximum amount of \$95,000.00.
Subject	6.8. Authorization for Contract with Avenu Insights and analytics for Digitization of Land Records and Budget Amendment - C/T
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent)
Recommended Action	to approve and authorize the Chief Administrative Officer, or their designee, to affect the necessary budget amendment to designate \$87,474.00 from the Preservation/Restoration fund (GL 110-04-000.4200) account line to be used for Professional and Consultant Services (account line 110-04-000.6500_118)
Subject	6.9. B.E.D.'s Property Boiler and Machinery (B&M) 2023-2024 Insurance renewal - BED
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Burlington Electric Department
Type	Action (Consent)
Recommended Action	to authorize the General Manager of the Burlington Electric Department to execute the Property, Boiler & Machinery insurance coverage renewal contract with AIG/ZURICH/STARR TECH/AEGIS for the policy period 11/20/2023 through 11/20/2024 with a not to exceed premium of \$778,683.70 , as outlined in this memo, subject to review and approval of the City Attorney's Office and the Board of Finance
Subject	6.10. Approval to enter into a contract with Cargill, Inc. for FY24 road salt procurement - DPW
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Public Works Department
Type	Action (Consent)
Recommended Action	to authorize the Director of Public Works to enter into a contract with Cargill to supply the City of Burlington with rock salt for winter maintenance of roads and sidewalks at a unit price of \$88.00/ton, for an amount not to exceed \$285,000 plus \$43,000 in contingency for Fiscal Year 2024, which will come from the Public Works Reserve in the assigned fund balance, for a total authorized expenditure of \$328,000, subject to review and approval of the City Attorney's Office
Subject	6.11. Railyard Enterprise Project - Stantec Design Contract Amendment 4 - DPW
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Public Works Department

Type	Action (Consent)
Recommended Action	to authorize the Director of the Department of Public Works to execute a contract amendment with Stantec Consulting Services, Inc. for continued and additional engineering design services for the Railyard Enterprise project increasing the contract amount by \$966,758 with an additional \$193,352 (20% contingency), totaling \$2,661,310 subject to the review and approval by the City Attorney's Office
Subject	6.12. Communication: Nicholas Persampieri, re: Thermal Energy System Ordinance
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	6.13. 44 Shelburne Street Parking Lot - Encumbrance Permit Application - DPW
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Public Works Department
Type	Action (Consent)
Recommended Action	to approve the Encumbrance Application for Burlington Property Management requesting use of the public right-of-way for a private parking lot as detailed in Attachment C, and authorize the Mayor to enter into a license agreement with the Applicant for use of the portion of the right-of-way outlined in the Application, subject to review by the City Attorney's Office
Subject	6.14. FIO Documents
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	for information only
Subject	6.15. Resolution: Designation Of Polling Places For City Elections (Councilor Paul)

Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Resolution
Recommended Action	waive the reading and adopt the resolution
Subject	6.16. Communication: Mark Bouchett, Chair, CSM Commission, re: Church Street Marketplace Commission Public Safety Resolution
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading and place the communication on file
Subject	6.17. Communication: Lina Swislocki, Member, Conservation Board, re; Resignation
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Communication Information
Recommended Action	waive the reading, accept the communication, place it on file, advertise the vacancy in Seven Days and send a letter of appreciation to Lina Swislocki thanking her for her time served as a Member of the Conservation Board
Subject	6.18. Communication: Connor Wertz, re: 11.17.23 Petition Say No to Dirty Energy
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication

Information

Recommended Action waive the reading and place the communication on file

Subject **6.19. Communication: Nicholas Persampieri, re: McNeil District Energy - Report**

Meeting November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 6. Consent Agenda

Department Clerk/Treasurer's Office

Type Action (Consent)
Communication
Information

Recommended Action waive the reading and place the communication on file

Subject **6.20. Communication: Nicholas Persampieri, re: November 20, 2023 City Council Meeting Agenda Item No. 7.6 - McNeil District Energy Resolution**

Meeting November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 6. Consent Agenda

Department Clerk/Treasurer's Office

Type Action (Consent)
Communication
Information

Recommended Action waive the reading and place the communication on file

Subject **6.21. Communication: Dan Quinlan, re: Letter to the City Council**

Meeting November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 6. Consent Agenda

Department Clerk/Treasurer's Office

Type Action (Consent)
Communication
Information

Recommended Action waive the reading and place the communication on file

Subject **6.22. Communication: Ashley Adams, re: Thermal Energy Ordinance and "District" Energy System votes tonight**

Meeting November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 6. Consent Agenda

Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading and place the communication on file
Subject	6.23. Communication: Gary Scott, Interim Network SVP Facilities Planning and Design, UVM Health Network Corporate Leadership, re: Carbon Fee Ordinance
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading and place the communication on file
Subject	6.24. Communication: Luce R. Hillman, Executive Director of Facilities Management, The University of Vermont, re: Carbon Impact Fee Ordinance
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading and place the communication on file
Subject	6.25. Communication: Solveig Overby, re: Support for McNeil waste heat recovery project to get UHC off gas as transition to non-combustion power production
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading and place the communication on file
Subject	6.26. Communication: Michael Long, re: BED Pipeline Project

Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information
Recommended Action	waive the reading and place the communication on file

7. Deliberative Agenda

Subject	7.1. Tobacco License Application (2023-2024): High Fidelity, 163 Cherry Street
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Deliberative Agenda
Department	Clerk/Treasurer's Office
Type	Action
Recommended Action	approve the 2023-2024 Tobacco License Application for High Fidelity, 163 Cherry Street
Subject	7.2. Burlington Fire Department - Station Alerting (10 mins.)
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Deliberative Agenda
Department	Fire Department
Type	Action
Recommended Action	to approve and authorize the Chief of the Burlington Fire Department to execute a contract with Bryx, Inc. for the installation of a fire station alerting system, with a maximum limiting amount of up to \$430,000.00, which is the contract cost plus a 6.6% contingency, subject to the final review and approval of the City Attorney's Office
Subject	7.3. Memorandum: Ben Traverse and Gene Bergman, Co-Chairs, Joint Committee on Police Oversight, re: Committee Status (20 mins.)
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Deliberative Agenda
Department	Council and Board
Type	Action Communication

Information

Recommended Action	waive the reading, accept the memorandum and place it on file
Subject	7.4. Great Streets Main Street Construction Award and Contract Amendments - DPW (15 mins.)
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	1. To authorize the Director of Public Works to execute Amendment #8 to the design contract, subject to City Attorney review and approval, with Vanasse Hangen Brustlin, Inc. (VHB) in the amount of \$614,811.00, bringing the total contract value up to \$3,160,488.00, and authorize the use of an additional \$61,481.00 in contingency funds to be available to use toward any necessary future contract amendments needed to accomplish the design work herein contemplated,, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$3,221,969.00 for the development of the design of the Great Streets Main Street project. 2. To authorize the Director of Public Works to execute Amendment #1 to the resident engineer contract, subject to City Attorney review and approval, with EIV Technical Services in the amount of \$298,974.00, bringing the total contract value up to \$2,098,974.00, and authorize the use of an additional \$209,897.00 in contingency funds to be available to use toward any necessary future contract amendments needed to accomplish the services detailed herein,, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$2,308,871.00 for resident engineering and outreach consulting services for the Great Streets Main Street project. 3. To authorize the Director of Burlington City Arts to execute contract amendments with the Great Streets Main Street selected Artists from the current total approved amount of \$66,696 to a total authorized Phase I and Phase II project expenditure in the amount of \$474,626, subject to review and approval by the City Attorney's Office, and to further authorize the use of an additional \$25,374 in contingency funds to be available to use toward future amendments for any of the artist contracts, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$500,000.00: a. A contract with Lydia Kern in an amount not to exceed \$90,600 for fabrication of artwork; b. A contract with WOWHAUS in an amount not to exceed \$99,000 for fabrication of artwork; c. A contract with Pixel Patch Creative, LLC in an amount not to exceed \$145,000 for fabrication of artwork; and

- d. A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$140,026 for fabrication of artwork.
4. To authorize the Director of Public Works to execute a Memorandum of Understanding, subject to City Attorney review and approval, with Burlington Electric Department in the amount of \$399,039, for the lighting construction of the Great Streets Main Street project.
5. To authorize the Director of Public Works to execute the following initial construction contract and future necessary contract amendments with S.D. Ireland Brothers Corporation to complete the reduced project scope as described herein for the Great Streets Main Streets project, for a total approved expenditure not to exceed \$25,962,543.26, subject to City Attorney Office review and approval:
- a. an initial construction contract in an amount not to exceed \$21,700,572.20; and,
 - b. any such future contract amendments necessary to carry out the reduced project scope, in additional amounts not to exceed \$2,596,254.83 in contingency funds and \$4,261,971.06 in bond premium funds, totaling \$28,558,798.09 in additional reserve funds, provided that use of the bond premium funds shall be subject to the Vermont Economic Progress Council's (VEPC) review and approval.
6. To authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachments C and D, provided that such budget amendment and transfers of funds as detailed in Attachment D involving bond premium funds shall be subject to VEPC's prior review and approval of the use of such funds.

Subject	7.5. Ordinance: Thermal Energy Systems And The Assessment Of A Carbon Pollution Impact Fee (Ordinance Committee)(30 mins.)
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Deliberative Agenda
Department	Council and Board
Type	Action Ordinance - Second Reading
Recommended Action	2 nd reading, waive the reading and adopt the ordinance as amended by the Ordinance Committee.
Subject	7.6. Resolution: Supporting District Energy And Continued Efficiency Improvement At McNeil Generating Station (Councilors Barlow, Dieng)(30 mins.)
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Deliberative Agenda
Department	Council and Board

Type	Action Resolution
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Recommended Action	waive the reading and adopt the resolution
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8. Committee Reports

Subject	8.1. Verbal reports
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Committee Reports
Department	Council and Board
Type	Information

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

Subject	9.1. Verbal reports
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. City Council - General Affairs (up to 15 mins.)
Department	Council and Board
Type	Information

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

Subject	10.1. Verbal reports
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	10. City Council President - Council Updates (up to 5 mins.)
Department	Council and Board
Type	Information

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

Subject	11.1. Verbal reports
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	11. Mayor - General Affairs (up to 10 mins.)
Department	Council and Board
Type	Information

12. Adjournment

Subject	12.1. Motion to adjourn
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	12. Adjournment
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to adjourn

13. Informational and Non-Discrimination Statements

Subject	13.1. This agenda is available in alternative formats upon request. For more information on access, call Lori Olberg, Licensing, Voting and Records Coordinator (802-865-7136)(TTY 802-865-7142). Persons with disabilities who require assistance or special arrangements to participate are encouraged to contact 802-865-7000 (voice) or 802-865-7142 (TTY) at least 72 hours in advance so that proper arrangements can be made. This meeting will also air on Town Meeting TV the Wednesday after the meeting, starting at 8:00 pm and repeating at 1:00 am and 7:00 am the following day. The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information.
Meeting	November 20, 2023 - Regular City Council Meeting - Monday, November 20, 2023, 5:45 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	13. Informational and Non-Discrimination Statements
Department	Council and Board
Type	Information



community sailing center
lake champlain : burlington vermont

LAKE ACCESS. LIFE LESSONS. FOR ALL.

An Update for City Council

LEADERSHIP

Providing at-risk youth with healthy challenges:

- experiential learning,
- mentoring,
- collaboration and
- goal setting

Proudly funded by:



Lucy Downing Nisbet Foundation



ADAPTIVE WATERSPORTS

2023 Goals:

56 Hours of sailing and racing in Martin 16 Sailboats

140 Hours of sailing in Adapted Sonar Sailboats

Proudly funded by:



FLOATING CLASSROOMS

STEM (science, technology, engineering and math) education

- keelboat sailing
- standards-based curriculum
- experiential learning
- On track to meet the goal of 1,500 students

Proudly funded by:



VT Agency of Natural Resources



DIVERSITY ACCESS INITIATIVE

Breaking down historic and cultural barriers for youth that identify as BIPOC

- 4 weeks of 100% fully paid summer camp
- pathway to employment as instructors
- From 1% to 17% BIPOC participation in 3 years
- 2024 goal is 20%

Proudly funded by:





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SAILING FOR DIVERSITY



A campaign to welcome
everyone to the waterfront.



Sailing Adventure Therapy:

A collaboration with Center on Rural Addiction

Therapeutic Intervention study for individuals currently in active Opiate Recovery Programs

- In partnership with UVM Center on Rural Addiction
- 2024 Pilot (10 participants) and 2025 Demo Study (40 participants)
- Based on 2018 study with Park City Sailing and Univ. of Utah
- Measures quality of life, recovery program completion, and ongoing recreational participation metrics.





community sailing center
lake champlain : burlington vermont

LAKE ACCESS.
LIFE LESSONS.
FOR ALL.

An Update for City Council

THANK YOU

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

	Meeting Date	Type of Document
1	7/12/2021	Resolution: Parks Arts And Culture Committee To Create A Dog Task Force
2	10/18/2021	Resolution: Police Oversight And Accountability Authorities To Police Commission To Alter The Police Disciplinary System
3	2/6/2023	Resolution: Supporting More Public Input On Police Oversight And Accountability Upon Defeat Of The Ballot Initiative On A Community Control Board
4	2/6/2023	Communication re Ward 2/3 NPA Resolution to Name the New Shelburne Street Roundabout After Tony Redington and Ward 2/3 NPA Resolution in Support of Big Heavy World Teen Center Proposal for Memorial Auditorium
5	3/13/2023	Communication re Ward 5 NPA Steering Committee to Name the New Shelburne Street Roundabout after Tony Redington
6	3/13/2023	Resolution: Supporting LGBTQIA+ Community Members and Condemning Transphobia
7	4/17/2023	Communication re Winooski Avenue Corridor Study Implementation Update

8	5/15/2023	Resolution: BTV Solar Eclipse 2024
9	5/15/2023	Resolution: Process For Updating Sheltering on Public Lands Policy Given The Rise in Homelessness And The End Of The Motel Voucher Program
10	6/5/2023	Resolution: Accepting Grant Funding from the Department of Mental Health for the Crisis Response Team and Exploring the Creation of a Burlington CAIP Department
11	7/24/2023	Resolution: The Climate Emergency and the Council Request to Count Vermont Air National Guard GHG Emissions and to Plan to Eliminate VTANG Aviation and Ground GHG Emissions in the Spirit of the City's 2030 Net Zero Goals
12	8/14/2023	Communication: Financial review of Expenditures by REIB in Fiscal Years 2021 and 2022
13	10/10/2023	Communication: Vehicle for Hire Licensing Board, re: Vehicle for Hire Modernization

NOTE: These resolutions relate in part to the work of the Joint Committee (Ordinance and Charter Change) in their work on police

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

CITY COUNCIL ACCOUNTABILITY LIST

t is a record of resolutions, ordinances, communications that have come to the Council and there is an action requested.

16-Nov-23

Action Requested	Updated Next Steps in the Process
report due back to the City Council from the task force	4/29/2022; This timeline was amended to year end 2022; UPDATE as of 1/30/2023: The Task Force will present a report to PACC at its next meeting UPDATE: Task Force will be presenting their report to the Council on March 27, 2023 UPDATE: Final report will come to the Council in June 2023. UPDATE: final report to come in September.
CA office to draft ordinance with language as per the resolution, with the ordinance to be referred to the Ordinance Committee, amendment to FY22 to include legal counsel for the Police Commission, referral to Charter Change to hold meetings with community and stakeholder input on moving disciplinary authority from the Chief of Police to a body independent from BPD that may include the Commission with the possibility of a Charter change for consideration.	**NOTE: This item was never added to this Accountability List in October 2021.** It is being added as of February 10, 2023. Draft ordinance was done by then-CA Richardson in March 2022, presented to the Police Commission in April 2022 and the PC responded with comments to the draft. By May 2022, CA Richardson and other staff left. This draft and PC comments must be followed up on and then referred to the Ordinance Committee. Question on resolved clause lines 103 to 105 to be followed up on. Charter Change Committee was to hold meetings with community and stakeholders with referral of language back to the Council. UPDATE: Draft ordinance was referred to Joint Committee of Ordinance and
upon defeat of the ballot item on Community Control of Police, that proposed Charter language of Control Board, mayor's December 2020 Charter amendment, October 18, 2021 resolution, related ordinance language from City Attorney in April 2022 be referred to Ordinance and Charter Change Committees for review, robust public input on disciplinary authority of Chief, oversight role of the police commission with referral back to full council by June 1, 2023	to discuss joint meetings, stakeholder and robust public input, beginning early April. UPDATE: Meeting dates being determined for late April and into May. UPDATE: first meeting to be held May 4. UPDATE: Metings scheduled in May, Report to come to the Council on June 5. UPDATE: Work to continue to September 2023.
refer the communication to TEUC and CDNR Committees respectively for further review and engagement	TEUC Item was taken up at the March meeting, more information was requested for the next TEUC meeting
refer the communication to TEUC for further review	TEUC Item was taken up at the March meeting, more information was requested for the next TEUC meeting
City Council will work in collaboration with community members and organizations and the City administration to develop a plan for ongoing activities to support and amplify the voices of the LGBTQIA+ community, including days of action, flying pride flags on City property, and organizing a speakers series; City Councils urges Burlington's state legislative delegation to look at current state hate crime statute to look to extend protections for schools and organizations that advocate/support LGBTQ+ (and other minoritized communities) from hate motivated targeted crimes City Council's Ordinance Committee shall, in coordination with the Burlington Police Department and the City Attorney's Office, examine Burlington's graffiti ordinance and consider changes that address continued defacement of public property, and graffiti that spreads hateful and harmful messages.	
refer the communication to TEUC in order to work with the Administration on the plan to monitor and evaluate the changes to the North Winooski Avenue corridor and any proposal to address the transportation and neighborhood needs arising from the evaluation	

the City Council requests that the event planning staff in Burlington City Arts, Business and Workforce Development, and the Burlington Parks, Recreation and Waterfront Department provide regular updates to the City Council Parks, Arts, and Culture Committee regarding planning for this event, including but not limited to, developing a page on the City’s website with visitor data, coordinating with local organizations on events in the area, and city-sponsored events to celebrate the eclipse in collaboration with area schools, scientific organizations, and/or other groups celebrating the arrival of the exclipse. Staff to update the Parks, Arts, and Culture Committee in July or August 2023 and in January 2024 with a full plan for the event.	Referred to PACC with updates to the full Council in September and early 2024
The City Council asks CEDO to provide the CDNR committee with research and community and city staff engagement on best practices and potential pathways to take to improve the status quo on three topics at the CDNR May, June, July 2023 meetings – respectively: 1) The current sheltering on public lands policy 2) Chittenden County sheltering options when shelter capacity has been reached; and, 3) Storage and bathroom access. CDNR committee shall obtain feedback from relevant stakeholders, including the State of Vermont, and report back on the discussion of best practices and potential pathways as well as recommended actions to the City Council on August 14, 2023, Administration and the City Council will work with our state legislative delegation to find additional funding to assist Burlington and other municipalities to find resources to alleviate the full cost of supporting the unhoused on city services; and the City Council requests the Administration convene a meeting of community organizations and City staff responsible for serving unhoused community members to inform a Work Session at the June 5th City Council meeting regarding the City’s response to addressing houselessness.	Work session was held on June 5. UPDATE: research from CEDO is forthcoming and will be discusseed at the September 2023 CDNR meeting.
requests an evaluation be done to explore Burlington CAIP becoming a department of the City , an evaluation be done to review the reporting and supervisory structure needed to support three public safety departments (police, fire and CAIP), that a report come to Public Safety Committee in October 2023, approval for the Chief of Police to accept the Department of Mental Health grant for Burington CARES	Report to come to Public Safety in October 2023
requests that the Vermont Air Force National Guard Adjutant General, beginning for the year 2025, calculate aviation and ground fuel usage at the VTANG base and to annually provide BTV Director and TEUC with a complete record of the calculated aviation and ground greenhouse gas emission; for VTANG to work collaboratively to draft a plan to adopt simulation and augmented reality training to substantially reduce or eliminate GHG with initial meeting on or before 12/31/23 and follow up at TUEC's March 2024 meeting	Initial meeting of the parties by 12/31/2023
Refer the materials posted under this item as supporting documents to the HR Committee to consider the full impact of this report on our City, Tyeastia Green, Casey Ellerby and their families. We further refer these materials to the HR Committee to establish a process for independent evaluation and oversight of the hiring and retention policies and solutions employed by the City of Burlington to combat anti-bipoc and gender based discriminatory practices.	not - specified
referred to TEUC	not - specified

e oversight and accountability.



OFFICE OF THE CLERK/TREASURER City of Burlington

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

Voice (802) 865-7000

To: Board of Finance
City Council

From: Katherine Schad, Chief Administrative Officer

Date: November 13 and 20, 2023

Subject: Approval of budget amendment for contract to prepare for FY23 audit

Background

In May 2023, in the absence of a Director of Finance, and in response to the FY22 audit letter, the City signed an initial contract with Berry Dunn for consulting services to assist the Clerk Treasurers (CT) Office with technical accounting issues, including FY23 audit readiness. The \$50K contract was approved for a sole source due to unique qualifications. Berry Dunn's consultants have previously worked with the City and its auditors allowing for a rapid start-up and ability to work seamlessly together on complex audit issues.

The consultancy has accomplished the following in preparation for the FY23 audit:

- Entered debt reconciliations and corresponding footnotes for the Annual Comprehensive Financial Report (ACFR);
- Completed the Governmental Activities Capital Assets and corresponding footnotes for the ACFR;
- Assist the City with collecting information and completing GASB 87, 94, and 96;
- Finalized pension entries for all full-accrual funds;
- Completed Water Department Beginning Fund Balance journal entries; and
- Reviewed all funds to identify areas that continue to need attention.

Current Situation

In discussion with the City's auditors, they confirm that Berry Dunn's consulting has greatly improved the quality of the City's work to date. In order to satisfy FY23 audit requirements, the CT Office needs additional consulting from Berry Dunn, specifically help with the following items:

- Completing capital assets for both Water Resources and Airport enterprise funds;
- Finalizing fund balance classifications for general fund;
- Reconciling accounts receivable; and
- Making Other Post-Employment Benefits (OPEB) entries.

The CT office proposes modifying the existing contract with Berry Dunn by adding an additional \$50,000 to finalize the tasks needed for the FY23 audit.

Financial Impact

This assignment has been budgeted under the consulting line in the FY24 CT budget.

Motions

Board of Finance Motion:

To approve and recommend the City Council approve and authorize the Chief Administrative Officer to execute a first contract amendment in the amount of \$50,000 and to extend the maximum limiting amount of the contract to \$100,000 with Berry Dunn for accounting services, upon the review and approval of the City Attorney's Office.

City Council Motion:

To approve and authorize the Chief Administrative Officer to execute a first contract amendment in the amount of \$50,000 and to extend the maximum limiting amount of the contract to \$100,000 with Berry Dunn for accounting services, upon the review and approval of the City Attorney's Office



29 Church Street, Suite 3-5
Burlington, Vermont 05401
802-863-1175

Nov 6, 2023

The Burlington Business Association, founded in 1978, is a non-profit, non-political membership organization with over 200 business and non-profit members.

Board of Directors:

Chelsea Condos, Chair
Shireen Hart, Secretary
Donna Austin-Hawley
Michael Casella
Joe Carton
Richard Deane
Peter Dysart
John George Wheeler
Rose Kenary
Lisa Kingsbury
Leslee MacKenzie
Ryan Nick
Jack Wallace

Staff:

Kelly Devine
Executive Director

Colin Hilliard
Deputy Director

Dear Members of the Burlington City Council,

First, we appreciate tonight's proposal to invest \$100,000 in support of downtown businesses. Our downtown businesses, most of whom are locally owned and operated, need your help. The BBA has been speaking to and collecting survey responses from downtown restaurant and retail businesses. Here is what we are hearing:

- ☐ Over 80% report foot traffic is down compared to the same time last year.
- ☐ Over 50% report that their sales are down year-over-year.
- ☐ Half of the respondents have had staff quit in the past year, citing public safety concerns.
- ☐ Over half responded YES to the Question, "Are you considering closing or relocating your business to a location outside downtown Burlington?"

We also heard that businesses downtown are asking for added security resources, especially during the upcoming holiday season. While the top choice for added security is overwhelmingly more police officers; Street Outreach members and downtown ambassadors were also called for.

BBA has managed a downtown ambassador program led by a private/public partnership for the last two holiday seasons. This program has provided services to downtown staff, residents, and visitors like:

- ☐ Safe walk home or escort to your vehicle
- ☐ Additional eyes and ears on the street
- ☐ Direct coordination with BPD, Howard Center, and other service providers
- ☐ Peace of mind to staff that an additional resource is on-call and nearby

Given the current challenges downtown and the growing perception that downtown is unsafe, the **BBA requests that at least 50% of the \$100,000 be dedicated to safety programs for the downtown.** We also ask that a task force of downtown businesses and the BBA be formed to work in collaboration with the city to craft both short and long-term plans to address public safety issues.

While a PR/Marketing campaign would add value, we need to have a good story to tell. Funding in public safety measures would tell our long-time customers and community members that Burlington is working to make our downtown safer.

I appreciate your consideration, and please feel free to contact me if you have any questions.

Sincerely,
Kelly Devine

Lori Olberg

From: City of Burlington Vermont
Sent: Tuesday, November 14, 2023 6:07 AM
To: Lori Olberg
Subject: Form submission from: Contact Us [City Council]

You are receiving this message because you are a designated recipient for: City Council

Received from: Scott miller

Reply to e-mail Address: scottmvt@icloud.com

Subject: So sad for Burlington

Message: Well. There is business closing on church street el gato restaurant. They are going to Essex junction. They site. It becoming a matter of public safety. And seeing how you cut the police force down and knee capped. The chief . I know don't go to Burlington anymore I don't feel safe I have stopped

Submitted on Tuesday, November 14, 2023 - 06:07 from IP address: 2601:19b:c600:cd10:94c5:8507:d7bc:c8c7

Check IP address location: <https://viewdns.info/iplocation/?ip=2601:19b:c600:cd10:94c5:8507:d7bc:c8c7>

Questions about this form? e-mail webmaster@burlingtonvt.gov



To: Burlington Board of Finance
Burlington City Council
From: Kara Alnasrawi, Director of Business & Workforce Development
CC: Katherine Schad, CAO
Hayley McClenahan, Assistant City Attorney
Date: November 8, 2023
Re: Downtown Vibrancy Grant

Background: The State of Vermont's Agency of Commerce and Community Development (ACCD), has recognized downtowns throughout the State for their role in the State's overall economic vitality. The City of Burlington's downtown is a state-designated downtown.

Vibrancy Grant: As of fiscal year 2024 the State of Vermont, through the ACCD, has initiated the Downtown Vibrancy Fund. This fund is a non-competitive grant automatically awarded to all designated downtowns. The purpose of these funds is to support and improve downtown vibrancy and economic sustainability, while also helping downtowns supply the State with important data.

Each recipient will work with the State to decide which of the eligible uses would be most impactful for the funds. The recipient also agrees to several mandatory aspects of the grant including a downtown business & consumer survey and a business and building inventory. The required aspects of the grant will be undertaken by the Office of Business & Workforce Development.

Board of Finance Motion:

To approve and recommend that the City Council authorize the Director of Business & Workforce Development to enter into an agreement with the State of Vermont, subject to final review from the City Attorney's Office, to accept a grant award of \$25,000 in fiscal year 2024 as part of the State of Vermont's non-competitive Downtown Vibrancy Fund.

City Council Motion:

To authorize the Director of Business & Workforce Development to enter into an agreement with the State of Vermont, subject to final review from the City Attorney's Office, to accept a grant award of \$25,000 in fiscal year 2024 as part of the State of Vermont's non-competitive Downtown Vibrancy Fund.

State of Vermont
Department of Housing and Community Development
Deane C. Davis Building – 6th Floor
One National Life Drive
Montpelier, VT 05620-0501

*Agency of Commerce and
Community Development*

[phone] 802-828-3211

October 27, 2023

Kara Alnasrawi
Director, Business & Workforce Development
City of Burlington
131 Church Street, Suite 209
Burlington, VT 05401

Re: Downtown Vibrancy Fund Grant

Dear Kara:

Congratulations! This letter is official notification that the City of Burlington has been awarded a grant of \$25,000 from the Downtown Vibrancy Fund for fiscal year 2024 (July 1, 2023 – June 30, 2024) from the Department of Housing and Community Development (DHCD). The Downtown Vibrancy Fund is non-competitive grant awarded to each downtown organization intended to support designated downtown organizations' efforts to strengthen and improve the economic sustainability and vibrancy of Vermont downtowns through increased access to resources and capacity to help educate, guide, support, and partner with municipalities, businesses, non-profits, and community organizations. DHCD will work with awardees to understand the eligible uses and to draft grant agreements.

Please let us know if you have any questions – we look forward to working with you in the coming year.

Sincerely,



[Alex Farrell](#)
Interim Commissioner
Department of Housing and Community Development



Board of Finance and City Council Submission Checklist

Department: Business & Workforce Development Submitter: Kara Alnasrawi
 Title/Subject: State Downtown Vibrancy Grant Acceptance

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	Concurrent	Click or tap to enter a date.

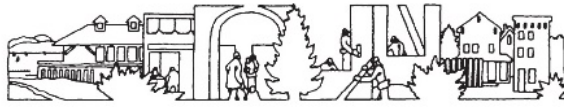
This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	11/8/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	11/9/2023	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	11/9/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	11/8/2023	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?	Yes	Board of Finance



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: November 13 and 20, 2023
RE: Amendment to Tax Increment Financing (TIF) District consulting services contract with White+Burke

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

Background:

The cost for these services is eligible as related costs under both the Downtown and Waterfront TIF Districts respectively and authorized by the Vermont Economic Progress Council (VEPC) and the voters for reimbursement using current and future TIF revenues. Historically, the City has reimbursed its related costs after the close of the fiscal year. Starting in FY24, related cost budgets were approved through the City's annual budget process and are now the reference point for project teams looking to reimburse related costs annually. As a result, there will not be a final annual reimbursement request, and instead, the TIF Administration Team will only return to City Council for approvals associated with any budget amendments needed to reflect any unexpected impacts to the approved related cost budgets.

The scope for this contract amendment is detailed in the attached Scope of Work as attachment A. This amendment allows for the consultant to continue providing services related to coordinating the City's responsibilities and efforts with respect to both TIF Districts. These services include: monitoring and maintaining project progress to ensure all milestones are met, serving as the City's liaison to VEPC, and providing support to ensure that the ARDA 2.0 and voter-approved authorizations are fulfilled. 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 VEPC staff, and facilitate progress among the many parties with interests in both TIF Districts. City staff will remain closely involved in project development and implementation for both District projects providing important oversight, but other core duties require staff to focus on making timely progress on numerous other critical City and departmental goals and objectives while the work of the TIF Districts continues to advance in a timely manner.

The maximum limiting amount for this proposed contract amendment includes an additional \$100,000 in services for the Waterfront TIF District, and an additional \$40,000 for the Downtown District. The Downtown TIF District Professional and Consultant budget currently has sufficient funds available to support the approval of this contract amendment. Approval of this amendment will require an increase in the Professional and Consultant budget for the Waterfront TIF District utilizing additional increment that is available for related costs. By reducing the amount of Waterfront TIF increment used in future years, there is available increment to support this amendment in FY24.

The TIF Administration Team is proposing to increase the Professional and Consultant budget for the Waterfront TIF District by \$95,000 upon approval of this contract amendment. It is worth noting that in 2016 the City received VEPC and voter approval for a maximum Waterfront TIF District budget of \$21,830,000, which includes related costs. After removing the existing and historic related cost budgets (\$2,472,138) and the approved financing of \$18,840,000, there is still approximately \$500,000 available for use on related costs if approved by VEPC and City Council. If the City realizes it needs additional support in administering the Waterfront District in future years, it will have the opportunity to request approvals for the use of these remaining increment funds. Therefore, adjustments to the future increment budgets will have no financial impact to the overall operations of the Waterfront TIF District, and it will have no impact to the General Fund.

By way of background, David has 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. 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:

- 1. To approve and recommend that the City Council approve and authorize the Director of the Community & Economic Development Office to execute the proposed contract amendment with White+Burke Real Estate Advisors for TIF consulting services regarding the Waterfront and Downtown TIF districts with a maximum limiting amount of \$140,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office.**
- 2. To approve and recommend that the City Council authorize the Chief Administrative Officer to make any and all necessary project budget amendments associated with the Waterfront TIF Related Cost Professional and Consultant project budget, up to a maximum amount of \$95,000.00.**

City Council:

- 1. To approve and authorize the Director of the Community & Economic Development Office to execute the proposed contract amendment with White+Burke Real Estate Advisors for TIF consulting services regarding the Waterfront and Downtown TIF districts with a maximum limiting amount of \$140,000, to be paid out of TIF related costs, pursuant to final review of the City Attorney's Office.**
- 2. To approve and authorize the Chief Administrative Officer to make any and all necessary project budget amendments associated with the Waterfront TIF Related Cost Professional and Consultant project budget, up to a maximum amount of \$95,000.00.**

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

ATTACHMENT A
Scope of Services
September 1, 2023 – June 30, 2024

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) and any amendments or revisions thereto 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. 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.
2. In consultation with City staff, coordinate with the City Attorney and outside counsel regarding legal issues related to the Downtown TIF district.
3. Coordinate with City Administration, DPW staff, and CEDO staff on matters related to VEPC substantial change submissions for the Downtown TIF district.
4. 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.
5. 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.

Board of Finance and City Council Submission Checklist

Department: CEDO Submitter: Brian Pine

Title/Subject: TIF District consulting contract with White+Burke

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	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	11/8/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	11/8/2023	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	11/8/2023	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	11/8/2023	Click or tap here to enter text.
CAO has reviewed budget, financing, and memo	Yes	11/8/2023	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	SOW attached
Draft Resolution or Motion?	Yes	Motion included in memo
If for submission to Council, are sponsors identified?	Choose an item.	Click or tap here to enter text.



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

TTY (802) 865-7142

MEMORANDUM

TO: Board of Finance and City Council

FROM: Sarah Montgomery, Assistant City Clerk

CC: Katherine Schad, Chief Administrative Officer
Jared Pellerin, Acting City Attorney

DATE: November 13th, 2023 and November 20, 2023

RE: Authorization for Contract with Avenu Insights and Analytics for Digitization of Land Records and Budget Amendment

Executive Summary

The Clerk Treasurer's Office is seeking approval to execute a contract with Avenu Insights and Analytics (Avenu) for the digitization of Land Records from 1798 -1934. Additionally, we are seeking approval for a budget amendment to use funds from the Preservation and Restoration Fund to pay for this service.

Background

The Clerk Treasurer's Office completed an important digitization project in 2021-2022, scanning 177,982 pages and ensuring land records from 1935-1985 were available electronically. We are seeking authorization to execute a contract with Avenu to further digitize our land records, to include records from 1798 to 1934. These records currently only exist in paper format, and many of the records are in fragile condition. Completing this project will provide a complete digital backup of all land records that have been recorded in the Clerk Treasurer's office, which we are required by state statute to retain permanently, and which contain the important history of real estate within the city.

Goal:

- To create a complete digital backup of the historical land records that have been recorded with the Clerk Treasurer's Office, by digitizing land records recorded between 1798 and 1934.

Project Description:

- Avenu to scan 202 Land Record volumes, containing an estimated 82,011 pages.
- Avenu to enhance digital images.
- Avenu to tag, link, and load scanned images into our online land record system.
- Avenu to create and deliver a text searchable PDF of type-written data for each book.

This phase of the project does not include complete indexing of the documents in our online land

record system, though this is something we hope to complete in the future.

Funding

We have an existing contract with Avenu as our land records software provider. Due to this, the CAO has approved Avenu as the sole source vendor for this project, which is an extension of the regular contracted services they provide. The estimated cost to complete this project is \$76,065. Given the uncertainty in the exact number of documents and their condition, a 15% contingency of \$11,409 is included in the cost estimate, for a total of \$87,474.

This project will be funded by the Preservation Fund, account number 110-04-000.4200. 26.7% of the land records recording fees that are collected at the time of service (\$4 of every \$15) are dedicated to the preservation and restoration of City records, which are set aside as the Preservation Fund. At this time, the fund has sufficient funds for covering this expense, with a current balance of \$318,999. The Clerk Treasurer's Office is seeking a budget amendment to designate these preservation funds as follows:

Account Number	Account Name	Increase
110-04-000.6500_118	Professional and Consultant Services	\$87,474.00

Board of Finance Motion:

1. To approve and authorize the Chief Administrative Officer to execute a contract with Avenu Insights and Analytics for continued land records digitization with a maximum limiting amount of \$87,474.00, subject to the final review and approval by the City Attorney's Office.
2. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect the necessary budget amendment to designate \$87,474.00 from the Preservation/Restoration fund (GL 110-04-000.4200) account line to be used for Professional and Consultant Services (account line 110-04-000.6500_118)

City Council Motion:

1. To approve and authorize the Chief Administrative Officer, or their designee, to affect the necessary budget amendment to designate \$87,474.00 from the Preservation/Restoration fund (GL 110-04-000.4200) account line to be used for Professional and Consultant Services (account line 110-04-000.6500_118)

Thank you for your consideration, and please feel free to reach out with any questions.



CUSTOMER NO	DATE	SALES ORDER NUMBER	
C101094	September 27, 2023	Q-05414	

BILL TO	City of Burlington, VT	SHIP TO	City of Burlington, VT
	Attn: Sarah Montgomery		Attn: Sarah Montgomery
	149 Church St.		149 Church St.
	Burlington, VT 05401-8471		Burlington, VT 05401-8471

CUSTOMER EMAIL ADDRESS: smontgomery@burlingtonvt.gov

Customer Contact: Sarah Montgomery

Phone: (802) 865-7020

Effective Term: Start: 10-31-2023

End: 04-30-2025

Product Name	Product Description	Product Code	Total Units	Price per Unit	Pricing Totals
Digital Processing Services	Project Setup	GR000174	1	\$500.00	\$ 500.00
Digital Processing Services	Scan – Loose Book	GR000179	59,306	\$0.28	\$ 16,605.68
Digital Processing Services	Scan - Bound Book	GR000180	22,705	\$0.63	\$ 14,304.15
Digital Processing Services	Digital Magic – Image Enhancement	GR000034	82,011	\$0.25	\$ 20,502.75
Digital Processing Services	Tag, Link and Load	GR000066	149,088	\$0.14	\$ 20,872.32
Digital Processing Services	Create Searchable PDF's by Book	GR000155	82,011	\$0.04	\$ 3,280.44
				Total	\$ 76,065.34

CONFIDENTIAL & PROPRIETARY

This document is exclusively for commercial use between Avenu Insights & Analytics, and Customer, and is considered Confidential Information according to the Terms, not to be disclosed to third parties unless such disclosure is explicitly permitted under this Agreement.

****THIS IS NOT AN INVOICE**** – Please do not send payment from this order. You will receive a separate invoice for the services provided above****

If you have any questions regarding payment, you can reach us directly at AR@avenuinsights.com or (571) 485-7875.

TERMS AND CONDITIONS

Unless modified terms and conditions have been executed by the Parties and are referenced in the Special Instructions or Product Specific Terms below, the Sales Order Form ("Sales Order") is governed by Avenu Insights and Analytics, LLC's ("Avenu") Standard Terms and Conditions for Services ("Standard Terms and Conditions") found at [\[avenuinsights.com/processing-agreement-standard-terms-and-conditions-for-services/\]](https://avenuinsights.com/processing-agreement-standard-terms-and-conditions-for-services/). As used in this Sales Order, Terms and Conditions refers to either Avenu's Standard Terms and Conditions, or, if applicable, the modified terms and conditions referenced in the Special Instructions or Product Specific Terms below ("Terms and Conditions").

By executing this Sales Order, Customer acknowledges having

- (i) accessed online and/or been provided a copy of Avenu's Standard Terms and Conditions, and
- (ii) read and accepted Avenu's Standard Terms and Conditions. Any capitalized terms in this Sales Order that are not defined herein have the meaning indicated in Avenu's Standard Terms and Conditions.

The Standard Terms and Conditions together with this Sales Order represent the entire agreement between the Parties' regarding this subject matter and supersede and prevail over any and all other discussions, understandings and agreements (including, without limitation, any purchase order or other unilateral document) related to the subject matter of the Agreement unless the additional terms are accepted in writing by both Parties.

In the event of any inconsistency or conflict between this Sales Order, on the one hand, and Avenu's Standard Terms and Conditions, on the other hand, this Sales Order will take precedence.

Avenu's fees are exclusive of all taxes, levies or duties imposed by taxing authorities. The Parties' respective tax obligations will be as provided for in Avenu's Standard Terms and Conditions and applicable law.

SPECIAL INSTRUCTIONS

Project Assumptions:

- Customer has a total of 202 books with an estimated 82,011 pages.
- Of the 202 books, 35 books are bound with 22,705 pages and 167 books are loose with 59,306 pages.
- All pages are in good condition.
- Books will be picked up and imaged at an Avenu facility.
- Additionally, Avenu will deliver each book as a text searchable PDF of type-written data.

Avenu incorporates by reference the Agreement for Information Technology Products and Services effective July 1, 2021 through June 30, 2026.

PRODUCT SPECIFIC TERMS

ASSUMPTIONS: Avenu's delivery of Services and the Estimated Sales Amount and Estimated Total are based on the assumptions, estimated quantities, and condition of the artifacts provided by the Customer. In the event the assumptions provided by the Customer are inaccurate or there is a discrepancy in the condition of the artifacts, Avenu shall notify the Customer in writing of any and all adjustments to the Sales Order and shall proceed unless, upon receipt, Customer provides written

notice within five (5) days of Customer's decision not to proceed. **For the avoidance of doubt, notwithstanding the Estimated Sales Amount and Estimated Total set forth herein, Avenu shall invoice Customer for actual products and quantities processed.**

DELIVERY: The Customer shall be solely responsible for determining the output requirements for the products and quantities processed ("Output Files"). Avenu shall not be responsible for uploading Output Files (i) into a non-Avenu system unless Customer provides for such upload in the Special Instructions or (ii) into an Avenu system unless Customer has a Maintenance Agreement and the Term of said Agreement extends beyond the Term of the Sales Order.

ACCEPTANCE: Customer will notify Avenu in writing within ten (10) business days of any defect that requires remediation. If not notified to the contrary, Avenu will deem all deliverables as acceptable by Customer and will consider all invoicing of said deliverables to be due and payable according to the Terms and Conditions. **For the avoidance of doubt, Avenu shall deem all deliverables as acceptable by Customer and will consider all invoicing of said deliverables to be due and payable upon delivery (and not uploading of Output Files into an Avenu or non-Avenu system) unless uploading of Output Files into an Avenu or non-Avenu system is expressly stated as part of the Product Name and Product Description and/or Special Instructions of the Sales Order.**

Customer: City of Burlington, VT (Authorized Signature Only)

CUSTOMER ACCEPTANCE: I hereby accept the terms and conditions of this Sales Order and the Terms and Conditions for Services that is accessible online and authorize Avenu to proceed on this matter as set forth herein.

Avenu Insights & Analytics, LLC (Authorized Signature Only)

Signature:

Signature:

Print/Name:

Print/Name: James Barkman

Title:

Title: Chief Financial Officer

Date

Date

Board of Finance and City Council Submission Checklist

Department: Clerk Treasurer Submitter: Sarah Montgomery
 Title/Subject: Authorization for Contract with Avenu Insights and Analytics for Digitization of Land Records and Budget Amendment

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	Concurrent	N/A

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	11/1/2023	Katherine Schad
Mayor's Office informed and approved memo	Yes	11/8/2023	Jordan Redell
Board/Commission, if required	N/A	N/A	N/A
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	No	N/A	Jared Pellerin to review and approve prior to execution of contract
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	11/7/2023	Jared Pellerin
CAO has reviewed budget, financing, and memo	Yes	11/1/2023	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	N/A	N/A
CIO, if an IT-related investment/purchase	N/A	N/A	N/A

Materials Included

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



MEMORANDUM

TO: Board of Electric Commission (BEC), Burlington Board of Finance (BOF), Burlington City Council (BCC)
FROM: Paul G. Alexander, Manager of Safety & Risk Management
DATE: November 4th, 2023
SUBJECT: **B.E.D.'s Property/Boiler and Machinery (B&M) 2023-2024 Insurance renewal**

RECOMMENDATION:

That the Burlington Electric Commission, Finance Board and City Council authorize the Electric Department to renew our Property/Boiler and Machinery (B&M) Insurance with AIG/ZURICH/STARR TECH/AEGIS for the policy period 11/20/2023–11/20/2024 for a **not to exceed premium of \$778,683.70**.

DISCUSSION:

Commercial Property/B&M insurance covers BED's **physical assets** from perils such as fire, lighting, smoke, explosions, storms, burst pipes, theft and vandalism. It is designed to protect our **tangible property**; namely buildings, boilers, transformers and property inside and outside (furniture, computers, fences, office equipment, inventory, etc.)

Our current Property/B&M Insurance coverage with AIG/Starr Tech/Zurich/AEGIS is scheduled to expire on 11/20/2023 for which we pay an annual premium of **\$683,117.34**.

- ❖ Our insurance agent (Hickok & Boardman: H&B) has worked diligently with our existing 4 carriers and is still in negotiations with them to finalize "capacity" (the largest amount of insurance that a company or the market is able to write), Total Insurable Value (TIV)'s, deductibles and premium.
- ❖ The renewal premium is anticipated to increase from last year's amount of **\$683,117.34** to a **not to exceed \$778,683.70** (which is **6.4% higher** than our estimated renewal premium at 11/20/23 in the FY'24 budget of **\$731,619**). Please note our insurance agent (H&B) has shared there is the possibility of achieving a lower renewal premium using deductible options and last minute pricing negotiations (still to be finalized).
- ❖ Similar to last year, our Total Insurable Value (TIV) will be capped at \$175,000,000 of property (vs. our current fully scheduled TIV of \$319,009,000). The McNeil Station's TIV is listed at \$235,316,000 with a ratable TIV of \$213,316,000.

H&B CONSIDERATIONS:

- ❖ Continued diligence with current carriers towards increasing their capacity while lowering their rate, especially as it relates to the McNeil assets.
- ❖ Separating BED's Auto and Workers' Compensation coverage from the City's program (effective 12-31-2023 or 7-01-2024).
- ❖ Exploring the possibility of a rent-a-captive program (potential long-term savings) with FM Global as a well as a "Guaranteed Cost" (GC) program. The GC quote came in at **\$973,285** **which is 25.2% higher** than the "Not-to-Exceed" quote from our incumbent carriers.

- ❖ Examined the possibility of a single-cell captive with another local carrier (but start-up costs and associated fees were cost prohibitive at this time).
- ❖ Lowering the premium by considering increasing our existing deductibles (McNeil from \$1M to \$2M, GT from \$550k to \$1M)
- ❖ Asked the current carriers to increase the policy limit (cap) from \$175M to \$200M, especially with the TIV growth (23.6%) at McNeil.

IMPACT ON BUDGET:

Our FY'24 budgeted amount of \$711,410 (produced in February 2023 and adopted in June 2023) was calculated using 5 months at the “current/known” premium amount (\$683,117) and 7 months at the projected amount (\$731,619).

- ❖ Thus, using the “not to exceed” premium of \$778,683.70 would amount to a **6.4%** change in our estimated renewal within the FY'24 budget and a **13.9%** increase over our expiring premium of \$683,117. Again, please note in our insurance agent's (H&B) cover letter, there is a possibility of a lower **estimated** renewal premium, which is still to be finalized.
- ❖ The “not to exceed” premium of \$778,683.70 would amount to a **3.85% increase in our total FY'24 budget for this line of business (from \$711,410 to \$738,864).**

MOTIONS:

Board of Finance:

“To approve and recommend that the City Council authorize the General Manager of the Burlington Electric Department to execute the Property, Boiler & Machinery insurance coverage renewal contract with AIG/ZURICH/STARR TECH/AEGIS for the policy period 11/20/2023 through 11/20/2024 with a not to exceed premium of **\$778,683.70**, as outlined in this memo, subject to review and approval of the City Attorney's Office.”

City Council:

“To authorize the General Manager of the Burlington Electric Department to execute the Property, Boiler & Machinery insurance coverage renewal contract with AIG/ZURICH/STARR TECH/AEGIS for the policy period 11/20/2023 through 11/20/2024 with a not to exceed premium of **\$778,683.70**, as outlined in this memo, subject to review and approval of the City Attorney's Office and the Board of Finance”.

Board of Electric Commissioners:

“To authorize the General Manager of the Burlington Electric Department to execute the Property, Boiler & Machinery insurance coverage renewal contract with AIG/ZURICH/STARR TECH/AEGIS for the policy period 11/20/2023 through 11/20/2024 with a not to exceed premium of **\$778,683.70**, as outlined in this memo, subject to review and approval of the Board of Finance and City Council.”

Respectfully submitted,

Paul G. Alexander, CPCU, ARM-PE, CUSP
Manager of Safety & Risk Management

c: Darren Springer, General Manager

City of Burlington Electric
Property Quota Share Program Structure
Current as of 11/1/2023

November 20, 2023 through November 20, 2024			
	Assets other than McNeil	McNeil	
Total Values	\$83,693,000	\$213,316,000	
Policy Limit	83MM	175MM	
Carrier	AEGIS	Zurich	Carrier Quota Share % Share Premium Rate
Quota Share %	75%	35%	
Share	\$73,214,000	\$70,000,000	
Premium	\$138,093	\$263,848	
Rate	0.2457	0.315	
		Starr Tech	
		40%	
		\$80,000,000	
		\$236,973.00	
		0.264	
Carrier	AIG	AIG	
Quota Share %	25%	25%	
Share	\$20,923,250	\$43,750,000	
Premium	\$39,385.12	\$100,384.45	
Rate	0.188	0.188	
			McNeil & Other
Total Premium	\$177,478.25	\$601,205.45	\$778,683.70



BED Property/B&M Insurance Renewal 2023-2024

(11/8/23 - BEC Meeting)
(11/13/23 - BOF Meeting)
(11/20/23 - CC Meeting)

Recommendation:

That the Burlington Electric Commission, Board and Finance and City Council authorize the Electric Department to renew our Property/Boiler and Machinery (B&M) Insurance with AIG/ZURICH/STARR TECH/AEGIS for the policy period 11/20/2023–11/20/2024 for a **not to exceed premium of \$778,683.70**

What's covered?

Commercial Property/B&M insurance covers BED's **physical assets** from perils such as fire, lighting, smoke, explosions, storms, burst pipes, theft and vandalism. It is designed to protect our **tangible property**; namely buildings, boilers, transformers and property inside and outside (furniture, computers, fences, office equipment, inventory, etc.)

Current Status:

Our current Property/B&M Insurance coverage with AIG/Starr Tech/Zurich/AEGIS is scheduled to expire on 11/20/2023 for which we pay an annual premium of **\$683,117.34**.

What's in the "handouts?"

- 1) H&B Cover letter dated 11/3/2023
- 2) BED Property/B&M Premium/TIV history exhibit and related line chart dated 11/4/2023 (2 tabs)
- 3) H&B Property/B&M Quota Share Program Structure Chart as of 11/1/2023
- 4) BED cover letter dated 11/4/2023 to BEC/BOF/CC

Points of Interest

- ❖ Our insurance agent (Hickok & Boardman: H&B) has worked diligently with our existing 4 carriers and is still in negotiations with them to

finalize “capacity” (the largest amount of insurance that a company or the market is able to write), Total Insurable Value (TIV)’s, deductibles and premium.

- ❖ The renewal premium is anticipated to increase from last year’s amount of **\$683,117.34** to **a not to exceed \$778,683.70** (which is **6.4% higher** than our estimated renewal premium at 11/20/23 in the FY’24 budget of **\$731,619**). Please note our insurance agent (H&B) has shared there is the possibility of achieving a lower renewal premium using deductible options and last minute pricing negotiations (still to be finalized).
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- ❖ Continued diligence with current carriers towards increasing their capacity while lowering their rate, especially as it relates to the McNeil assets.
- ❖ Separating BED’s Auto and Workers’ Compensation coverage from the City’s program (effective 12-31-2023 or 7-01-2024).
- ❖ Exploring the possibility of a rent-a-captive program (potential long-term savings) with FM Global as a well as a “Guaranteed Cost” (GC) program. The GC quote came in at **\$973,285 which is 25.2% higher** than the “Not-to-Exceed” quote from our incumbent carriers.
- ❖ Examined the possibility of a single-cell captive with another local carrier (but start-up costs and associated fees were cost prohibitive at this time).
- ❖ Lowering the premium by considering increasing our existing deductibles (McNeil from \$1M to \$2M, GT from \$550k to \$1M)

- ❖ Asked the current carriers to increase the policy limit (cap) from \$175M to \$200M, especially with the TIV growth (23.6%) at McNeil.

IMPACT ON BUDGET:

Our FY'24 budgeted amount of \$711,410 (produced in February 2023 and adopted in June 2023) was calculated using 5 months at the “current/known” premium amount (\$683,117) and 7 months at the projected amount (\$731,619).

- ❖ Thus, using the “not to exceed” premium of \$778,683.70 would amount to a **6.4%** change in our estimated renewal within the FY'24 budget and a **13.9%** increase over our expiring premium of \$683,117. Again, please note in our insurance agent's (H&B) cover letter, there is a possibility of a lower **estimated** renewal premium, which is still to be finalized.
- ❖ The “not to exceed” premium of \$778,683.70 would amount to a **3.85% increase in our total FY'24 budget for this line of business (from \$711,410 to \$738,864).**

BED's Property/B&M Insurance Motion for BEC:

“I make a motion to recommend to the City Council that Darren Springer, BED General Manager, or his designee is authorized to renew BED's Property/B&M Insurance for the period of 11/20/23 through 11/20/24, with a not to exceed premium of \$778,683.70, as outlined in this memo, subject to review and approval of the City Attorney's office, the Board of Finance and the City Council”



Date: 11/3/2023

To: Paul Alexander, CPCU, ARM-PE
Manager of Safety and Risk Management
City of Burlington Electric Department
585 Pine Street
Burlington, VT 05401

RE: Property Insurance Renewal effective 11/20/2023

Per our most recent conversation, I am sending this brief memo to summarize the state of the energy property insurance marketplace and its implications regarding Burlington Electric Department (BED) property insurance renewal effective 11/20/2023.

Energy related asset replacement cost value adequacy is an emerging concern for the insurers given COVID driven supply chain issues and global inflationary pressures. In some instances, the replacement cost of a destroyed asset has exceeded scheduled asset values by 60%. BED's asset valuation this year aligns with this trend: total TIV reported to us by BED was 319M, with McNeil's assets increasing from 190M to 235M. BED utilizes Handy Whitman index (the industry standard) to value its assets.

As an alternative to the in-force property insurance program, BED and H&B reviewed the property captive options available to single cell captive and rent-a-captive. In single cell captive startup costs are prohibitive, which is why a rent-a-captive option for property insurance is the more logical option for BED to consider at this time. With BED's assistance we have explored both FM Global's rent-a-captive option, as well as a traditional (guaranteed cost) program from FM Global. After a robust multi-day inspection, FM Global will be offering an alternative property program for BED this year. This is a testament to the risk improvement of the McNeil asset over the past few years, as well as BED's commitment to safety going forward.

FM Global's guaranteed cost premium is \$975,285, which is higher than the current insurance program's cost. However, FM Global program would offer capacity stability, one set of engineering recommendations to address, as well as the opportunity for BED to participate in a captive property program, if desired, down the road. The rent-a-captive option that FM Global has allows BED the opportunity to capture a set portion of the premium (carrier profit) each year into the rent-a-captive. Over time, this would allow

BED the opportunity to minimize or stabilize future rate increases within the captive layer.

We anticipate that the BED management group and the City of Burlington will need time to fully understand the property captive from a legal and financial standpoint, and that this option may be pursued in FY25. We believe it is an area that BED should consider, as BED's insurance claim history at McNeil has been virtually non-existent.

With BED's asset valuation growth at McNeil, we have asked the current quota-share carriers (Zurich/AIG/Starr Tech) to provide an optional quote to increase in the policy limit from 175M to 200M.

BED's budgeted premium at renewal of \$731,619 (5% above the current expiring policy rate+2% for TIV increase) is a challenge to achieve with a 21% TIV increase. However, to offset the increase in TIV, we've asked the current carriers to use a ratable TIV at McNeil of 213M, rather than 235M, which reduces the overall TIV increase to 12.1%. The lower TIV is acceptable to the carriers based on their own calculations of PML (probable maximum loss) at the location and reduces the premium cost to BED.

In addition, to support BED's efforts to get as close to possible from a budget perspective, we will consider the following:

- 1) Increasing the deductible from 1M to 2M at McNeil.
- 2) Increasing the GT deductible from 500k to 1M.
- 3) Separating BED's auto and workers' compensation from the City's program (effective 12-31-23 or 07-01-2024.)

In summary, we anticipate we can secure the property insurance renewal with policy limits terms and conditions to the current in-force program (see attached slide) at an estimated annual premium of a "not to exceed" premium of \$778,683.70. However, with the additional deductible options, a lower premium than the "not to exceed" premium shown here could be achieved.

Sincerely,



Paul E. Plunkett, CIC
President, COO & Client Advisor
(802) 383-1614 | pplunkett@hbinsurance.com



BURLINGTON ELECTRIC DEPARTMENT
Property/B&M Insurance Policies
Premium/TIV History
11/4/2023

POLICY PERIOD:										(Excl. W1H)										TOTAL
#	Carrier	Broker/ Agent	From mm	dd	yyyy	To mm	dd	yyyy	Actual **** Premium	Annual Premium	Annual % Chg	TIV *** (Excl W1H)	(Excl. W1H) Change	TIV (W1H)	W1H Change	Price per \$100 TIV	Price per \$100 TIV	TOTAL TIV	TOTAL TIV % Chg	
1	AIG/Starr Tech/Zurich/AEGIS (TBF)	H&B	11	20	2023	11	20	2024	\$778,684	\$778,684	13.99%	\$291,733,000	21.51%	\$27,276,000	17.20%	"n/a"	"n/a"	\$319,009,000	21.13%	
2	AIG/Starr Tech/Zurich/AEGIS (TBF)	H&B	11	20	2022	11	20	2023	\$683,117	\$683,117	2.96%	\$240,093,000	-0.49%	\$23,273,000	0.99%	"n/a"	"n/a"	\$263,366,000	-0.36%	
3	AIG/Starr Tech/Zurich/AEGIS (TBF)	H&B	11	20	2021	11	20	2022	\$663,508	\$663,508	2.95%	\$241,268,000	2.03%	\$23,044,000	3.79%	"n/a"	"n/a"	\$264,312,000	2.18%	
4	AIG/Starr Tech/Zurich/AEGIS	H&B	11	20	2020	11	20	2021	\$644,506	\$644,506	11.25%	\$236,462,000	-1.67%	\$22,203,000	2.83%	"n/a"	"n/a"	\$258,665,000	-1.30%	
5	AIG/Starr Tech/Zurich/AEGIS	H&B	11	20	2019	11	20	2020	\$579,330	\$579,330	153.25%	\$240,473,000	-2.83%	\$21,591,000	4.19%	"n/a"	"n/a"	\$262,064,000	-2.29%	
6	NU/Chartis/AIG	H&B	10	1	2018	10 (**)	1	2019	\$228,762	\$228,762	-5.94%	\$247,487,000	-5.95%	\$20,722,000	-8.17%	\$0.07962	\$0.148761	\$268,209,000	-6.13%	
7	NU/Chartis/AIG	H&B	10	1	2017	10	1	2018	\$243,200	\$243,200	-5.67%	\$263,146,000	-0.09%	\$22,565,000	0.69%	\$0.07962	\$0.148761	\$285,711,000	-0.03%	
8	NU/Chartis/AIG	H&B	10	1	2016	10	1	2017	\$257,812	\$257,812	-4.64%	\$263,396,000	0.70%	\$22,410,000	0.95%	\$0.08522	\$0.148761	\$285,806,000	0.72%	
9	NU/Chartis/AIG	H&B	10	1	2015	10	1	2016	\$270,355	\$270,355	8.42%	\$261,570,000	6.11%	\$22,198,774	36.73%	\$0.09003	\$0.157	\$283,768,774	8.01%	
10	NU/Chartis/AIG ⁽⁵⁾	H&B	10	1	2014	10	1	2015	\$249,354	\$249,354	10.53%	\$246,501,000	-0.79%	\$16,235,108	n/a	\$0.09082	\$0.157	\$262,736,108		
11	NU/Chartis/AIG	H&B	10	1	2013	10	1	2014	\$225,600	\$225,600	11.68%	\$248,460,000	8.00%			\$0.0908		AVG 5 years	3.87%	
12	NU/Chartis/AIG	H&B	10	1	2012	10	1	2013	\$202,000	\$202,000	11.13%	\$230,060,000	3.55%			\$0.0878		AVG 3 years	7.65%	
13	NU/Chartis ^{(3) (4)}	H&B	9	25	2011	10	1	2012	\$184,750	\$181,762	2.69%	\$222,183,000	5.14%			\$0.082				
14	NU/Chartis/AIG ⁽²⁾	GRA	8	25	2010	9	25	2011	\$191,750	\$177,000	-6.8%	\$211,323,000	0.47%			\$0.084				
15	NU/Chartis/AIG ⁽¹⁾	GRA	8	25	2009	8	25	2010	\$190,000	\$190,000	18.4%	\$210,339,000	18.66%			\$0.090				
16	HS&B/AIG	GRA	8	25	2008	8	25	2009	\$160,420	\$160,420	-8.3%	\$177,259,000	7.66%			\$0.091				
17	HS&B/AIG	GRA	8	25	2007	8	25	2008	\$175,000	\$175,000	-2.5%	\$164,645,000	7.05%			\$0.106				
18	HS&B/AIG	GRA	8	25	2006	8	25	2007	\$179,500	\$179,500	-13.3%	\$153,799,000	6.29%			\$0.117				
19	Starr Tech/HS&B/AIG	GRA	8	25	2005	8	25	2006	\$207,000	\$207,000	-8.0%	\$144,695,000	0.86%			\$0.143				
20	Starr Tech/HS&B/AIG	GRA	8	25	2004	8	25	2005	\$225,000	\$225,000	-4.3%	\$143,460,000	3.55%			\$0.157				
21	Starr Tech/HS&B/AIG	GRA	8	25	2003	8	25	2004	\$235,000	\$235,000	27.0%	\$138,539,000	n/a			\$0.170				
22	Starr Tech/HS&B/AIG	GRA	8	25	2002	8	25	2003	\$185,000	\$185,000	5.7%									
23	FM Global	GRA	8	25	2001	8	25	2002	\$175,000	\$175,000	146.1%									
24	CIGNA/ACE USA	GRA	8	25	1998	8	25	2001	\$213,353	\$71,118	-24.2%									
25	CIGNA	GRA	8	25	1995	8	25	1998	\$281,291	\$93,764	-6.9%									
26	HS&B	SS	1	20	1995	1	20	1996	\$100,720	\$100,720	10.4%									
27	HS&B	SS	1	20	1994	1	20	1995	\$91,244	\$91,244	n/a									

Note: AIG sold HS&B to Munich Re in December, 2008
AIG renamed P/C business as "Chartis" on July 27, 2009

GRA=Global Risk Associates
SS=Starkweather & Shepley: NEPPA
H&B=Hickok & Boardman, Inc.

- ⁽¹⁾ TIV was limited to \$200,000,000 coverage on 8/25/09
⁽²⁾ Policy period extended to 13 months at same rate (now expires on 9/25/11)
⁽³⁾ Policy period extended by 6 days to 10/1 (now expires on 10/1/12)
⁽⁴⁾ TIV back to full limits (\$222,183,000 on 9/25/11)
⁽⁵⁾ TIV "bid" limited at \$246,501,000 but expected to be raised to full \$262,736,108 (for Winooski One)
Rate of \$0.09082 is for all property except Hydro (W1) = \$0.157
* AIG's quote comes with a rate-lock through the following policy period 10/1/18-19
Reflecting AIG's rate lock for 10/1/18-19
** Policy expiration extended from 10/1/19 to 11/1/19 and then 11/20/19
*** TIV May be capped at \$175M vs. "TRC" of \$262M

**** Not to exceed Premium eff 11/20/2023

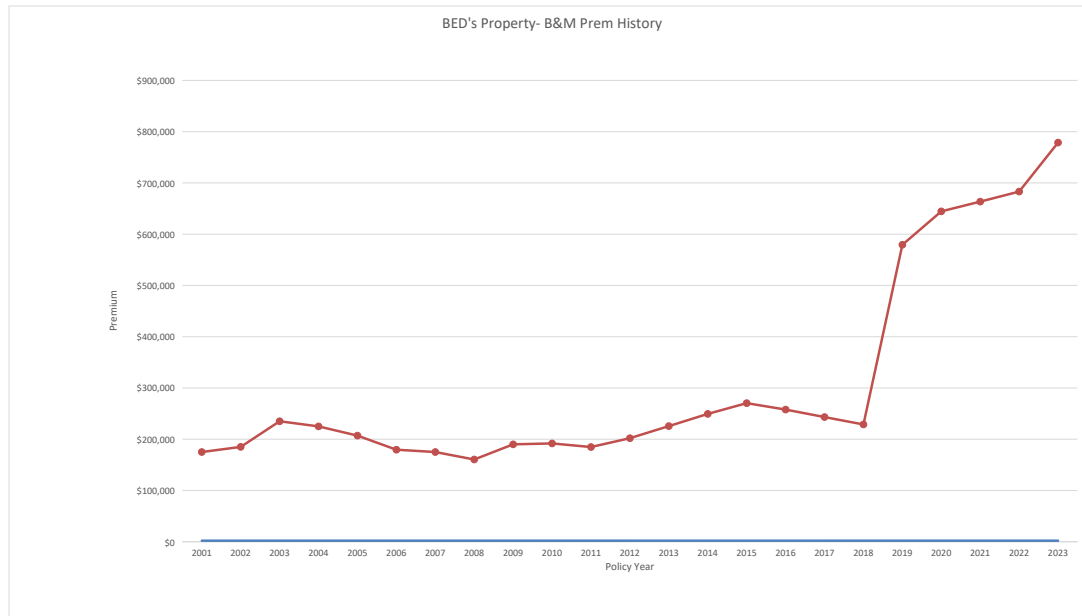


BURLINGTON ELECTRIC DEPARTMENT
Property/B&M Insurance Policies
Premium History
11/4/2023

#	PY	Property Premium
1	2001	\$175,000
2	2002	\$185,000
3	2003	\$235,000
4	2004	\$225,000
5	2005	\$207,000
6	2006	\$179,500
7	2007	\$175,000
8	2008	\$160,420
9	2009	\$190,000
10	2010	\$191,750
11	2011	\$184,750
12	2012	\$202,000
13	2013	\$225,600
14	2014	\$249,354
15	2015	\$270,355
16	2016	\$257,812
17	2017	\$243,200
18	2018	\$228,762
19	2019	\$579,330
20	2020	\$644,506
21	2021	\$663,508
22	2022	\$683,117
22	2023	\$778,684

Note: Final premium still TBD

This \$778,684 reflects a not to exceed premium (5% budgeted rate increase at renewal along with 2% TIV impact)



Board of Finance and City Council Submission Checklist

Department: BED Submitter: Darren Springer and Paul Alexander

Title/Subject: BED Property/B&M Insurance Renewal 11-20-2023

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	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	11/4/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	11/4/2023	Click or tap here to enter text.
Board/Commission, if required	Yes	11/4/2023	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.	11/4/2023	Pending
CAO has reviewed budget, financing, and memo	Choose an item.	11/4/2023	Pending
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	H&B Cover memo, BED Premium History, H&B Quota Share chart, BED Cover memo
Draft Resolution or Motion?	Yes	Motions in memo
If for submission to Council, are sponsors identified?	Yes	BOF



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

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

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Lee Perry
*DIVISION DIRECTOR
DPW MAINTENANCE DIVISION*

MEMORANDUM

To: Board of Finance, City Council

From: Chapin Spencer, DPW Director
Lee Perry, Division Director - DPW Maintenance

Date: November 13, 2023

Re: Approval to enter into a contract with Cargill, Inc. for FY24 road salt procurement

Background:

The Department of Public Works (DPW) budgeted \$285,000.00 in FY24 for rock salt and de-icing chemicals for our winter maintenance of the City roads, bike lanes and sidewalks.

DPW sent bid requests for the estimated necessary ~4,000 tons of rock salt, to suppliers in our region. Below are a list of suppliers that have submitted competitive quotes.

There is a significant increase to the cost per ton for FY24, compared to FY23 cost per ton as seen in the quotes below.

- **Cargill** – Located in North Olmstead, Ohio. Distributed locally by Barrett Trucking, Shelburne VT. \$88.00/ton delivered. 6 miles one-way. Delivery based on need, with minimal wait time. Same day to next day is common. (\$2.00/ton increase)
- **American Rock Salt** – Located in Mount Morris, New York, who had distributed locally from Middlesex VT., is no longer doing business in this area and declined to submit a bid.
- **Compass Minerals** – Located in Quebec, Canada. Distributed from Ste Catherine \$97.47/ton delivered. 96 miles one-way. 48 hr. delivery notice. Requested dates and times cannot be guaranteed during peak periods or adverse weather conditions. (\$8.35/ton increase over FY23 Quote)

In reviewing the quotes, key factors include the distance from our location and availability to deliver in a timely manner. During freezing rain and icing events, we use a lot of our stockpiled salt. A quick turnaround on delivery is essential in keeping a well-stocked supply of salt readily

An Equal Opportunity Employer
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available for use. We have limited storage space (+/- 500-600 tons) at our facility located at 645 Pine Street. Other divisions and departments also use this material as well, including DPW Traffic Division for parking lots and garages, as well as the Parks Department for the maintenance of their parking lots. We also supply all City fire stations with salt throughout the winter season.

Based on this, we recommend moving forward with Cargill, not only did they provide the most competitive price per ton, its distributor is also only six miles away and offers a timelier and consistent delivery schedule. This option better serves the city's interest in keeping the streets, bike lanes, sidewalks, and parking lots safe and clear of snow and ice.

Funding:

The Board of Finance and City Council this past June 2023 approved the FY24 General Fund Budget, which included the \$285,000.00 allotted for road salt and deicing chemicals for our winter maintenance of roads, and sidewalks. While this budgeted amount has remained flat for at least the last five fiscal years, prices have increased by 2% this year alone. We've been able to well manage salt usage through calibrating our machines, mixing the salt with a liquid deicer and watching the weather carefully, but we will continue to use substantial amounts of salt with 95 miles of roads, 130 miles of sidewalks, dozens of miles of bikeways and parking lots to maintain.

There is a \$250,000 Maintenance Division reserve fund that was established in the assigned fund balance around 2015 to protect against unpredicted increases in winter salt usage and staff overtime due to weather patterns as well as fuel usage. In FY23 DPW went over budget by \$7,972.00 to support additional salt purchases but was able to absorb this within the DPW budget. DPW currently has ~500 tons in our storage bunkers from last season that we will use at the start of this upcoming winter season. Depending on the amount of snowfall and ice our crews must clear this winter, we may need to tap into the reserve fund for FY24, given the increased cost of salt, and the more frequent icing/freezing rain events that are becoming more common in the winter months. At this quoted cost the City would be able to purchase ~3200 tons of salt. This is 800 tons lower than the 4,000 tons that is generally our estimated annual amount needed to maintain the roads and sidewalks. See chart below for past fiscal years costs, and tons used.

*Projected

Fiscal Year	Budgeted Amount	Total FY Cost	Cost Per Ton	Tons Used
FY20	\$285,000.00	\$275,640.00	\$78.50	3,511
FY21	\$285,000.00	\$200,199.00	\$70.50	2,840
FY22	\$285,000.00	\$283,466.00	\$73.00	3,883
FY23	\$285,000.00	\$292,972.00	\$86.00	3,404
*FY24	\$285,000.00	\$285,000.00	\$88.00	~3,200

Thank you. Do not hesitate to contact Lee Perry at lperry@burlingtonvt.gov, or 802-316-7568 if you have any questions, or need clarification.

Motions:

Board of Finance:

To approve and recommend that City Council authorize the Director of Public Works enter into a contract with Cargill to supply the City of Burlington with rock salt for winter maintenance of roads and sidewalks at a unit price of \$88.00/ton, for an amount not to exceed \$285,000 plus \$43,000 in contingency for Fiscal Year 2024, which will come from the Public Works Reserve in the assigned fund balance, for a total authorized expenditure of \$328,000, subject to review and approval of the City Attorney's Office.

City Council:

To authorize the Director of Public Works to enter into a contract with Cargill to supply the City of Burlington with rock salt for winter maintenance of roads and sidewalks at a unit price of \$88.00/ton, for an amount not to exceed \$285,000 plus \$43,000 in contingency for Fiscal Year 2024, which will come from the Public Works Reserve in the assigned fund balance, for a total authorized expenditure of \$328,000, subject to review and approval of the City Attorney's Office.

Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Lee Perry

Title/Subject: FY24 Salt Procurement Contract

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	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	10/26/2023	Approved Chapin Spencer
Mayor's Office informed and approved memo	Yes	11/7/2023	Approved by Jordan Redell
Board/Commission, if required			Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Choose an item.	Click or tap to enter a date.	
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	11/7/2023	Approved Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	11/7/2023	Approved Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Choose an item.	
Additional Materials, if necessary	Choose an item.	
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.



Memorandum

Date: November 13, 2023 - Board of Finance
November 20, 2023 - City Council

To: Burlington Board of Finance / City Council

From: Corey Mims, P.E., Senior Public Works Engineer

CC: Chapin Spencer, Director
Norman Baldwin, P.E., Assistant Director/City Engineer

Subject: Railyard Enterprise Project – Stantec Design Contract Amendment 4

REQUEST

The Burlington Department of Public Works (DPW) respectfully requests that the Board of Finance and City Council approve and authorize the execution of a design engineering services Contract amendment to begin the second phase of the Railyard Enterprise Project with Stantec Consulting Services, Inc. (Stantec). This amendment increases the initial contract of \$1,501,200 in the amount of \$966,758 with an additional \$193,352 (20%) contingency for a new contract total of \$2,661,310.

EXECUTIVE SUMMARY

The purpose of the Railyard Enterprise Project (REP) is to enhance multimodal travel connectivity in the Burlington Waterfront South area, improve livability of the surrounding neighborhoods, support economic development, and improve intermodal connections to the Burlington Railyard, a National Highway System (NHS)-designated intermodal facility. The project encompasses a network of multimodal transportation infrastructure improvements connecting Pine Street and Battery Street in the City of Burlington. The City of Burlington, in partnership with the Chittenden County Regional Planning Commission (CCRPC), and in close cooperation with the Vermont Agency of Transportation (VTrans) and Federal Highway Administration (FHWA) completed an enhanced scoping process under FHWA's Every Day Counts/Planning and Environmental Linkages (EDC/PEL) initiative as well as a Phase II supplemental scoping effort for this project. The final reports can be found here: <https://www.ccrpcvt.org/our-work/transportation/current-projects/scoping/railyard-enterprise-project/>.

- On July 22, 2021, DPW published a Request for Qualifications (RFQ) requesting Statements of Qualifications (SOQ)s from engineering firms for engineering services for the Railyard Enterprise Project.
- On August 19, 2021, the City received two SOQs from engineering firms which were reviewed and evaluated by a team of DPW/VTrans personnel to make a Qualifications Based Selection (QBS). Following the QBS, the City requested Stantec submit a detailed

scope and fee which was reviewed and negotiated with the City to develop the final agreed terms for the contract.

- In November 2021 a contract was executed with Stantec for the first phase of the Railyard Enterprise Project design efforts to advance the project through the National Environmental Policy Act (NEPA) process.
- On October 17, 2022, City Council approved selection of the City's Preferred Alternative option that would be submitted through the NEPA process.
- On September 9, 2023, the Environmental Assessment (EA) and 4(f) documents were published for public comment period ending October 9, 2023.
- Currently the EA and 4(f) documents are under further review by FHWA with another round of review/comments.
- Anticipated FHWA decision to be issued mid-January 2024.

This contract amendment is for the next phase of the Railyard Enterprise Project advancing the anticipated preferred alternative through end of right-of-way acquisition phase and preliminary plans. This timely amendment is being made to continue momentum of the project, reducing lost time awaiting FHWA decision and minimizing potential delays for a projected 2026 construction start date.

PROJECT FUNDING

On May 24, 2021, the City Council authorized execution of Grant Agreement #CA0645 with the State of Vermont for the Railyard Enterprise Project. The \$9,000,000 grant is comprised of \$892,000 from State funds and \$8,108,000 from Federal Funds with a \$1,000,000 (10%) Local Match. Work performed under this contract will be eligible for reimbursement at the project's funding split of 90% Federal/State and 10% Local Match as outlined in the Cooperative Agreement between the State of Vermont Agency of Transportation and the City of Burlington.

The initial contract of \$1,251,000 with \$250,200 (20%) contingency was executed in November 2022.

This current amendment continues progress of the project and increases the contract and contingency authorization by \$1,160,110 bringing the amended design contract amount to \$2,661,310. The remaining scope of the Railyard Enterprise Project design contract will require additional amendments that we will come back for approval

ATTACHMENTS

- A. Stantec – REP Contract Amendment 4 Revised for Additional Services dated November 8, 2023

MOTIONS

Action for Board of Finance:

To approve and recommend that the City Council authorize the Director of the Department of Public Works to execute a contract amendment with Stantec Consulting Services, Inc. for continued and additional engineering design services for the Railyard Enterprise project increasing the contract amount by \$966,758 with an additional \$193,352 (20% contingency), totaling \$2,661,310 subject to the review and approval by the City Attorney's Office.

Action for City Council:

To authorize the Director of the Department of Public Works to execute a contract amendment with Stantec Consulting Services, Inc. for continued and additional engineering design services for the Railyard Enterprise project increasing the contract amount by \$966,758 with an additional \$193,352 (20% contingency), totaling \$2,661,310 subject to the review and approval by the City Attorney's Office.



Stantec Consulting Services Inc.
55 Green Mountain Drive, South Burlington VT 05403-7824

November 8, 2023

Attention: Corey Mims, PE
Senior Public Works Engineer
645 Pine Street
Burlington, Vermont 05401

Dear Corey,

Reference: Railyard Enterprise Project – Revised Contract Amendment for Additional Services

Per our discussions today, Stantec is hereby revising the Contract Amendment for Additional Services dated October 23, 2023. The following updates are proposed.

Task 1 - Conceptual Plans

The scope for Task 1.9 will be reduced and modified to include a site visit by the buildings team and development of a feasibility report for building improvements. This will result in a more refined scope of work for the next contract amendment. Detailed plans and specifications for building improvements will be deferred to next contract amendment. This will not have an impact on schedule.

All other tasks will be completed at full scope.

Task 2 – Preliminary Plans

All Preliminary Plans tasks are removed and will be included in the next contract amendment.

Task 3 – Local and Environmental Permitting

Hours allocated for Task 3.1 Coordination with EPA and DEC on soils investigation are reduced since some of this effort will occur during Task 2 Preliminary Plans.

Tasks 3.2 and 3.4 will be completed.

Tasks 3.3 and 3.6 are removed and will be included in the next contract amendment.

Task 4 – Right-of-Way (ROW) Acquisition

All ROW Acquisition tasks are removed and will be included in the next contract amendment.

Task 8 – Project Management

Hours allocated for Task 8.1 are reduced since some of this effort will occur beyond completion of Task 1

Task 9 – Community Engagement

Hours allocated for Tasks 9.1 and 9.2 are reduced since some of this effort will occur beyond completion of Task 1.

Tasks 9.3, 9.4, 9.5, and 9.6 will be completed.

Direct Expenses and Subconsultant Tasks

Direct expenses have been reduced to account for the reduced scope.

Design with community in mind

Reference: Railyard Enterprise Project – Revised Contract Amendment for Additional Services

Subsurface Utility Engineering: Effort through QL-B will be completed. QL-A effort will be shifted to next contract amendment since this would happen during Task 2 Preliminary Plans.

Soils Investigation: No change

Hazardous Buildings Material Assessment: No change

Rail and Traffic Signal Designs: Effort for Task 1 will be completed. Task 2 effort has been removed and will be shifted to next contract amendment.

Survey: No change

Appraisals: This budget has been removed since this will happen during Task 4 Right-of-Way Acquisition.

Historic Resource Mitigation: No change

TASKS, HOURS, AND FEE

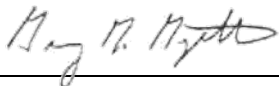
A revised summary of anticipated tasks with estimated hours and fee including subconsultant fees and direct expenses is attached. Total fee for services is anticipated to be \$966,758. The fee was developed assuming tasks will be completed by the dates included in the attached project schedule. A 20% contingency budget of \$193,352 in addition to the \$966,758 fee is recommended to cover work where the scope is not currently well defined such as additional survey, geotechnical investigations, building drawings and details, visualizations, additional railroad flagger hours, traffic control, additional community and stakeholder outreach, and other requests that VTrans or FHWA may have during this next phase of the project. It is recommended that the City gain approval from City Council and Board of Finance for this contingency as well. This will allow the City and VTrans to pursue this work without the need for further approval while minimizing disruption to the project schedule. Any document or permit fees will be paid directly by the City.

We can begin work immediately upon executing the attached revised Contract Amendment with the City.

We look forward to working with you to continue advancing this important project for the City of Burlington. If you have any questions, please do not hesitate to contact me.

Regards,

Stantec Consulting Services Inc.



Gregory G. Goyette, P.E. (VT)
Senior Principal, Transportation
Phone: 802-497-6403
greg.goyette@stantec.com

Attachment: Revised Contract Amendment #4, Revised Task Labor Hour Schedule, Contract Amendment for Additional Services dated October 23, 2023

c. Norm Baldwin, Ande DeForge



PROFESSIONAL SERVICES AGREEMENT CONTRACT AMENDMENT

ContractAmendment # 4

Date 08 November 2023

"Stantec" Stantec Consulting Services Inc.
Stantec Project # Stantec Proj. No.
193 Tilley Drive, Suite 101, South Burlington, VT 05403
Ph: (802) 497-6403
email: greg.goyette@stantec.com

"Client" City of Burlington
Client Project #
645 Pine Street, Burlington, VT 05401
Ph: (802) 922-5001
email: cmims@burlingtonvt.gov

Project Name and Location: Burlington Railyard Enterprise Project, Burlington, VT

In accordance with the original Professional Services Agreement dated 15 November 2021 and Change Orders thereto, the Agreement changes as detailed below are hereby authorized.

See Railyard Enterprise Project (REP) – Contract Amendment for Additional Services letter dated October 25, 2023 and subsequent revisions documented in email to Corey Mims on November 8, 2023.

Total fees this Amendment		\$	966,758.00
Original agreement amount		\$	1,251,000.00
Amendment Number	<u>1</u>	\$	8,000.00
Amendment Number	<u>2</u>	\$	75,896.00
Amendment Number	<u>3</u>	\$	165,929.00
Amendment Number	<u> </u>		
Total Agreement		\$	<u><u>2,467,583.00</u></u>

Effect on Schedule: Per attached Contract Amendment for Additional Services Letter

Payments shall be made in accordance with the original agreement terms. All other items and conditions of the original Agreement shall remain in full force and effect.

Stantec Consulting Services Inc.

City of Burlington

Greg Goyette, Senior Principal

Print Name and Title

Print Name and Title

Signature

Signature

Date Signed:

Date Signed:

Board of Finance and City Council Submission ChecklistDepartment: Public Works Submitter: Corey MimsTitle/Subject: Railyard Enterprise Project Stantec Design Contract Amendment 4

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	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	11/7/2023	Norm Baldwin
Mayor's Office informed and approved memo	Yes	11/7/2023	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	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	11/7/2023	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	11/7/2023	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	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Click or tap here to enter text.
Additional Materials, if necessary	No	
Draft Resolution or Motion?	Yes	Motion
If for submission to Council, are sponsors identified?	No	

Lori Olberg

From: Nicholas Persampieri <nickpersamp@yahoo.com>
Sent: Wednesday, November 15, 2023 4:26 PM
To: Zoraya Hightower; Gene Bergman; Ali Dieng; Karen Paul; Hannah King; Melo Grant; Joan Shannon; Joseph Magee; Benjamin Traverse; Tim Doherty; Sarah Carpenter; Mark Barlow; Lori Olberg
Subject: Thermal Energy System Ordinance
Attachments: 20231115 Letter to City Council.pdf; 11-20-23 GB Amendments to Carbon Fee Draft Ord (OC 10.30.23 Clean Base Doc).docx

You don't often get email from nickpersamp@yahoo.com. [Learn why this is important](#)

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

Councilors,

I attach a letter urging you to reject the Thermal Energy System Ordinance as reported out of the Ordinance Committee, and, if you elect to enact an ordinance at this time, to adopt the amendment offered by Councilor Bergman.

The letter largely repackages information that I previously submitted to TEUC and the Ordinance Committee. I thought it would be helpful to pull it all together, especially for the benefit of Councilors who aren't on those committees.

Please include the letter and accompanying Ordinance in the packet for the upcoming City Council Meeting on November 20, and feel free to reach out to me if you have any questions.

Thank you for considering my views and for your service to the City.

Nick

Nick Persampieri
Clarke St, Burlington
(802) 552-8410

NICHOLAS F. PERSAMPIERI
Burlington Vermont
nickpersamp@yahoo.com
(802) 552-8410

I write as a concerned Burlington resident and a professional with many years of experience working on air quality and climate issues.¹ I urge you to reject the proposed Thermal Energy System Ordinance as reported out of the Ordinance Committee. The ordinance would impose a Carbon Pollution Impact Fee on fossil fuel thermal energy systems but not on McNeil District Energy. The Medical Center uses natural gas and President Leffler stated at the McNeil District Energy work session that he was concerned about the fee. The ordinance therefore appears to have the effect of inducing the Medical Center to sign on to McNeil District Energy. If the project goes forward, it would likely lock in McNeil's excessive greenhouse gas emissions for decades. I urge you not to support an ordinance that promotes such an outcome.

The Proposed Ordinance and the Bergman Amendment

If you are inclined to approve a Thermal Energy System Ordinance, I request that you support an alternative in the form submitted with this memo, which has been offered as an amendment by Councilor Bergman.

The proposed ordinance as reported out of the Ordinance Committee, would impose a "Carbon Pollution Impact Fee" on fossil fuel thermal energy systems installed in new buildings or installed to replace existing systems in existing, non-residential buildings of 50,000 square feet or more. The ordinance would not impose a fee on thermal energy systems within the ordinance's definition of "renewable energy," which it defines as "all of the electrification, geothermal, and solar measures, and renewable fuels" included in the Affordable Heat Act's list of "eligible clean heat measures," 30 V.S.A. § 8127(d) & (e)." The Affordable Heat Act's "eligible clean heat measures" include advanced wood heating, renewable energy based district heating services, including those based on wood, "sustainably sourced" biofuels, "green" hydrogen and "renewable" natural gas. *Id.* By imposing a fee on fossil fuel thermal energy systems but not on these carbon-intensive, polluting or otherwise problematic alternatives, the ordinance would incentivize the latter.

The Bergman Amendment changes "renewable energy" to "clean energy" throughout² and sets forth in its definition of "clean energy" a much shorter list of measures that can be used without payment of the fee. Specifically, the list includes:

- (1) Electric-powered thermal equipment, including cold-climate air source heat pumps, ground source heat pumps, and all other heat pumps including district, thermal energy network, grid, microgrid, and building geothermal systems and systems that use waste

¹ I include a brief resume at the end of this letter.

² The public is often misled by use of the term "renewable," because it assumes renewable means clean or low-carbon, when many measures labeled renewable are neither clean nor low carbon. Additionally, "clean energy" is closer to the "clean heat measures" term used in the State's Affordable Heat Act.

heat from non-combustion sources; electric appliances providing thermal end uses; and heat pump hot water heaters (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3) or the Vermont Residential Building Energy Standards (RBES) Energy Code (Section 2.4b));

- (2) Solar water or air heating systems, solar thermal assisted heat pumps, and solar district heating, or solar thermal systems connected to thermal energy networks; and
- (3) McNeil District Energy, if and only if the City approves proceeding with the project.

The clean energy measures included in (1) and (2) will help us reduce greenhouse gas emissions and are deserving of being incentivized. The Bergman Amendment does not include in its definition of clean energy advanced wood heating, “sustainably sourced” biofuels, “renewable” natural gas and “green” hydrogen, which would have the effect of prohibiting their use with regard to the new thermal energy systems subject to the ordinance.³ It would permit McNeil District Energy only if approved by the City Council. It would permit other district energy systems that are electric, geothermal and solar based. However, it would not permit additional district energy systems based on “renewable,” but high-carbon fuels such as wood. Use of advanced wood heating, “sustainably sourced” biofuels, “renewable” natural gas, “green” hydrogen, and district energy based on “renewable” but high carbon fuels would set back our efforts to reduce greenhouse gas emissions and have other harmful impacts. In fact, strong arguments can be made that use of these measures and fuels is worse than use of natural gas, which is being made subject to the Carbon Pollution Impact Fee.

The Bergman Amendment is Consistent with the Preferred Means to Reduce Building Greenhouse Gas Emissions- Weatherization and Electrification

There seems to be a consensus, except among those who benefit from selling alternatives, that the most effective way to reduce greenhouse gas emissions from buildings is to weatherize them and electrify them to the maximum extent possible, while at the same time moving toward an electric grid powered by 100% carbon free sources.⁴ The Biden Administration has embraced this approach, noting that “[b]y building a clean power grid and electrifying our homes, businesses, industry and transportation, the United States can get more than halfway to our goal of a net-zero emissions economy by 2050.”⁵ The Biden Administration has also supported

³ Under Section 48(66) of the City Charter, the City has broad authority to regulate thermal energy systems in residential and commercial buildings, but must obtain voter approval before imposing a carbon impact fee. In March, voters approved a fee on fossil fuel thermal energy systems but not on renewable systems or fuels. The ballot measure did not inform voters of what the City considers “renewable.” The City would have to obtain voter approval before imposing a carbon impact fee on anything other than fossil fuel thermal energy systems.

⁴ See <https://www.nrdc.org/stories/why-we-must-electrify-everything-even-grid-fully-green>;

⁵ <https://www.whitehouse.gov/ostp/news-updates/2022/12/14/fact-sheet-new-innovation-agenda-will-electrify-homes-businesses-and-transportation-to-lower-energy-bills-and-achieve-climate-goals/>

funding for weatherization,⁶ and has set a goal of achieving a carbon pollution-free electricity grid by 2035.⁷ Mayor Weinberger has spoken in support of building electrification, and a predecessor to the ordinance now under consideration was called the “Building Electrification and Carbon Price Ordinance.”⁸ The City’s Net Zero Energy Roadmap calls for “Efficient electric buildings” to provide 60% of the reductions needed to reach its net zero by 2030 goal, and targets having “40% of commercial floor space and 95% of households . . . heated by electric heat pump and water heating systems.” P. vi.

The electrification strategy of the United States as well as of Burlington relies primarily on heat pumps. A recent study determined that residential heat pumps reduce 20-year global warming potential emissions by 53-67% compared to a gas furnace.⁹

In addition to power from an increasingly low-carbon grid, building thermal decarbonization should also rely on solar energy, thermal energy networks, and district energy from non-combustion sources.

The Bergman Amendment is consistent with the preferred electrification strategy by eliminating alternatives to electrification that have high greenhouse gas emissions and/or are otherwise problematic

Advanced Wood Heating, Renewable Gas, Hydrogen and Biofuels Should Not Be Incentivized

Advanced Wood Heating

Advanced Wood Heating is Harmful to Public Health

Incentivizing advanced wood heating is terrible public policy. Burning wood pellets or chips to generate heat in homes emits pollutants that are harmful to people’s health, including fine particulate matter, carbon monoxide, nitrogen oxides, and volatile organic compounds, including benzene and formaldehyde. Residential Wood Burning, American Lung Association, <https://www.lung.org/clean-air/indoor-air/indoor-air-pollutants/residential-wood-burning>; See A. Marin, et al., *Residential wood heating: An overview of U.S. impacts and regulations*, 72 *Journal of the Air & Waste Management Ass’n* 619 (2022), <https://www.tandfonline.com/doi/pdf/10.1080/10962247.2022.2050442>. These harmful emissions occur both indoors and outdoors. American Lung Association, *supra*. They can cause coughing, wheezing, asthma attacks, heart attacks, and premature death, among other health effects. *Id.* For these reasons, the American Lung Association recommends that people “[a]void burning wood . . . to heat the home or water,” and “[l]ook for alternatives to heat your home.” *Id.* A recent Vermont Department of Health presentation agrees that “[r]educing home

⁶ See <https://www.energy.gov/articles/biden-administration-announces-investments-make-homes-more-energy-efficient-and-lower>

⁷ See White House Fact Sheet, footnote 5, above,

⁸ <https://www.burlingtonvt.gov/Press/mayor-miro-weinberger-releases-building-electrification-proposal-to-dramatically-reduce-new>

⁹ <https://www.sciencedirect.com/science/article/pii/S0301421522000386>

heating emissions (especially from biomass) is good for health,” indicates that residential biomass burning is the state’s largest source of harmful fine particulate matter emissions, and estimates that the direct health impacts associated with current emissions from residential biomass burning in Vermont are between approximately \$105 and \$235 million per year. J. Ulmer, *Health considerations for home energy strategies in Vermont* (January 27, 2023), <https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Natural%20Resources/Energy/W~Jared%20Ulmer~Health%20Considerations%20for%20Home%20Energy%20strategies%20in%20Vermont~1-27-2023.pdf>.

Natural gas stoves and heaters have lower particle pollution emissions than wood-burning devices. Residential Wood Burning, American Lung Association.

The Environmental Protection Agency adopted more stringent standards for wood heater particulate matter emissions, which became effective in 2020. A. Marin, *supra* at 620. Compliance with emission limits is determined through certification testing of prototype units. *Id.* at 624. However, both the Northeast States for Coordinated Air Use Management and EPA’s Inspector General have identified serious flaws in the federal certification program. *Report: The EPA’s Residential Wood Heater Program Does Not Provide Reasonable Assurance that Heaters Are Properly Tested and Certified Before Reaching Consumers* (February 28, 2023), <https://www.epaig.gov/sites/default/files/reports/2023-05/epaig20230228-23-E-00122.pdf>; NESCAUM, *Assessment of EPA’s Residential Wood Heater Certification Program* (March 2021), <https://www.nescaum.org/documents/nescaum-review-of-epa-rwh-nsps-certification-program-rev-3-30-21.pdf>. NESCAUM determined that “the existing program provides no confidence that new residential wood heaters are performing in a manner that better protects public health than the heaters they replace, and at the level required by federal standards.” NESCAUM, at x – xi.

Further, the EPA has failed to perform its mandatory statutory duty to review, and, as necessary, revise the particulate matter standards, including the certification requirements. On September 21, 2023, 10 state Attorneys General, including the Vermont Attorney General, and the Puget Sound Clean Air Agency sued EPA to compel it to perform this mandatory duty. <https://oregoncapitalchronicle.com/2023/10/03/oregon-nine-states-sue-epa-over-wood-stove-pollution-that-threatens-tens-of-thousands-in-the-state/>. Based on EPA data, the Complaint notes that while residential wood heater emissions are responsible for about 8% of fine particulate matter emissions nationwide, they are responsible for 59% of such emissions in Vermont. Complaint ¶¶ 22-23, <https://www.documentcloud.org/documents/23997709-complaint-about-wood-stoves>.

Numerous cities and towns, large and small, suffer from harmful fine particulate matter emissions due to residential wood burning. Wood burning in the City may increase if the City incentivizes it. *See* D. Carrington, *The Guardian*, *Wood burning air pollution in UK has doubled in a decade* (Feb. 14, 2023) <https://www.theguardian.com/environment/2023/feb/14/wood-burning-air-pollution-uk-doubled-decade> (wood burners “have become middle-class status symbols, which harm the quality of our air, damage the environment and threaten public health.”).

Larger wood fired boilers used in commercial or institutional settings also emit more harmful particulate matter than fossil fuel burning systems. See L. Rector, P. Miller, S. Snook and M. Ahmadi, *Comparative emissions characterization of a small-scale wood chip-fired boiler and an oil-fired boiler in a school setting* (2017), <https://www.sciencedirect.com/science/article/pii/S0961953417303331> (total particulate matter emissions from wood-fired boiler were almost 30 times higher than from an oil-fired burner).

Burning Wood is Worse for the Climate than Burning Fossil Fuels

Burning wood emits more carbon dioxide per unit of energy generated than burning fossil fuels. J. Sterman, W. Moomaw, J. N. Rooney-Varga & L. Siegel, *Does wood bioenergy help or harm the climate?*, Bulletin of the Atomic Scientists, Vol 78, No. 3 (2022), <https://thebulletin.org/premium/2022-05/does-wood-bioenergy-help-or-harm-the-climate>; Gunn, et al, *Scientific Evidence Does Not Support The Carbon Neutrality of Woody Biomass, A Review of Existing Literature* https://www.signal.org/files/ugd/f5c52e_a51f246c8a854cf594ce47e6d05d9616.pdf. Professors William Moomaw and Juliette Rooney-Varga described at length at the TEUC symposium on McNeil how burning wood results in direct emissions of carbon dioxide, and harvesting trees for wood burning impairs the ability of forests to play their vital role in storing carbon. The adverse climate and forest health impacts caused by harvesting and burning trees for electricity at McNeil, also result from harvesting trees and burning them in wood and pellet stoves to heat homes, businesses and institutions.

In sum, the Thermal Energy Ordinance should not incentivize advanced wood heating, and it is sound public policy to prohibit it.

Renewable Gas

Renewable gas, like natural gas, is primarily methane. However, rather than being taken out of the ground it is made by processing biogas generated by landfills, methane digesters at farms and wastewater treatment facilities. Statement of Robert W. Howarth, Ph.D., Hearing on Senate Bill 5, Committee on Natural Resources and Energy, Vermont State Senate 1 (February 8, 2023), <https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Natural%20Resources/Bills/S.5/Witness%20Documents/S.5~Robert%20Howarth~Environmental%20Science%20Testimony~2-8-2023.pdf>. Cornell Professor Robert Howarth, one of the nation's leading methane scientists, testified to the Vermont legislature that "it would be unwise for Vermont to encourage the use of either hydrogen or renewable natural gas for heating of homes and commercial buildings." *Id.* at 1.

Because renewable gas, like natural gas, is primarily methane, it has essentially the same greenhouse gas emissions as natural gas when burned. Due to impurities, biogas must be processed into "renewable" gas before it can be mixed with natural gas in distribution pipelines. *Id.* at 2. The processing is inefficient and emits substantial amounts of methane, a potent greenhouse gas. *Id.* Thus, use of "renewable" gas "may lead to greenhouse gas emissions that exceed those from using fossil natural gas." *Id.* While generation of biogas should not be

encouraged, it is best to use biogas at the source of generation, rather than processing it for mixing with natural gas in pipelines. *Id.* Biogas can be used on site for heating or to generate electricity. *Id.* For example, biogas generated by Vermont's Coventry and Moretown landfills has been burned on-site to generate electricity. *See*

<https://www.vtenergydashboard.org/stories/landfill-methane-powers-local-utilities-generators#:~:text=For%20ten%20years%2C%20Washington%20Electric%20Co-op%20has%20been,year%20and%20over%20half%20of%20WEC%E2%80%99s%20power%20mix>

Burlington Electric's General Manager stated at the last Ordinance Committee meeting that using renewable gas involves using a gas that would otherwise be released to the air. This is not true with respect to the substantial amount of renewable gas originating from large landfills. Federal law requires landfills over a certain size to install and maintain a landfill gas collection and control system. 40 C.F.R. Part 60, Subparts WWW and XXX. Furthermore, Vermont law seeks to minimize generation of methane in landfills by banning landfill disposal of food waste, the decomposition of which generates methane. *See* <https://dec.vermont.gov/waste-management/solid/materials-mgmt/organic-materials>. Incentivizing use of "renewable" gas for heating is at cross purposes with the State's effort to reduce the amount of biogas containing methane generated by decomposition of food wastes in landfills.

Nor should the City be incentivizing the generation of biogas at farms through the use of biodigesters. At dairy farms methane is emitted by liquid manure systems, where the manure decomposes anaerobically, and out of the mouths of dairy cows through a process known as enteric fermentation. Biodigesters generate biogas from liquid manure. Biodigesters are a false climate solution because they incentivize an increase in herd size. R. Spector, Center for Food Safety, *The Dairy Digester Dilemma: A False Climate Solution* (October 4, 2021), <https://www.centerforfoodsafety.org/blog/6457/the-dairy-digester-dilemma-a-false-climate-solution>. Even if a digester were to capture 100% of the methane from a dairy's liquid manure system, an increase in herd size increases methane emissions because the digester cannot capture the emissions from enteric fermentation. Enteric fermentation is responsible for substantially more methane emissions than liquid manure systems. *See* <https://www.epa.gov/ghgemissions/overview-greenhouse-gases#methane> (the agriculture sector is the largest source of methane emissions in the United States, enteric fermentation is responsible for 25% of emissions and manure management is responsible for 8% of emissions).

Furthermore, most small and mid-size dairy operations do not produce enough manure to justify the costs of installing a digester, which cost between \$2 million and \$9 million to build. R. Spector, *supra*. Proliferation of biodigesters may speed up the ongoing consolidation of the dairy industry into fewer, larger operations.

In sum, the Thermal Energy Ordinance should not incentivize renewable natural gas.

Green Hydrogen

Green hydrogen is hydrogen made from 100% renewable electricity using electrolysis to break water into hydrogen and oxygen. Statement of Robert W. Howarth, Ph.D., Hearing on

Senate Bill 5, Committee on Natural Resources and Energy, Vermont State Senate 1 (February 8, 2023) 2,

<https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Natural%20Resources/Bills/S.5/Witness%20Documents/S.5~Robert%20Howarth~Environmental%20Science%20Testimony~2-8-2023.pdf>. Hydrogen is the smallest molecule in the Universe, and is very leaky. *Id.*

Green hydrogen has a lower greenhouse gas impact than hydrogen made from fossil fuels, but its impact is significant. Although hydrogen itself is not a greenhouse gas, it contributes to global warming when leaked by prolonging the time that methane stays in the atmosphere and adding more water vapor to the stratosphere. *Id.*

The downsides to using hydrogen for home heating were recently summarized by Cornell Professor Robert Howarth in testimony on S.5 (the Affordable Heat Act):

- Hydrogen is very leaky, much more so than methane, and hydrogen leakage from pipelines will contribute to global warming.
- Only small quantities of hydrogen can be blended with fossil gas in distribution pipelines, since hydrogen makes pipelines more brittle, potentially increasing methane emissions and leading to greater catastrophic risk.
- Most existing gas appliances in homes and apartments (furnaces, cooking stoves, water heaters, dryers) are not designed to burn hydrogen-methane blends, and increasing the hydrogen content can decrease the efficiency of combustion and lead to increased air pollution, particularly of nitrogen oxides.
- Most engineering studies indicate greatly increased risk of mixing more than 20% hydrogen into fossil gas systems, and the California Air Resources Board has concluded that no more than 5% hydrogen should be blended until further study shows higher amounts are sufficiently safe.
- The energy density of hydrogen is far less than for methane, so blending 20% hydrogen into a fossil-fuel distribution pipeline reduces the combustion emissions of carbon dioxide by only 7%.
- Hydrogen is significantly more expensive than fossil gas, and so blending any hydrogen into the distribution system increases costs.
- Using renewable electricity to produce green hydrogen which is then used to heat homes and apartments diverts this electricity from more efficient uses, such as using heat pumps. For the same quantity of electricity, a heat pump can deliver 6 to 10 times more heat in a home than could burning green hydrogen.
- Inefficient uses of renewable electricity drive up costs and slow the transition from fossil fuels, since renewable electricity will remain a relatively scarce and precious commodity for the next few decades.

Id. at 3.

All independent studies have argued against using hydrogen for home heating, including peer reviewed papers and reports from the International Energy Agency and the UN's Intergovernmental Panel on Climate Change. *Id.* (citing Rosenow, Joule, *Is heating hydrogen with homes all but a pipedream? An evidence review* (2022), <https://doi.org/10.1016/j.joule.2022.08.015>). This includes 32 different studies. *Id.* at 4.

“[U]sing hydrogen in homes and buildings is fraught with economic, logistical and safety challenges, capable of reducing greenhouse gas emissions less than 7% before encountering potentially insurmountable roadblocks.” Energy Innovation Policy and Technology & D. Esposito, *Gas Utilities Are Promoting Hydrogen, But It Could Be a Dead End for Consumers and the Climate* (March 29, 2022),

<https://www.forbes.com/sites/energyinnovation/2022/03/29/gas-utility-hydrogen-proposals-ignore-a-superior-decarbonization-pathway-electrification/?sh=34575dfa76a1> Natural gas utilities are promoting hydrogen to maintain market share and profit from the new infrastructure it would require, however, such plans are “a bad bet for consumers and the environment.” *Id.* Using more than a 5-20% blend would require replacement of pipelines and replacement of household heaters and appliances designed to run on natural gas. *Id.* Electrification is a much better strategy for reducing greenhouse gas emissions. *Id.*

In sum, the Thermal Energy Ordinance should not incentivize hydrogen.

Sustainably sourced biofuels

Nor should the Thermal Energy Ordinance incentivize sustainably sourced biofuels. As has been noted in prior public statements and submissions to the City, biofuel production and use has a number of harmful effects, including displacement of food crops, and increased palm oil production, which destroys tropical forests.¹⁰ Estimates of greenhouse gas emissions from biofuel production and use vary considerably and depend on the precise feedstock and method of production. While it may be possible to achieve some modest greenhouse gas emission reductions using biofuels the reductions pale in comparison to those of electrification, and harmful effects can be considerable. “Depending on the feedstock and production process, biofuels can emit even more GHGs than some fossil fuels on an energy-equivalent basis.” <https://www.epa.gov/risk/biofuels-and-environment>.

Incorporation of the Affordable Heat Act’s Eligible Clean Heat Measures into the Ordinance is Not Appropriate

At the Ordinance Committee and TEUC meetings, a number of Councilors appeared to be persuaded by the argument that the City’s ordinance should follow the language of the State’s Affordable Heat Act. Incorporation of the Affordable Heat Act’s eligible clean heat measures into the Ordinance is inappropriate for a number of reasons. First, the Affordable Heat Act is fundamentally different from the Ordinance. The Affordable Heat Act directs the Public Utility Commission to establish by regulation a system of tradeable clean heat credits whereby fuel dealers must earn clean heat credits by delivering clean heat measures or fuels to their Vermont customers. The amount of credit that can be earned by providing each type of eligible clean heat measure will be determined by the Public Utility Commission, based on an analysis of greenhouse gas emissions, through a public notice and comment rulemaking process. 30 V.S.A. § 8127. Thus, the result will be a sliding scale of credits based on the greenhouse gas emission reductions expected from each clean heat measure. If the PUC determines installation of a heat pump will reduce greenhouse gas emissions more than use of “sustainably sourced biofuels,” then more clean heat credit would result from sale of a heat pump.

In contrast, the City’s ordinance, as proposed, would impose a fee only on fossil fuel heating systems, but not on any non- fossil fuel heating system or fuels, including those which have substantial greenhouse gas emissions. The all or nothing approach of the Ordinance is

¹⁰ See 350 VT paper on biofuels at Page 14 of Agenda Packet for 7/25/23 TEUC meeting. <https://burlingtonvt.portal.civicclerk.com/event/4135/files>.

incompatible with the approach of the Affordable Heat Act. Whereas, the Affordable Heat Act, properly implemented, has the potential to send the correct price signals for various heating systems/fuels based on the relative greenhouse gas emissions, the same is not true of the ordinance. To avoid incentivizing and inducing more than optimal use of biofuels, renewable gas, advanced wood heating and hydrogen, the City should strip these measures/fuels from the ordinance so as to prohibit their use for the new systems covered by the ordinance.

Second, the Affordable Heat Act is designed to comprehensively cover the sale of all heating fuels in the State. It applies to sale of fuels to older, poorly insulated homes which present a challenge for heat pumps and weatherization alone to satisfy all heating needs during winter. The legislature was concerned with the costs that would be borne by Vermonters in drafty old homes currently heated by natural gas, fuel oil, propane and wood, and was apparently seeking to promote measures that might affordably be used by such Vermonters, including fuels that can be used in their existing heating systems- biofuels can be used in existing fuel oil heating systems and “renewable” gas can be used in existing gas heating systems.

In contrast, Burlington’s ordinance applies only to installation of new systems in new construction or in existing commercial, institutional or industrial buildings of 50,000 square feet or more. As the Ordinance applies only to new systems, there is no potential cost advantage for fuels that can be used in existing systems.

Further, new construction should be sufficiently weatherized to permit use of the systems with the lowest greenhouse gas emissions- electrification, with heat pumps and/or thermal energy networks, and solar systems. There is no reason to permit or incentivize systems or fuels in new construction that will result in higher greenhouse gas emissions and have other harmful impacts.

Third, the legislature in the Affordable Heat Act has simply designated measures that are eligible for clean heat credits. It is now up to the PUC to determine, through public notice and comment rulemaking, the amount of credit, if any, that should be provided for each type of eligible measure. The PUC is required to present its final proposed rules to the legislature on or before January 15, 2025, and the rules must then be approved by the legislature before becoming effective. The City of Burlington should not get ahead of the PUC and the legislative process by incentivizing various measures before the PUC has considered the clean heat credits, if any, that will be allowed for them, and the legislature has approved the PUC’s final rule.

Finally, the legislature appears to have designated fuels/systems as eligible for clean heat credits based on wrongfully assuming that biogenic emissions need not be counted. This is contrary to current science, and may well be corrected during the rulemaking process. The legislature has so far gotten it wrong. The City of Burlington must do better.

It is not adequate to simply sit back and rely on disqualifying any fuel that is found ineligible for credits under the Affordable Heat Act. In the meantime, systems emitting excess greenhouse emissions may be installed and can be expected to operate for many years. Further, the ordinance, as drafted, given its all or nothing approach, will not send price signals that match those set by the legislature. For example, if the legislature were to determine that advanced wood heating is entitled to only a very small credit, it would remain totally exempt from the

ordinance's fee. The best approach is to prohibit use of the problematic systems/fuels at issue for now. If at a future time, the City wishes to make any of them subject to the fee- so that the correct price signal would be sent- the City could go back out to voters to seek approval to do so. This is the approach that was followed with regard to the current primary heating system ordinance, which effectively banned fossil fuel heating systems in new construction until such time as the alternative compliance payment is put in place.

For these reasons, if you are inclined to approve a Thermal Energy System Ordinance, I urge you to approve the Bergman Amendment. Thank you for considering my views and for your service to the City.

/s/ Nicholas F. Persampieri

Nick Persampieri, Brief Resume

Vermont Attorney General's Office, Assistant Attorney General, 2010-2023 (retired 10/30/23).

Lead lawyer on air quality issues and multistate matters involving air quality and climate issues. Participated in commenting on federal rules and/or litigation regarding power plants, oil and gas facilities, chemical plants, landfills, motor vehicles, and wood stoves.

Earthjustice, Attorney, 2005-2009 (the nation's largest nonprofit environmental law firm). Developed and litigated cases under Clean Air Act, National Environmental Policy Act and other environmental laws, including challenges to coal-fired power plant permitting, oil and gas leasing and air emissions. Played key role in preventing construction of two massive coal-fired power plants.

United States Department of Justice, Environmental Enforcement Section, Trial Attorney, 1999-2005. Litigated cases under federal environmental laws. Lead counsel on Clean Air Act case settlement requiring \$320 million investment to reduce emissions at 6 petroleum refineries in 4 states and \$3.6 million civil penalty. Second chair on multi-party Superfund litigation resulting in \$120 million cost recovery settlement.

New Mexico Environment Department, Staff attorney, 1996-1999; Sole Practice, 1993-1996 (began to specialize in environmental law); Two New Mexico law firms, 1985-1993 (became partner in 40-lawyer firm)

J.D., University of Virginia School of Law; B.A., Economics, Amherst College.

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Councilors Traverse,
Barlow
Public Hearing Dates: _____

In the Year Two Thousand Twenty-Three

First reading: _____

Referred to: _____

Rules suspended and placed in all

Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

An Ordinance in Relation to

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL ENERGY SYSTEMS

8-76 Purpose and Authority.

- (a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.
- (b) Authority. All provisions in this article relating to thermal energy systems are adopted pursuant to the authority and powers granted by section 48(66) of the City Charter ~~majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter~~ and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City, and the majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023 to authorize assessment of a carbon impact fee on certain fossil fuel thermal energy systems. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the City and its inhabitants.

8-77 Definitions.

- (a) A "thermal energy system" shall mean any space condition, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy.
- (b) "Fossil fuel" shall include all fossil-based heating fuel, including coal, natural gas, kerosene, oil, and propane.

(c) ~~“CleanRenewable energy” shall mean include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of 30 V.S.A. § 8127. Renewable energy measures that do not rely on electrification, geothermal or solar will be subject the applicable requirements of section 8-78(a).~~

~~(1) Electric-powered thermal equipment, including cold-climate air source heat pumps, ground source heat pumps, and all other heat pumps including district, thermal energy network, grid, microgrid, and building geothermal systems and systems that use waste heat from non-combustion sources; electric appliances providing thermal end uses; and heat pump hot water heaters (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3) or the Vermont Residential Building Energy Standards (RBES) Energy Code (Section 2.4b));~~

~~(2) Solar water or air heating systems, solar thermal assisted heat pumps, and solar district heating, or solar thermal systems connected to thermal energy networks; and~~

~~(3) McNeil District Energy, if and only if the City approves proceeding with the project.~~

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(d) Any ~~“cleanrenewable energy” fuel or~~ measure set forth in subsection (c) shall be considered excluded from the definition of ~~“cleanrenewable energy”~~ if the Vermont Public Utility Commission determines ~~ita~~ ~~renewablemeasure or fuel source~~ is not eligible for ~~cleanrenewable~~ heat credits under the requirements of a State of Vermont ~~CleanRenewable~~ Heat Standard or any similar State thermal energy policy.

(e) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:

(1) All residential buildings; and

(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no ~~cleanrenewable~~ energy thermal energy system available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.

(f) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.

(g) An “existing City building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.

8-78 ~~CleanRenewable~~ Energy Requirements.

(a) New Buildings. Applicants seeking permits pursuant to this chapter for a new building shall demonstrate that the new building will utilize ~~cleanrenewable~~ energy thermal energy systems. ~~If an~~

~~applicant utilizes a primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must certify prior to receiving a permit that the use of electrification, geothermal, or solar measures is not technically feasible, is economically unduly burdensome, is not permitted by applicable regulation, or is not feasible for other similar reasons demonstrated to the satisfaction of the Department of Permitting and Inspections. If an applicant utilizes a non-primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must provide the Department of Permitting and Inspection a written explanation of the reason for not using a thermal energy system that relies on electrification, geothermal, or solar measures.~~

(b) Large Existing Buildings. Applicants seeking permits to replace space conditioning systems or domestic water heating systems that are in large existing buildings shall demonstrate the new space conditioning or domestic water heating systems will utilize cleanrenewable energy. This subsection (b) shall also apply to existing City buildings, except that existing City buildings are not subject to the carbon pollution impact fee established in Section 8-79.

~~(c) Annual Certification. If an applicant utilizes renewable energy in a thermal energy system capable of also using fossil fuels, the applicant must certify prior to receiving a permit and annually thereafter that the renewable energy fully offsets the annual usage for the thermal energy system. This certification may include, but shall not be limited to, submitting a contract, invoice, or proof of a subscription to or participation in a tariff program that demonstrates the applicant's purchased renewable energy fully covers the annual need of the thermal energy system. If the applicant fails to provide annual certification for any thermal energy system capable of also using fossil fuels, that thermal energy system shall be considered a fossil fuel thermal energy system that may only be utilized pursuant to subsection (d), subject to a carbon pollution impact fee established in Section 8-79 prorated to the remaining lifetime of the fossil fuel thermal energy system.~~

(d) Utilization of Fossil Fuel Thermal Energy Systems. An applicant covered by this Section may alternatively utilize a fossil fuel thermal energy system and the applicant's building shall be subject to the carbon pollution impact fee established in Section 8-79, but no permit shall be issued to an applicant utilizing a fossil fuel thermal energy system unless the applicant establishes that the cost of a cleanrenewable energy thermal energy system is unduly burdensome. To establish that the cost of a cleanrenewable energy thermal energy system is unduly burdensome, the applicant must demonstrate to the satisfaction of the Department of Permitting and Inspections that the twenty-five (25) year capital and operational cost of the least expensive cleanrenewable energy thermal energy system, including any available incentives, rebates, or tax credits, is more than the twenty-five (25) year capital and operational costs of the applicant's fossil fuel thermal energy system and the carbon pollution impact fee that will be assessed on the applicant's building.

(e) Supporting Incentives, Rebates, or Tax Credits. Nothing in this article prevents or prohibits applicants from utilizing any and all available local, state, or federal incentives, rebates, or tax credits that support implementation of cleanrenewable energy for their buildings, and applicants are encouraged to access available incentives, rebates, or tax credits.

8-79 Carbon Pollution Impact Fee.

(a) Assessment of Fee. Applicants utilizing a fossil fuel thermal energy system pursuant to Section 8-78(ed) shall be assessed a carbon pollution impact fee on the greenhouse gas emissions from the applicant's building or buildings that are attributable to the applied-for fossil fuel thermal energy systems. In no event should an applicant pay a carbon pollution impact fee twice for the same ton of carbon, and the Department of Permitting and Inspections should ensure in application of the fee that it is not duplicative for applicants with multiple buildings or campuses.

(b) Amount of Fee. Effective January 1, 2024, the carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions attributable to a building's fossil fuel thermal energy systems over their lifetime, based on a net present value calculation (using a discount rate that is the lower of the rate used by either the Environmental Protection Agency or the State of Vermont in calculating the social cost of carbon) at the time the permit application is submitted. The emissions attributable to a building's fossil fuel thermal energy systems will be based on the expected lifetime of the system and its expected annual emissions. Applicants shall be required to submit this information during the permit process, and Department of Permitting and Inspections may work with Burlington Electric Department Energy Services staff to assess and verify applicant information for expected lifetime and emissions of a system in a building. On each subsequent January 1, the carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, but in no event shall the increase be greater than five percent. The carbon pollution impact fee shall be rounded off to the nearest dollar.

(c) Exceptions.

- (1) For large existing building applicants, the carbon pollution impact fee shall be capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system.
- (2) An applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.
- (3) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on cleanrenewable energy, the applicant may apply for a credit toward any carbon pollution impact fee equal to the carbon value of the cleanrenewable energy used for any thermal energy system permitted by the City of Burlington since January 1, 2024 and not regulated under this ordinance.

(c) CleanRenewable Energy Fund. All carbon pollution impact fee proceeds, except those funds needed to administer this ordinance, shall be placed in a CleanRenewable Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. CleanRenewable Energy Fund proceeds shall be made available as follows:

(i) Half of the proceeds paid into the CleanRenewable Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the applicant shall demonstrate to the satisfaction of the Department of Permitting and Inspections that the proceeds will be used to meaningfully reduce greenhouse gas emissions, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (iii).

(ii) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the CleanRenewable Energy Fund by new construction applicants shall be available to provide financial assistance to help low-income Burlington residents with funding initiatives that reduce greenhouse gas emissions, including, but not limited to, the installation of cleanrenewable energy thermal energy systems, weatherization projects, or subsidizing utility costs associated with purchasing renewable energy rather than fossil fuel. This funding may be delivered either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office ("CEDO"), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions.

8-80 Effective Date and Reporting Requirement.

- (a) The provisions of this Article shall take effect on January 1, 2024.
- (b) The Department of Permitting and Inspections shall maintain records on applications submitted pursuant to this Article, including, but not limited to, information on applicant type, the size of an applicant's building(s), the thermal energy system(s) applied for, whether the thermal energy system(s) utilize fossil fuel or cleanrenewable energy, and information submitted in support of an applicant utilizing fossil fuel or cleanrenewable energy. The Department of Permitting and Inspections shall also maintain records on any carbon pollution impact fee proceeds paid into the CleanRenewable Energy Fund and how these proceeds have been distributed. The records required under this section shall be reported to the City Council no later than January 1, 2026 and biannually thereafter, or otherwise upon request.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Post Office Box 849
Burlington, VT 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY
www.burlingtonvt.gov

MEMORANDUM

TO: License Committee/City Council

FROM: Caleb Manna, Excavation Inspector, Department of Public Works

DATE: November 15, 2023

CC: Norman Baldwin, P.E. Assistant Director of Public Works/City Engineer
Chapin Spencer, Director of Public Works.
Laura Wheelock, P.E.; Sr. Public Works Engineer

RE: 44 Shelburne Street Parking Lot – Encumbrance Permit Application

Request

The applicant, Burlington Property Management (BPM), owner of the parcel lot located at 44 Shelburne Street, is requesting approval for a License Agreement and Encumbrance Permit between the City and BPM for use of the public right-of-way located at 44 Shelburne Street, directly adjacent to the Shelburne Roundabout, for continued use of an existing parking lot for the property.

As stated in Burlington Code of Ordinance Chapter 27-32(a): *"No permit as required by Section 27-31 shall be for longer than sixty (60) days, except as authorized by the city council."*

Overview

The Department of Public Works received an encumbrance permit application from BPM on October 16th 2023, requesting use of an exiting parking lot for the property to remain located in the public right-of-way.

During preliminary engineering into design and layout of the Shelburne Roundabout Project from The Vermont Agency of Transportation in fall of 2020, it became known that the parking lot for the property located at 44 Shelburne Street was located within the 99' wide right-of-way boundary of Shelburne Street. The owner of the parcel, Burlington Property Management, was made aware of the condition at this time, and was encouraged to apply for an encumbrance permit through Burlington Department of Public Works for the clear assignment of property rights and for continued private use of the parking lot to serve the property.

The property and parking lot was subject to a tempory construction easement for construction activities on the Shelburne Rounabout Project. During this time the majority of the parking lot was

inaccessible for private use. Now that the project is completed, the applicant has formally submitted an Encumbrance Permit Application for use of the parking lot to serve the property.

Typically, an applicant requesting private use of a VTRANS Class 1 highway such as Shelburne Street would be denied for any non-public transportation related request. In this instance, with the completion of the Shelburne Roundabout Project, VTRANS has finalized substantial lifetime upgrades to the public transportation network in this location. As no further expansion of the public right of way transportation network is required or predicted, DPW is comfortable allowing for use of the parking lot at 44 Shelburne Street for the property.

The area of the public right-of-way occupied for use as a parking lot will be 2,855 square feet, billed at the encumbrance rate of \$1/sq. ft. annually.

Recommendation

The Department of Public Works is supportive of entering into a License Agreement between the Applicant and the City.

Thank you for consideration of this request, please do not hesitate to contact me directly at CManna@burlingtonvt.gov or 802-865-7562.

Attachments

- A. Application
- B. DPW Recommendation Form
- C. Photographs/Site Plan
- D. Certificate of Insurance

Motions:

License Committee:

"To approve and recommend that the City Council approve the Encumbrance Application for Burlington Property Management requesting use of the public right-of-way for a private parking lot as detailed in Attachment C, and to further recommend that the City Council authorize the Mayor to enter into a license agreement with the Applicant for use of the portion of the right-of-way outlined in the Application, subject to review by the City Attorney's Office."

City Council:

"To approve the Encumbrance Application for Burlington Property Management requesting use of the public right-of-way for a private parking lot as detailed in Attachment C, and authorize the Mayor to enter into a license agreement with the Applicant for use of the portion of the right-of-way outlined in the Application, subject to review by the City Attorney's Office."

An Equal Opportunity Employer

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

ENCUMBRANCE PERMIT AND LICENSE AGREEMENT

Burlington Property Management
44 Shelburne Street, Burlington VT 05401

This Long-term Encumbrance Permit and License Agreement (“Agreement”) is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (“City”), and Burlington Property Management, a Vermont Assumed Business Name with a principle place of business located at 44 Shelburne Street, Burlington, VT 05401 (“Licensee”). The City and Licensee agree to the terms and conditions of this Agreement.

1. RECITALS

- A. Authority.** Authority to enter into this Agreement exists in the City Charter and Burlington City Ordinance 27-32. 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 Agreement.
- c. Background.** The City owns property, including the street and sidewalk right-of-way adjacent to the property located at 44 Shelburne Street. Licensee has submitted a long term encumbrance application requesting the occupation of City right-of-way on Shelburne Street with the use of a private parking lot for the property. According to Licensee’s application, the parking lot covers a 2,855-square-foot area of the dedicated public right-of-way.
- D. Purpose.** This Agreement sets forth the terms and conditions for the requested use of the public right-of way.

2. EFFECTIVE DATE AND TERM

- A. Effective Date.** Once executed by both parties, this Agreement shall be valid and enforceable (“the Effective Date”). The City shall not be bound by any provision of this Agreement before the Effective Date and shall have no obligation for any performance before the Effective Date or after the expiration or termination of this Agreement.
- B. Term.** This Agreement shall commence on the Effective Date and expire on April 30th 2024. This Agreement shall be renewable for subsequent 1-year terms, should the Licensee provide all required documentation, pay the annual permit fee, and upon ratification by the City Council. The City in its sole discretion may opt to decline to extend a renewal term.
- C. Termination.** This Agreement may be terminated as set forth in this §2.C. Upon termination, Licensee shall remove—at its own expense—all objects, materials, and other obstructions placed on the Premises. If Licensee refuses to promptly remove such obstructions, the City may remove all such obstructions, and the Licensee shall be liable for all expenses of such removal.
 - i. Discontinued Use.** The City shall have the exclusive right to immediately terminate this Agreement should Licensee or a subsequent owner discontinue the licensed use of the premise.
 - ii. Termination for Convenience.** At any time prior to completion of services specified under this Agreement, the City may terminate the Agreement for any reason by submitting written notice via certified or registered mail to the Licensee, not less than fifteen (15) days prior to the termination date, of its intention to do so. The Licensee shall make no claim

against the City by reason of such termination.

- iii. **Breach.** The City shall have the exclusive right to terminate this Agreement if Licensee is in breach of this Agreement. The City shall provide 7 days written notice in advance of the termination date.

3. DEFINITIONS

- A. **“Effective Date”** means the date on which this Agreement is approved and signed by the City as shown on the signature page of this Agreement.
- B. **“Encumbrance Fee”** means the sum of the encumbrance application fee and the square foot use fee, annually set by the City.
- C. **“Party”** means the City or Licensee and **“Parties”** means both the City and Licensee.
- D. **“Premises”** means the street and sidewalk rights-of-way on the East side of Shelburne Street directly across from 44 Shelburne Street.
- E. **“Property”** means the commercial building lot located at 44 Shelburne Street in Burlington, Vermont, inclusive of the parking lot that is the subject of this Agreement.

4. GRANT OF LICENSE

The City hereby grants to Licensee a license for use of a parking lot to serve the property located at 44 Shelburne Street, covering an area of 2,855 sq. ft., for the term set forth in **§2.B** of this Agreement. Licensee may use and maintain the occupied portion of the parking lot existing in the City’s rights-of-way, which must be maintained and placed exactly as described in the plan approved by the Department of Public Works (“DPW”) and attached hereto as Attachment C.

5. LICENSE CONDITIONS

The Premises shall be maintained in accordance with all conditions set by DPW. Such conditions shall include the following enumerated conditions, but may also be supplemented by DPW upon reasonable notice if DPW determines that the public safety, health, or welfare requires such supplemental conditions:

- A. Licensee shall take all reasonable precautions to protect the public from potential hazards resulting and emanating from the Premises due to activities related to the uses for which this encumbrance is permitted.
- B. Licensee shall control the dust and dirt and other debris on the encumbered area and adjoining areas, including picking up and sweeping such dust, dirt and debris.
- C. Licensee shall not allow obstructions and interferences in the lines of sight on the Premises or the adjacent construction site on the Property.
- D. Licensee shall not maintain or store any toxic or hazardous waste materials or contaminants upon the Premises and shall defend, indemnify and save the City harmless from any claims, causes of action, penalties, fines or other assessments, or the expense and cost of cleanup, if any toxic or hazardous waste materials or contaminants are found on the Premises in connection with Licensee’s construction activities or use of the Premises.
- E. Licensee shall be responsible for removing, hauling and properly disposing of any accumulated snow or ice on the Premises or adjacent to any construction fences or barriers that cannot be

removed by the City's conventional means or methods. All costs of this snow and ice removal shall be the responsibility of Licensee.

6. PAYMENT FOR LICENSE

- A. License Fee.** Licensee shall pay the City encumbrance fees as provided by City ordinance and as further described in Attachment A.
- B. Initial License Fee.** By signing this Agreement, the Parties acknowledge that Licensee has paid the City the license fee for the period beginning on the effective date and ending April 30th, 2024.

7. INSURANCE

- A. Requirement.** Licensee shall maintain, throughout the term of this Agreement and any subsequent extension or renewals, comprehensive public liability insurance with an A- or better-rated insurance carrier qualified to transact business in the State of Vermont insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted by this Agreement in an amount not less than \$1,000,000 each occurrence. The City shall be named as an additional insured on such insurance policy.
- B. Evidence.** Prior to execution of this Agreement, Licensee shall furnish the City with a certificate of insurance and endorsement that includes the provision naming the City as an additional insured. Licensee shall also furnish the City with an endorsement indicating that Licensee shall be given 30 days' written notification prior to cancellation of such insurance for nonpayment of premium and 30 days' written notice for any other reason. Licensee shall take all reasonable efforts to acquire an endorsement providing the City with 10 days' written notification prior to cancellation of such insurance for nonpayment of premium and 30 days' written notification for any other reason. If such endorsement is not reasonably available, then Licensee shall provide the City with notification of any impending cancellations within three days after receipt of such notice from its insurance carrier. The current certificate of insurance and applicable endorsements are attached to this Agreement as Attachment D.
- C. Continuing Obligation.** Licensee shall provide the City with an updated certificate of insurance and applicable endorsements annually on or before the certificate's stated expiration. It is the responsibility of Licensee to ensure that a current certificate of insurance is on file with the City at all times.

8. INDEMNIFICATION

Licensee shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees from liability for any claims, suits, expenses, losses, judgments, and damages arising as a result of the Licensee's acts and/or omissions, and the acts and/or omissions of Licensee's officers, directors, employees, agents, contractors, and subcontractors on or related to Licensee's use of the Premises or in connection with this Agreement or the rights granted to it under this Agreement. If the City, its officers, officials, agents, or employees are notified of any claims asserted against it to which this indemnification provision may apply, the City shall immediately thereafter notify the Licensee in writing that a claim to which the indemnification provision may apply has been received. Licensee shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The City retains the right to participate, at its own expense, in the defense of any claim and to approve all proposed settlements of claims to which this provision applies. Under no conditions shall the City be obligated to indemnify the Licensee or any third party, nor shall the City be otherwise

liable for expenses or reimbursement, including attorney's fees, collection costs, or other costs, of Licensee or any third party.

9. RESPONSIBILITY FOR SUPERVISION:

Licensee shall assume responsibility for general supervision of its contractors and any subcontractors, shall be solely responsible for all procedures, methods, and work, and shall be responsible to the City for all acts or omissions of its officers, employees, agents, contractors, subcontractors, or any other person related to any activity or work performed in connection with this Agreement or the rights granted to Licensee under this Agreement.

10. PUBLIC RELATIONS:

Throughout the performance of the work, the Licensee will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Licensee shall conduct themselves with propriety.

11. PERMITS

Licensee shall be responsible for obtaining all necessary City and/or State permits prior to performing any work on the Premises or in connection with this Agreement.

12. NUISANCES PROHIBITED

Licensee shall not—during the term of this Agreement—on or in the Premises, maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City ordinance, State or Federal statute, or controlling law, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

13. INSPECTION OF WORK:

The City shall, at all times, have access to the Premises for the purposes of inspection, and the Licensee shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Licensee shall permit the City or representative for the City the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Licensee.

14. ASSIGNMENT OF RIGHTS

If Licensee sells the Property, Licensee may temporarily assign the rights granted herein to the new owner of the Property for a period of 60 days after closing. Any subsequent owner of the Property shall execute a new agreement with the City and provide proof of insurance within the 60 day period. Failure to comply with this §14 shall constitute a discontinued use under §2.C.i of this Agreement.

15. LIMITATION OF RIGHTS

Licensee acknowledges that no property interest or other right is created other than that specifically defined and limited by this Agreement.

16. WAIVER

The City's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver. Waiver by the City may only occur

through an expressed written waiver signed by an authorized representative of the City. No waiver of a breach of any of the covenants, agreements, or provisions contained in this Agreement shall be construed to be a waiver of any subsequent breach of the same or of any other provision in this Agreement.

17. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the Parties with respect to the subject matter of this Agreement. All prior representations and understandings related to Licensee's use of the specified portions of the City's right-of-way, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

18. MODIFICATION

Modifications to this Agreement shall only be valid if agreed to in a formal written amendment to this Agreement, properly executed and approved by the Parties.

19. THIRD PARTY BENEFICIARIES

This Agreement does not confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement and do not create any right for such third parties.

20. ATTACHMENTS

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

- A. Attachment A:** Licensee's Application
- B. Attachment B:** Department of Public Works Encumbrance Recommendation Form
- C. Attachment C:** Photographs and Sketches of Encroachment
- D. Attachment D:** Certificate of Insurance

21. ORDER OF PRECEDENT

This Agreement shall control over any conflicting attachment.

— *Signature Page Follows* —

22. SIGNATURE PAGE

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 Agreement

LICENSEE
Charles Burns
Burlington Property Management

By: _____
Charles Burns

Date: _____

CITY OF BURLINGTON
Mayor Miro Weinberger

By: _____
Mayor Miro Weinberger
Duly Authorized

Date: _____



City of Burlington, VT

EX-A

10/26/2023

REN-23-20**ROW Encumbrance Permit**

Status: Active

Submitted On: 10/11/2023

Primary Location

44 Shelburne Street

Burlington, VT 05401

Owner

BURNS, CHARLES / BURNS, CYNTHIA

473 MEADOWSIDE DR CHARLOTTE, VT 05445

Applicant

Samantha Summers



802-373-3507



@ yourpropertymanagervt@gmail.com



44 Shelburne Street

Burlington, VT - Vermont 05401

Right-of-Way Encumbrance Application**Type of Encumbrance Requested***

Long-Term Encumbrance (More than 60 Days)

Encumbrance Description* ?

Use of the full parking lot for parking cars at 44 Shelburne Street. Parking lot for the property is located in Shelburne Street ROW. Use of the State Class 1 highway ROW is authorized after substantial completion of the Shelburne Roundabout.

Location of Encumbrance * ?

Parking Lot

The length of Long-Term Encumbrances (years) are negotiated on a case-by-case basis, and may be renewed at the request of the applicant.

EX-A1

Encumbrance Term (Years)

1

Encumbrance Start Date

11/20/2023

Encumbrance End Date

04/30/2024

Area Encumbered (Square Feet)

2855

Company Information

Company Name

Burlington Property Management

DBA Name

Phone

8023430462

FAX

Street Address

44 Shelburne St

City, State Zip

Burlington VT 05401

Email ?

ccburnsrealestate@gmail.com



DEPARTMENT OF PUBLIC WORKS
 645 PINE STREET
 BURLINGTON, VT 05401
 Voice: (802) 863-9094 Ext 3 Fax: (802) 863-0466
 Email: dpwpinecustomerservice@burlingtonvt.gov

DPW ENCUMBRANCE RECOMMENDATION FORM

DBA NAME: _____ DATE: 10/26/23
 COMPANY NAME: Burlington Property Management PHONE: 802-373-3507
 CONTACT NAME: Chuck Burns EMAIL: yourpropertymanagervt@gmail.com
 MAILING ADDRESS: 44 Shelburne Street Burlington VT
 LOCATION OF ENCUMBRANCE: 44 Shelburne Street

FOR LONG-TERM ENCUMBRANCE, TABLE AND CHAIR ENCUMBRANCE, AND CONSTRUCTION ENCUMBRANCE

1. All encumbrances should be located on private property, if possible. In the opinion of the Excavation Inspector, is there an available alternative location for the requested encumbrance on private property?

YES []

NO ☒

2. Will there be sufficient width for plows, pedestrian access, and ADA requirements if the proposed encumbrance is added to the sidewalk/roadway/greenbelt?

YES ☒

NO []

3. Additional Comments: _____

Parking lot located outside of transportation network

4. Has this business remained in compliance to date (RENEWALS ONLY)?

YES []

NO []

5. Describe the encumbrance, including square footage and location of items: _____

Parking lot for 44 Shelburne St., 2,855 sq ft of asphalt parking lot located in Shelburne St right-of-way.

BELOW THIS LINE – DEPARTMENT OF PUBLIC WORKS OFFICE USE ONLY

Approved: Yes ☒ No []

If no, reason: _____

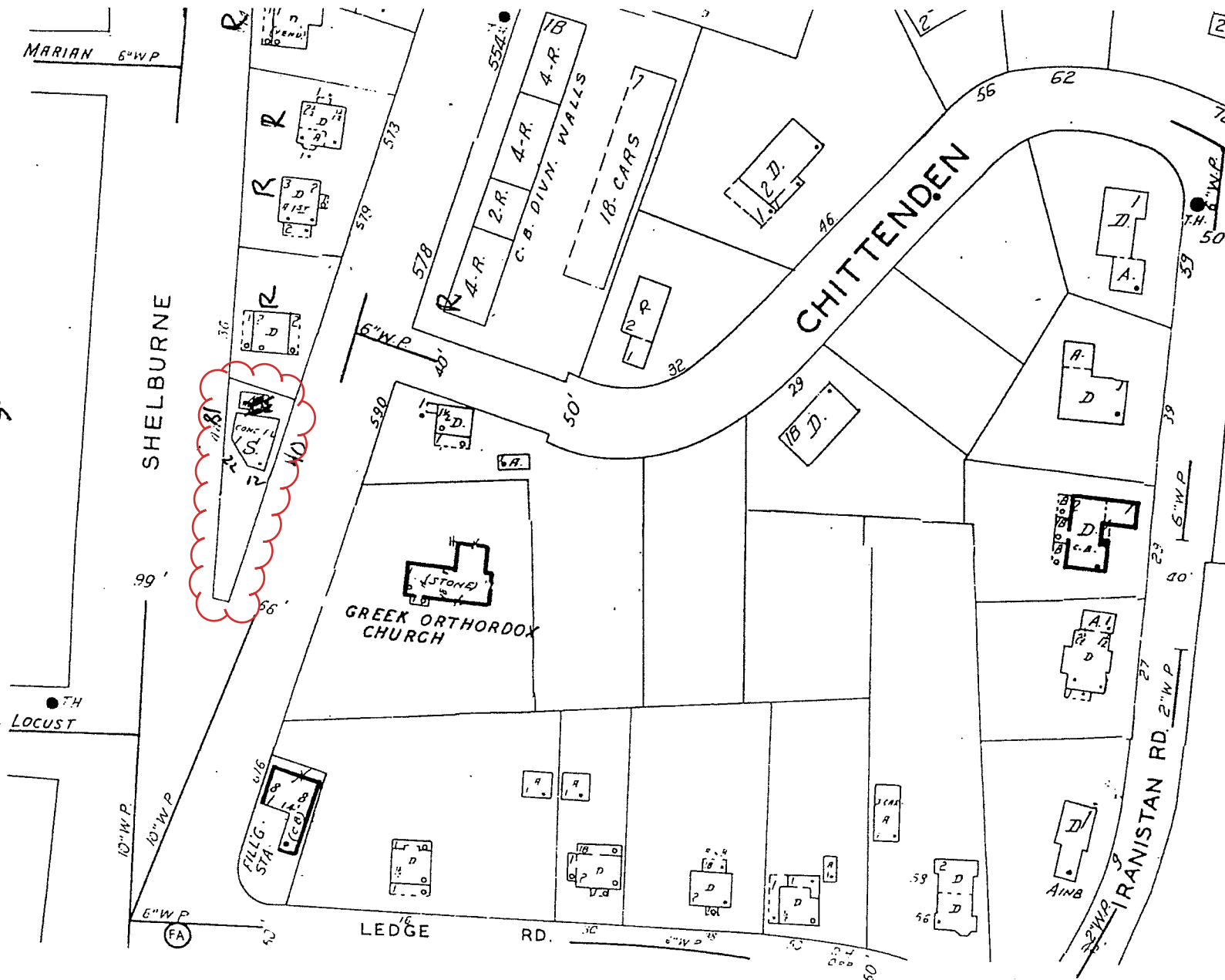
Signature: Caleb Manna

Date: 10/26/23

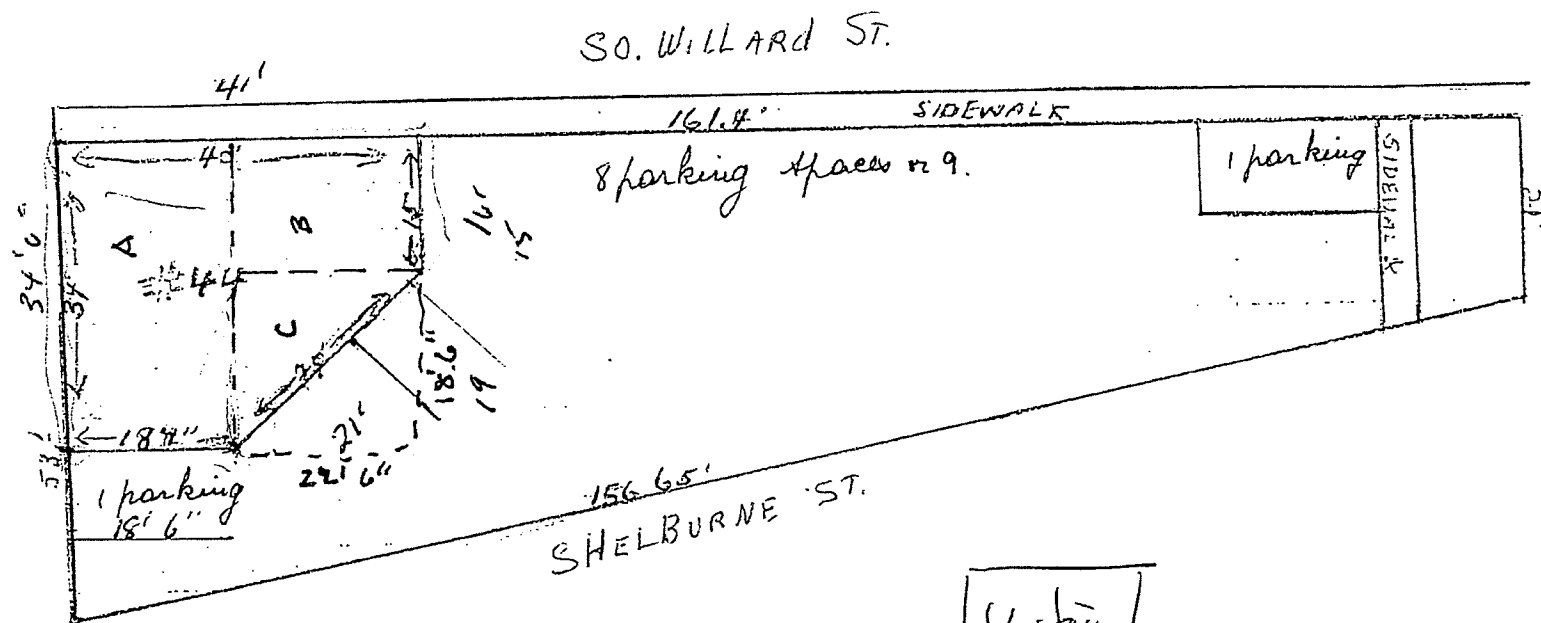
EX-C



Chick
School



EX-C1

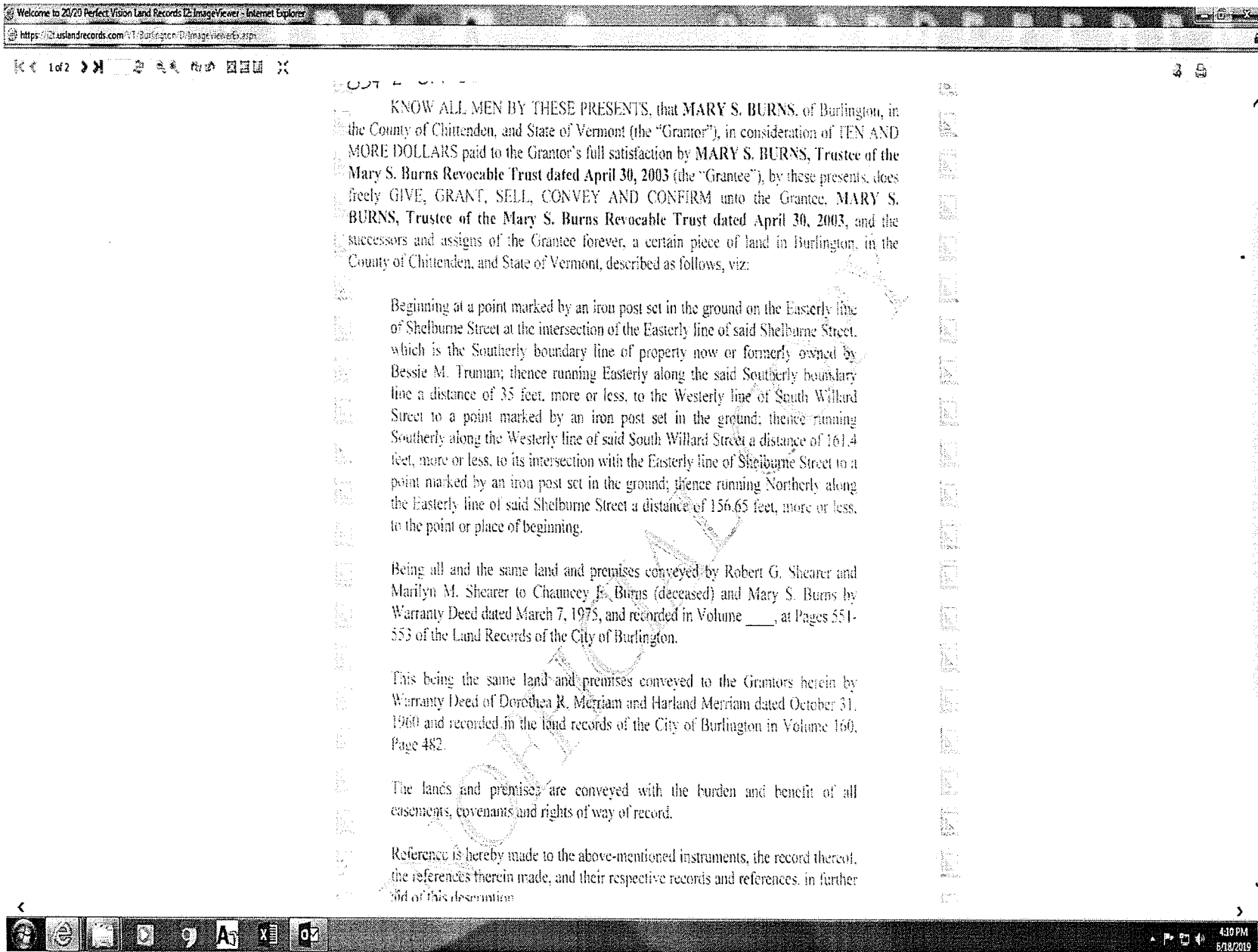


12 parking spaces

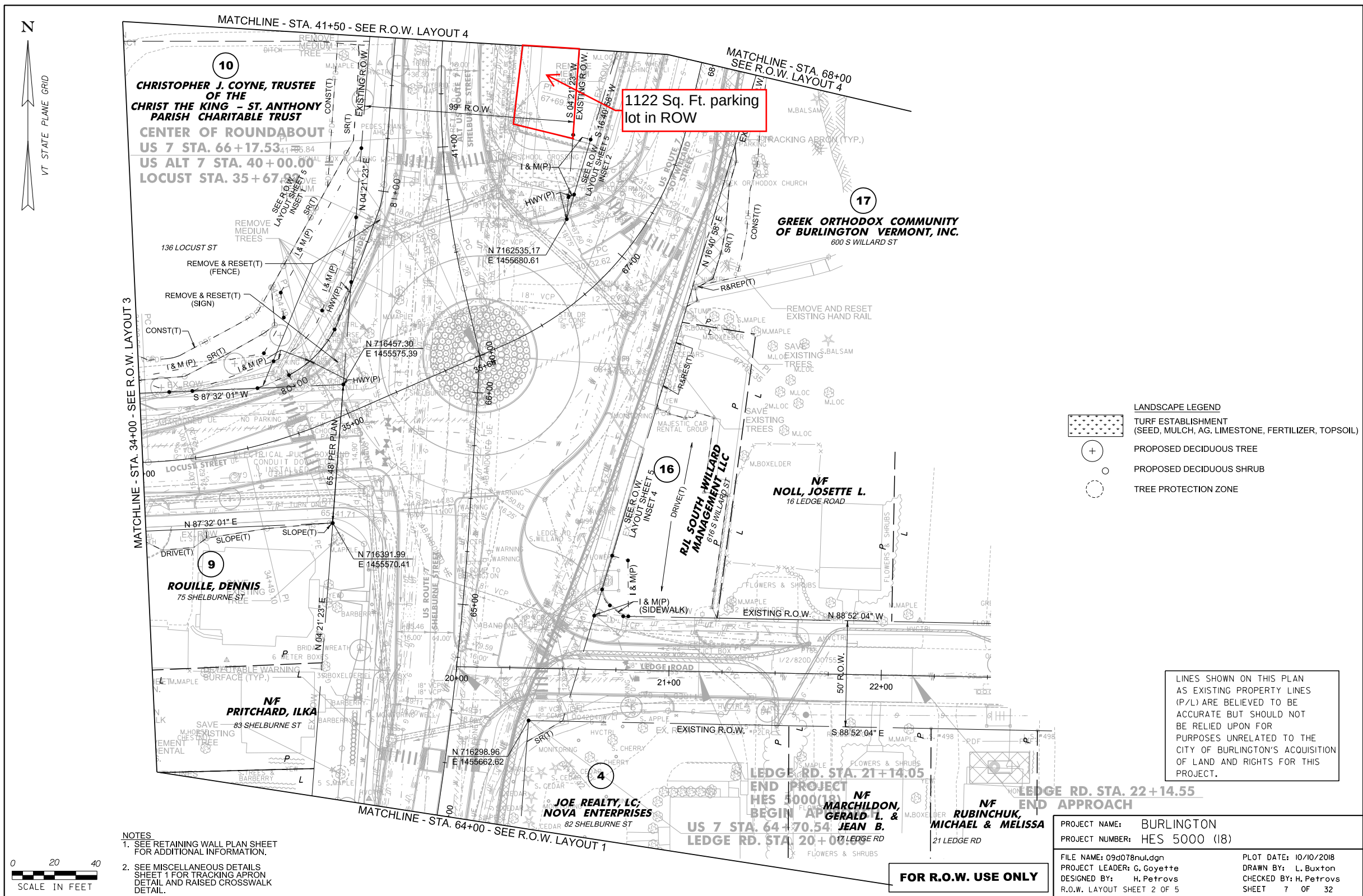
Upstream

17' 6" x 9' 6"
B' C'

EX-C2



EX-C5





CHARL-9

OP ID: ND

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/02/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Titus Insurance Agency P.O. Box 476 Shelburne, VT 05482 Annette M Hannah		802-985-2453	CONTACT NAME: Nancy Danforth PHONE (A/C, No, Ext): 802-985-2453 FAX (A/C, No): 802-985-8620 E-MAIL ADDRESS: Nancy@Titusinsurance.net
EX-D		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Hartford Insurance Company	
INSURED Charles C Burns Revocable Trust Burns Real Estate 44 Shelburne St. Burlington, VT 05401		INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR X Business Owners GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X		04SBAAB4922	09/21/2023	09/21/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
							BUILDING PROPERTY \$ 430,100 \$ 2,300

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Burlington is additional insured by contract for general liability with reference to parking lot located at 44 Shelburne Street, Burlington, VT 05401

CERTIFICATE HOLDER

CANCELLATION

CITYBU3 City of Burlington Encumbrance Application Dept Caleb Manna 645 Pine St Burlington, VT 05401	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Nancy Danforth</i>
--	--

FOR INFORMATION ONLY

Lori Olberg

From: NRB.Act250Essex@vermont.gov
Sent: Tuesday, November 7, 2023 11:54 AM
To: patrick@intervale.org; nrb.act250agenda@vermont.gov; Karen Paul; Andrew Montroll; permitting@ccrpcvt.org; NRB.Act250Essex@vermont.gov; Sarah Montgomery; burlingtontownclerk; Lori Olberg; anr.act250@vermont.gov; barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov; AOT.Act250@vermont.gov; AGR.Act250@vermont.gov; ACCD.ProjectReview@vermont.gov; Stephanie.Monaghan@vermont.gov
Subject: 4C1206-4B Land Use Permit Administrative Amendment - Intervale Center - COS - Exhibit List
Attachments: AA 4C1206-4B.pdf; 000_2023_IntervaleCenter_exhibitlist.pdf

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

Attached is Act 250 Land Use Permit Administrative Amendment 4C1206-4B - COS - Exhibit List.

Act 250 District Office - Essex (District 4 Environmental Commission)

111 West Street

Essex Junction, VT 05452

Christine Commo *NRB Technician*

Tel.802-879-5614 | NRB.Act250Essex@vermont.gov

<https://nrb.vermont.gov>

Lori Olberg

From: Brackin, Stephanie <Stephanie.Brackin@vermont.gov>
Sent: Wednesday, November 8, 2023 11:44 AM
Subject: DEC Press Release - Newly Enacted Legislation Requires Vermonters to Report Surface Water Use in January 2024

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

PRESS RELEASE

For Immediate Release – November 8, 2023

Media Contact:

Jeff Crocker, Supervising River Ecologist
Department of Environmental Conservation
802-490-6151, Jeff.Crocker@Vermont.gov

For questions or comments,
please contact
contact us at 802-490-6151

Newly Enacted Legislation Requires Vermonters to Report Surface Water Use in January 2024

Montpelier, Vt. – As the year comes to a close, the Department of Environmental Conservation (DEC) is seeking annual reports on surface water use. Under the newly enacted Act 135 of 2022, any person withdrawing surface water must file an annual report with DEC by January 15, 2024. The purpose of Act 135 is to collect baseline data on the use of surface waters such as rivers, streams, brooks, creeks, lakes, ponds, and reservoirs.

Vermonters can fill out an [online form](#) to register and report withdrawals of 10,000 gallons or more of surface water within 24 hours – or 150,000 gallons or more over 30 days.

“Vermonters rely on surface waters for drinking water, recreation, and industrial uses, as well as to support wildlife habitat and water quality,” said DEC Commissioner Jason Batchelder. “These annual reports help us track water usage and ensure that enough water is available statewide.”

Those who withdraw surface water for farming uses like irrigation or livestock watering must report to the [Vermont Agency of Agriculture Food and Markets](#). Vermonters do not need to report usage for some [surface water withdrawals](#), such as those used for public emergencies or to suppress fire.

“High and low water flow events can transform how surface waters like streams look and work,” said Supervising River Ecologist Jeff Crocker. “These events can have major impacts not only on wildlife habitat and water quality but also on recreation and other surface water uses.”

DEC offers resources and technical assistance and can help answer any questions about [Act 135](#) or [streamflow protection](#). If Jeff Crocker is not available at 802-490-6151 or Jeff.Crocker@Vermont.gov, contact Betsy Simard at 802-585-8189 or Betsy.Simard@Vermont.gov.

###

The Department of Environmental Conservation is responsible for protecting Vermont's natural resources and safeguarding human health for the benefit of this and future generations. Visit dec.vermont.gov and follow the Department of Environmental Conservation on [Facebook](#) and [Instagram](#).

To view press releases online, visit our website at https://dec.vermont.gov/press_releases.

FOR INFO ONLY

Lori Olberg

From: Brackin, Stephanie <Stephanie.Brackin@vermont.gov>
Sent: Tuesday, November 14, 2023 10:15 AM
Subject: DEC Press Release - New Vermont Fluorescent Lightbulb Restrictions Begin in 2024

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

PRESS RELEASE

For Immediate Release – November 14, 2023

Media Contact:

Karen Knaebel, Mercury Education and Reduction Coordinator
Department of Environmental Conservation
802-522-5736, Karen.Knaebel@Vermont.gov

New Vermont Fluorescent Lightbulb Restrictions Begin in 2024

Montpelier, Vt. – Starting January 1, 2024, a [new state law](#) will prohibit the sale of specific mercury-containing fluorescent lightbulbs in Vermont. Restrictions include the sale of general purpose, indoor/outdoor, residential, and business mercury-containing four-foot linear, compact fluorescent, and twist-based fluorescent lightbulbs. Twist-based (GU-24) Compact Fluorescent Lightbulbs (CFLs) are also restricted from sale.

If your home or business currently uses these fluorescent bulbs, you will not be able to buy more after January 1, 2024. If your business sells these bulbs online or in a store, you will not be able to do so next year.

“Efficiency Vermont is offering rebates to help residents and businesses replace fluorescent bulbs with LEDs,” said DEC Commissioner Jason Batchelder. “Switching to LEDs is better for both human health and the environment. LEDs do not contain mercury and are more energy efficient than fluorescent bulbs.”

The SMARTLIGHT program will expire at the end of 2023. However, Efficiency Vermont will still offer custom rebates for retrofits from fluorescent to LEDs through 2024. To learn more, visit [Efficiency Vermont online](#), call 888-921-5990, email info@efficiencyvermont.com, or submit an [online contact form](#).

The sale of any other mercury-containing four-foot bulbs, such as specialty lighting (ultraviolet, germicidal, purifier/sanitizer, etc.) is not included in the new restrictions.

Any manufacturer who sold or sells these mercury-containing lightbulbs must pay for the collection and recycling of used bulbs. Anyone can bring up to ten general-purpose mercury-containing lightbulbs to free collection locations across the state. To find a location near you, go to VTrecycles.com, click the orange “Special Recycling” icon, and select your county from the dropdown menu. For larger amounts of fluorescent bulbs, contact your solid waste district or town at 802recycles.com.

Learn more about fluorescent lightbulb restrictions and recycling at VTrecycles.com or contact Karen Knaebel at 802-522-5736 or Karen.Knaebel@Vermont.gov. If Karen is not available, contact Josh Kelly at 802-522-5897 or Josh.Kelly@Vermont.gov.

###

The Department of Environmental Conservation is responsible for protecting Vermont's natural resources and safeguarding human health for the benefit of this and future generations. Visit dec.vermont.gov and follow the Department of Environmental Conservation on [Facebook](#) and [Instagram](#).

Resolution Relating to
DESIGNATION OF POLLING PLACES FOR CITY
ELECTIONS

RESOLUTION _____
Sponsor(s): Councilor Paul
Introduced: _____
Referred to: _____

Action: _____
Date: _____

CITY OF BURLINGTON

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

That WHEREAS, the Charter of the City of Burlington, Acts of 1949, No. 298, Title II, Article 8
authorizes City Council to designate polling places; and

WHEREAS, based on a vote held at the annual meeting of Burlington in March of 2023, H.506 was
adopted by the Vermont State Legislature and signed by the Governor on May 25th, 2023, amending the
Charter of the City of Burlington to redistrict the four city electoral districts and eight city wards, effective as
of the annual meeting in March of 2024; and

WHEREAS, based on a vote held at the annual meeting of Burlington in March of 2023, H.507 was
adopted by the State Legislature and signed by the Governor on May 25th, 2023, amending the Charter of the
City of Burlington to allow a polling place to be located outside of the ward’s boundaries if it is the most
accessible facility available and it is in as close proximity as possible to the ward in which each voter resides;
and

WHEREAS, election staff from the Office of the Chief Administrative Officer, the City’s Presiding
Election Officer, have reviewed the recommended locations, and with feedback from ward clerks and
inspectors of election in the wards where polling places have been most affected by these recent charter
changes, have determined them to remain the best suited polling places for each ward;

NOW, THEREFORE, BE IT RESOLVED that the Burlington City Council hereby designates the
following locations as polling places for the City’s elections henceforth:

- Ward One: Mater Christi School, 100 Mansfield Ave.
- Ward Two: Integrated Arts Academy, 6 Archibald St.
- Ward Three: Sustainability Academy, 123 North St.
- Ward Four: Saint Mark’s Youth Center, 1271 North Ave.
- Ward Five: Burlington Electric Department, 585 Pine St.
- Ward Six: Edmunds Middle School, 275 Main St.
- Ward Seven: Robert Miller Community & Recreation Center, 130 Gosse Ct.
- Ward Eight: Fletcher Free Library, 235 College St.

Resolution Relating to

**DESIGNATION OF POLLING PLACES FOR CITY
ELECTIONS**

RESOLUTION 6.15.

Sponsor(s): Councilor Paul

Introduced: 11/20/23

Referred to: _____

Action: adopted

Date: 11/20/23

Signed by Mayor: 11/28/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three.....

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

1 That WHEREAS, the Charter of the City of Burlington, Acts of 1949, No. 298, Title II, Article 8 authorizes
2 City Council to designate polling places; and

3 WHEREAS, based on a vote held at the annual meeting of Burlington in March of 2023, H.506 was
4 adopted by the Vermont State Legislature and signed by the Governor on May 25th, 2023, amending the
5 Charter of the City of Burlington to redistrict the four city electoral districts and eight city wards, effective as
6 of the annual meeting in March of 2024; and

7 WHEREAS, based on a vote held at the annual meeting of Burlington in March of 2023, H.507 was
8 adopted by the State Legislature and signed by the Governor on May 25th, 2023, amending the Charter of the
9 City of Burlington to allow a polling place to be located outside of the ward's boundaries if it is the most
10 accessible facility available and it is in as close proximity as possible to the ward in which each voter resides;
11 and

12 WHEREAS, election staff from the Office of the Chief Administrative Officer, the City's Presiding
13 Election Officer, have reviewed the recommended locations, and with feedback from ward clerks and
14 inspectors of election in the wards where polling places have been most affected by these recent charter
15 changes, have determined them to remain the best suited polling places for each ward;

16 NOW, THEREFORE, BE IT RESOLVED that the Burlington City Council hereby designates the
17 following locations as polling places for the City's elections henceforth:

18
19 Ward One: Mater Christi School, 100 Mansfield Ave.

20 Ward Two: Integrated Arts Academy, 6 Archibald St.

21 Ward Three: Sustainability Academy, 123 North St.

22 Ward Four: Saint Mark's Youth Center, 1271 North Ave.

23 Ward Five: Burlington Electric Department, 585 Pine St.

24 Ward Six: Edmunds Middle School, 275 Main St.

25 Ward Seven: Robert Miller Community & Recreation Center, 130 Gosse Ct.

26 Ward Eight: Fletcher Free Library, 235 College St.

27

28 KP/JP/Resolutions 2023/*Designation of Polling Places for City Meetings*

29 November 20, 2023

Lori Olberg

From: Mark Bouchett
Sent: Thursday, November 16, 2023 3:37 PM
To: Lori Olberg
Cc: Kara Alnasrawi
Subject: Church Street Marketplace Commission Public Safety Resolution
Attachments: CSMC_Resolution_Public Safety_15NOV23_FINAL.pdf

At the November 15th, 2023 Church Street Marketplace Commission Meeting, the Commission unanimously adopted the attached public safety resolution. As Chair of the Commission I kindly ask that you post this resolution as a communication to City Council.

Mark Bouchett

Church Street Marketplace Chair

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.



CHURCH STREET MARKETPLACE COMMISSION

Date: November 15th, 2023

Resolution Title: Addressing Public Safety Concerns in the Church Street Marketplace and Downtown District

Whereas, the Church Street Marketplace is a vital economic and cultural hub within our city, serving as a destination for residents and visitors alike, offering a wide array of shopping, dining, and entertainment opportunities.

Whereas, a vibrant downtown district is essential for our community's well-being and economic prosperity, and it should be a place where all members of the public feel safe to shop, work, and play.

Whereas, the Church Street Marketplace Commission is deeply concerned by the growing reports and feedback from merchants, residents, and visitors who have expressed feeling unsafe in the Church Street Marketplace and the broader downtown district.

Whereas, the Church Street Marketplace Commission recognizes the acute rise in crime and safety concerns that have been expressed, and believes it is necessary to address these issues promptly.

Now, Therefore, Be It Resolved by the Church Street Marketplace Commission:

1. The Church Street Marketplace Commission acknowledges the pressing public safety concerns affecting the Church Street Marketplace and downtown district.
2. The Commission calls upon the Public Safety Committee and the City Council to take immediate and concerted action to address these concerns.
3. The Commission calls upon the City Council of Burlington to encourage the State of Vermont to consider providing financial incentives for downtown business retention.
4. The Commission calls upon City leadership to prioritize the enforcement of all State and local laws.
5. The Commission requests that the Public Safety Committee and City Council collaborate with law enforcement agencies, community organizations, and stakeholders across the State of Vermont to develop and implement strategies to enhance public safety, reduce crime, and create a more secure environment in the Church Street Marketplace and downtown district.
6. The Commission urges the Public Safety Committee and City Council to allocate resources, including personnel and funding, as necessary, to support these public safety efforts.
7. The Commission calls for regular reporting and updates to be provided to the Commission and the public on the progress made in improving public safety in the Church Street Marketplace and downtown district.
8. The Commission further encourages the public to participate in ongoing discussions, share their experiences and concerns, and collaborate with local authorities in enhancing safety and security.

Be It Further Resolved: This resolution shall be communicated to the Public Safety Committee, the City Council, and all relevant city departments for their consideration and immediate action.

This resolution underscores the Church Street Marketplace Commission's commitment to addressing public safety concerns in the downtown district and its dedication to creating a safe and secure environment for all those who visit, work, and shop in this vital community space.

Adopted by the Church Street Marketplace Commission on November 15th, 2023

Lori Olberg

From: Lina Swislocki <linaswis@gmail.com>
Sent: Thursday, November 16, 2023 5:12 PM
To: Lori Olberg
Cc: Scott Gustin
Subject: Re: Resignation

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

Hi Lori,

I am writing to inform you of my resignation from the Conservation Board, effective December 1, 2023.

I have enjoyed my tenure on the Board, but my partner and I are moving to California so I will no longer be in a position to be an effective Board member. Please let me know what, if anything, I can do to ease this transition.

Thank you,
Lina Swislocki

On Thu, Nov 16, 2023, 7:43 AM Lori Olberg <lolberg@burlingtonvt.gov> wrote:

Hi Lina,

Please send an email regarding your resignation from the Conservation Board. Thank you.

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Lori Olberg

From: Connor Wertz <connor@350vt.org>
Sent: Friday, November 17, 2023 1:57 PM
To: Lori Olberg
Subject: Item to be amended to the consent agenda, if possible
Attachments: 11.17.23 Petition Say No to Dirty Energy.pdf

You don't often get email from connor@350vt.org. [Learn why this is important](#)

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

Hi Lori,

I hope you're having a great Friday. I wanted to ask if it is possible to add this document as an amendment to the consent agenda for Monday's City Council meeting, if possible. It is the documentation of a petition requesting that the city council vote "no" to subject 7.6, Supporting District Energy and Continued Efficiency Improvement at McNeil Generating Station.

Thanks, and please let me know if there is anything else I can do, as this is the first time I'm asking for something of this nature.

Best,
Connor

--
Community Organizer
He/him ([Why pronouns?](#))
(978)914-2566

PETITION: Say NO to Dirty Energy!

Expanding the McNeil Power Plant is Bad for People & the Planet

Burlington Electric, Vermont Gas, & Ever-Green Energy are planning a "District Energy" project to expand the McNeil wood-burning power plant and sell the steam to UVM Medical Center and potentially other customers, including UVM. The \$42 million project would require construction of two miles of steam pipes and would result in more air pollution in our community.

McNeil: Vermont's Largest Stationary Source of Greenhouse Gas Pollution

Burlington's McNeil power station is a highly polluting and inefficient biomass power plant built in 1984 that annually burns roughly 400,000 tons of wood, including whole chipped trees, logged from forests in Vermont and New York. According to EPA data McNeil is the largest stationary source of greenhouse gas emissions in Vermont, emitting 453,000 tons of CO₂ in 2021. Incredibly, Burlington Electric does not count these emissions. Even though the McNeil plant emits more CO₂ than a coal plant per unit of energy, the City's "Net Zero" Roadmap states that the "District Energy" project, which would increase and lock in McNeil's greenhouse gas emissions for decades, is a pathway to "Net Zero."

Why Burlington Must Reject the District Energy Project

Locks in dirty energy from McNeil for decades, prolonging its climate-related and other harmful impacts. The climate and ecological emergency requires that we reduce greenhouse gas pollution from all carbon based fuel including wood.

Harms Human Health. McNeil emits fine particulate matter, nitrogen oxides, volatile organic compounds and other pollutants which are harmful to human health. Fine particulate matter causes lung & heart diseases & premature death, & worsens existing conditions such as asthma.

Burning wood to generate electricity squanders our precious forests. Forests are one of our greatest allies in mitigating atmospheric carbon and protecting communities from extreme weather events that are more likely with climate change. McNeil expansion threatens our forests by (1) removing nutrients, (2) reducing wildlife habitat, (3) encouraging whole tree harvest, (4) removing non commercially viable biomass, and (5) reducing stored carbon and future carbon sequestration. There are responsible ways to harvest and use wood products, but burning forests for electricity threatens the climate, biodiversity, and public health.

Wastes Money on a Poor Investment. Biomass power plants are extremely expensive to operate and can only survive if they are heavily subsidized - with our clean energy dollars. This money should be invested in truly clean renewable energy, like wind, solar, and geothermal heat and power. NY, NH, MA, and CT have reduced their subsidies for electricity from wood-burning power plants, or eliminated them altogether. As their "renewable energy" subsidies are declining, Burlington Electric is seeking new ways to prop up their dirty power plant – by selling their steam as "renewable heat" and claiming it is green energy.

WE THE UNDERSIGNED CALL ON the Burlington City Council, UVM Medical Center, The University of Vermont to say “NO” to District Energy. Burlington ratepayers deserve real climate solutions, NOT more pollution and greenwashing.

10/2/2023	Jenna	Yetman	316 Cheney Road	Albany	05827
9/18/2023	MELINDA	MEYERHOFF	74 North Road	Barnard	05031
11/9/2023	MELINDA	MEYERHOFF	74 North Road	Barnard	05031
9/28/2023	Elizabeth	Anker	55 Wellington St	Barre	05641
10/17/2023	sherry	schreiber	335 safford St.	Bennington	05201
9/20/2023	Janet	Patterson		Bennington	05408
9/24/2023	Karen	Bixler		Bethel	05032
	Vincent	Bersano		Bethel	05032
9/25/2023	Geoffrey	Gardner	938 Old Post Road	Bradford	05033
9/25/2023	Susanna	Lewis	938 Old Post Road	Bradford	05033
9/19/2023	Lindsey	Berk		Brandon	05733
9/29/2023	Claire	Astone	5 Marble St	Brandon	05733
10/3/2023	Melissa	Lee	8 Sunny Acres	Brattleboro	05301
9/28/2023	Nina	Luttinger	126 Peachtree Lane	Brattleboro	05301
9/18/2023	Richard	Evers	15 West St.	Brattleboro	05301
9/28/2023	Barbara	Thibeault	111 Buttonwood Dr.	Brattleboro	05301
9/28/2023	ellen	wolfe	Ellen Wolfe	Brattleboro	05301
9/18/2023	Lindsey	Britt	19 Pearl St.	Brattleboro	05301
9/21/2023	Rachel	Scarano		Brattleboro	05301
9/29/2023	Richard	Evers	15 West St.	Brattleboro	05301
11/9/2023	Liem	Berman	289 Fox Farm Rd	Brattleboro	05301
11/9/2023	Elizabeth	Kroll	30 Main St., Apt. 401	Brattleboro	05301
11/12/2023	Nathan	Estrella		Brattleboro	05301
10/5/2023	Allan	Fiore		Brattleboro	05301
11/10/2023	Kimberly	Timlege	11 prospect court	Brattleboro	05301
11/10/2023	Abby	Mnookin		Brattleboro	05301
9/20/2023	Sally	Burrell	53 Mtn Ter	Bristol	05443
10/20/2023	Eugenie	Doyle	199 Twin Ridge Rd	Bristol	05443
9/25/2023	Gary	Smith	30 Hilltop View Rd.	Bristol	05443
9/19/2023	Richard	Butz	40 East St	Bristol	05443
9/21/2023	Sarah	Stott	34 Sprout St.	Bristol	05443
9/24/2023	Daniel	Batten	12 North St., Apt 3	Bristol	05443
11/9/2023	Sally	Roth	33 Crescent St	Bristol	05443
9/25/2023	Sarah	Stott	34 Sprout St	Bristol	05443
9/25/2023	Tayo	Gabler		Bristol	05443
10/1/2023	Howard	Jennings	34 Sprout St	Bristol, VT	05443
9/28/2023	Daniel	Towler		Brookline	05345
9/24/2023	Catherine	Bock	175 A North Prospect St	Burlington	05401
9/29/2023	Chris	Gish		Burlington	05401
9/28/2023	Ben	Fishbein	71 Drew St	Burlington	05401
9/19/2023	Deborah	DeLadurantaye	13 Pitkin Street	Burlington	05401
9/28/2023	Dennis	Woos	26 Oak St	Burlington	05401
9/27/2023	Donald	Leopold	38 cliff st	Burlington	05401

9/20/2023	Johanna	Henjes	254 Colchester Ave	Burlington	05041
9/28/2023	Lani	Ravin	67 LaFountain Street	Burlington	05401
9/18/2023	Maeve	McCurdy	68 Hyde St. Apt C	Burlington	05401
10/11/2023	T	Hanson	PO Box 4594	Burlington	05406
9/24/2023	Jody	Woos	26 Oak Street	Burlington	05401
9/19/2023	Alison	Spasyk	28 Peru Street	Burlington	05401
9/28/2023	Anne	Damrosch	368 Flynn ave	Burlington	05401
10/11/2023	Anne	Pope		Burlington	05401
9/24/2023	Brady	Miller		Burlington	05401
9/28/2023	Debra	Clemmer	18 Clarke St. Unit #2	Burlington	05401
10/21/2023	Emily	O'Hara		Burlington	05401
9/27/2023	John	Grimm	70 Drew St.	Burlington	05401
9/21/2023	Kristabeth	Atwood	88 Green Acres Dr.	Burlington	05408
9/27/2023	Linda	Sukop		Burlington	05401
9/19/2023	Louise	Brill		Burlington	05401
9/28/2023	Meagan	Langton	324 Hildred Drive	Burlington	05401
10/1/2023	Ruth M.	De Grace	106 and a 1/2 North Will	Burlington	05401
9/23/2023	Sophie	Aronson	11 Hyde St	Burlington	05401
10/6/2023	Susan	Munkres	129 Caroline St	Burlington	05401
9/26/2023	Sylvia	Knight	13 Claire Pointe Rd.	Burlington	05408
9/18/2023	Dan	Castrigano		Burlington	05408
9/28/2023	Jennifer	Forest	81 Spring St #2	Burlington	05401
9/24/2023	Nora	Thomas`	9 Chase St	Burlington	05401
9/19/2023	Peter	MacAusland	40 Front Street	Burlington	05401
9/19/2023	Ben	Collins	209 Church St	Burlington	05401
10/11/2023	Ben	Gordesky	13 Decatur Street	Burlington	05401
9/20/2023	Bronwyn	Rider		Burlington	05408
10/12/2023	David	Webster	1 Lake Forest	Burlington	05401
9/20/2023	Elinore	Standard		Burlington	05401
9/29/2023	Fosca	Bechthold		Burlington	05401
9/22/2023	Greg	Hancock	69 Henry St	Burlington	05401
11/7/2023	Josie	Daigle		Burlington	05401
9/25/2023	Lena	Greenberg		Burlington	05401
9/19/2023	Lynne	Silva	12 Grey Meadow Drive	Burlington	05408
9/24/2023	Meaghan	Dever	9 Chase St Apt 3	Burlington	05401
9/26/2023	Nina	Szenasi	66 Lafountain st	Burlington	05401
9/19/2023	Peter	Wyman	89 N Prospect St	Burlington	05401
9/28/2023	Quinn	Rol		Burlington	05401
9/20/2023	Sue	Brooks	85 Oakcrest Dr.	Burlington	05408
11/9/2023	Connor	Wertz	5 Oak St.	Burlington	05401
11/9/2023	Linda	Quinet	79 Pine St. Unit 704	Burlington	05401
11/11/2023	Linda	Quiknet	79 Pine Street Unit 704	Burlington	05401
11/11/2023	Mari	Miceli	757 S. Prospect St	Burlington	05401

11/11/2023	Hank	Prensky	23 Appletree Point Ln	Burlington	05408
11/12/2023	Mary Ellen	Bourgault	158 Dale Rd	Burlington	05408
11/13/2023	Phil	Merrick		Burlington	05408
9/25/2023	Phillip	Merrick		Burlington	05408
9/27/2023	Ivan	Goldstein	65 Lakeview Terrace	Burlington	05401
9/27/2023	Joanne	Ramundo	43 Elmwood Ave	Burlington	05401
9/19/2023	Joe	Kane	71 north ave unit 102	Burlington	05401
9/28/2023	Karen	Hewitt	58 Henry	Burlington	05401
9/28/2023	Rachel	Buckner	71 Drew St	Burlington	05401
9/24/2023	amelia	hallin	9 chase street	burlington	05401
10/21/2023	Carolyn	Hanrahan	120 Ethan Allen parkway	Burlington	05408
9/19/2023	Lucy	Gluck	51 Blodgett Street	Burlington	05401
9/28/2023	Marlie	Hunt	25 orchard terrace	Burlington	05401
9/22/2023	Carol	Tansey	101 College St, 411	Burlington	05401
9/28/2023	Chris	Mai		Burlington	05401
10/19/2023	Jack	Locker		Burlington	05405
9/28/2023	Karen	Amirault	33 North Avenue #2	Burlington	05401
9/18/2023	Paul	Fleckenstein	40 Crowley street	Burlington	05401
9/18/2023	Pike	Porter	S. Burlington	Burlington	05401
10/21/2023	Linda	Quinet	79 Pine Street Unit 704	Burlington VT	05401
9/27/2023	Jerome	Lipani	P.O. Box 345	Cabot	05647
11/15/2023	Elizabeth	Watson	858 Dorset Street	Charlotte	05445
11/9/2023	Jack	Malin	550 Foxdale Lane	Charlottesville	22903
10/5/2023	Val	Baldwin	111 simms rd	Chateaugay	12920
9/28/2023	Jessy Joy Lipton	Pierce	300	Chester	05143
9/26/2023	Cheryl Joy	Lipton	300 Coach Road	Chester	05143
10/17/2023	Wendy	Schwarz	P.O. Box611	Chester,VT	05143
Time Stamp First Name Last Name Street Address City/Town Zipcode					
10/4/2023	Kit	Harrington		Colchester	05446
11/9/2023	Stephanie	Tucker		colchester	05439
10/20/2023	Tim	Odell		Corinth	05038
11/9/2023	Rick	Cawley	1920 Chelsea Rd	Corinth	05039
9/18/2023	Greg	Dennis	130 Beaver Brook Road	Cornwall	05753
11/10/2023	Jean	Terwilliger	432 Robbins Rd	Cornwall	05753
9/30/2023	Ellen	Maloney		Dorset Energy Commi	05251
10/25/2023	Rani	Kronick		Duxbury	05676
10/20/2023	Elizabeth	Bancroft	PO Box 203	East Barre	05649
9/29/2023	Marsha	Bancroft	PO Box 203	East Barre	05649
11/7/2023	Heather	Johnson	536 Jack Hill Rd.	East Calais	05650
11/8/2023	Jim	Hand	1705 Morse Hill Rd.	East Dorset	05253
9/28/2023	Katherine	Gooch-Breault		East Dummerston	05346
9/18/2023	Brian	Tokar		East Montpelier	05651

9/26/2023	Laura	Haight	500 Hopkins Bridge Roa	Enosburg	05450
10/1/2023	Melanie	Severo	11 Craftsbury Ct Unit 25	Essex	05452
9/18/2023	Natalee	Braun	11 SKYLINE DR	Essex	05452
9/28/2023	Andrea	Van Liew	15 Jackson St.	Essex Jct.	05452
10/6/2023	Adrea	Van Liew	15 Jackson St.	Essex Jct.	05452
11/9/2023	Andrea	Van Liew	15 Jackson St.	Essex Jct.	05452
9/27/2023	Judy	Dow	273 Old Stage Rd	Essex Jct.,	05452
10/20/2023	April	Thanhauser	53 Saxon Hill Rd	Essex Junction	05452
9/28/2023	Tare	Trotman	4 Pearl St, Apartment 21	Essex Junction	05452
	Carol	Pierce	38 Corduroy Rd.	Essex Junction	05452
9/28/2023	Eric	Jones	p.o. box 64	Glenclyff	03238
9/25/2023	Galina	Chernaya	429 Carlisle Hill Rd.	Goshen	05733
9/28/2023	Pam	Youngquist		Great Barrington MA	01230
9/18/2023	Liz	Steel	94 Lazy Lane	Greensboro	05841
9/28/2023	Anna	Kehler	505 north shore rd	Greensboro	05841
11/10/2023	Emma	Hallowell	355 Bullock Dr.	Guilford	05301
10/26/2023	Nancy	Miles		Hanover	03755
9/28/2023	Caren	Solomon	35 Shepard Hill	Hartland	05048
9/24/2023	Stephen	Leslie	25a Linden Rd	Hartland	05048
9/28/2023	Suzanne	Enser	2 Walker Cemetery Trail	Hartland	05048
10/2/2023	Raven	Ocasio	12 Brownsville Road	Hartland	05048
9/24/2023	Peter	Erb	32 Fox Mdws	Hinesburg	05461
10/20/2023	Bill	Marks	1957 Charlotte Rd.	Hinesburg	05461
9/28/2023	Suzie	McCoy	244 Orchard Commons	Hinesburg	05461
10/20/2023	Cynthia	Hendel	927 Sherman Hollow Ro	Hinesburg	05461
9/28/2023	Pamela	Steeg	150 Delfrate Road	Huntington	05462
9/20/2023	Matisse	Arnone	3263 Rohret Road	Iowa City, IA	52246
9/21/2023	Cheryl	Hogan		Irasburg	05845
10/21/2023	Bonita	Adams	7522 Vemont Route 15	Jeffersonville	05464
10/20/2023	Alison	Bechdel	1915 Notch Rd.	Jericho	05465
9/28/2023	Lance	Polya		Jericho	05465
9/21/2023	Peter	Ehrlich	26 SAXON LN	Jericho	05465
9/29/2023	Caitlin	Gildrien		Leicester	05733
9/30/2023	Mark	Benton	117 Green Rd.	Lincoln	05443
11/10/2023	Mark	Benton	117 Green Rd.	Lincoln	05443
10/20/2023	Brian C	Jones	251 Route 100 N	Ludlow	05149
9/28/2023	Letitia	Scordino		Manchester	05255
9/25/2023	Carl	Bucholt	116 Sleepy Hollow Dr	Manchester	05255
9/28/2023	Anne	D'Olivo	244 Meadow Ridge Roa	Manchester Center	05255
			116 Sleepy Hollow Drive	Manchester Center	05255
9/18/2023	Chris	Anderson		Manchester Center	05255
11/9/2023	Anne	Dolivo	244 Meadow Ridge Roa	Manchester Center	05255
11/9/2023	Sue and John	Morris	1392 Vermont 232	Marshfield	05658

9/28/2023	Preston	Hewett	812 Route 120	Meriden	03770
9/28/2023	Dottie	Nelson	223 Woodland Park	Middlebury	05753
10/20/2023	Anne	Christie	456 East Main St.	Middlebury	05753
9/28/2023	Barnaby	Feder	196 Meadow Glen	Middlebury	05753
11/7/2023	Carolyn	Kuebler	103 Seymour Street	Middlebury	05753
10/1/2023	Sarah	Ingersoll		Middlebury	05753
10/10/2023	Lilah	Krugman	20 Court Street	Middlebury	05753
11/9/2023	Chip	Mayer	19 Colonial Drive	Middlebury	05753
11/9/2023	Maija	Chamberlain	85 Jackson Lane	Middlebury	05753
10/21/2023	Lily	Sniw	594 Weybridge Street	Middlebury	05753
9/28/2023	Talitha	Landis-Marienllo	4 E Bear Swamp Rd	Middlesex	05602
9/19/2023	Tracy	Weatherhogg		Middletown Springs	05757
10/20/2023	Janet	Wormser	13 Loomis St	Montpelier	05602
9/29/2023	Mariah	Lane	2 N.Franklin. #13	Montpelier	05602
9/25/2023	Audrey	Famette	2004 Elm St	Montpelier	05602
9/28/2023	Jane	Knight	1770 North St	Montpelier	05602
9/18/2023	Jeff	Scannell	70 Liberty St.	Montpelier	05602-2421
9/27/2023	Jennifer	Skinder	391 Elm Street	Montpelier	05602
9/18/2023	Marisa	Keller	72 Liberty Street	Montpelier	05602
10/6/2023	Nola	Parker	216 Main Street	Montpelier	05602
9/29/2023	Rachael	Timberlake		Montpelier	05602
9/25/2023	Zack	Porter		Montpelier	05602
11/11/2023	Barbara	Burnett	191 Barre St. #106	Montpelier	05602
9/28/2023	John	Seakwood	100 Bird Road	New Lebanon	12125
10/20/2023	Jennifer	Smith	222 Newfane Hill Road	Newfane	05345
9/28/2023	Denise	Niemira	268 MEADOW LN	NEWPORT	05855
10/27/2023	Judy	Nommik	141Lawson Road	Newport	05855
11/11/2023	Judy	Nommik	141Lawson Road	Newport	05855
10/20/2023	Barbara	McKay	1710 Greenbush Road	North Ferrisburgh	05473-7037
9/28/2023	Beatrice	Wendling	1 Chapin Way Smith Col	Northampton	01063
9/24/2023	chris	matera		Northampton	01060
10/22/2023	Kit Sang	Boos	309 Elm St	Northampton	01060
11/13/2023	Kelly	Wantuch		Northfield	05663
11/13/2023	Joseph	Wantuch		Northfield	05663
10/20/2023	N.	Dumser	313 Asharoken Ave.	Northport	11768
10/20/2023	David	Lemal		Norwich	05055
9/28/2023	Aaron	Lamperti	557 New Boston rd	Norwich	05055
10/21/2023	Anne	Shivas	312 Goodrich Four Corn	Norwich	05055
11/6/2023	Eli	Hecht		Norwich	05055
10/20/2023	Kathleen	Shepherd	447 New Boston Rd	Norwich	05055
9/28/2023	Suzanne	Leiter	143 Norford Lake Rd	Norwich	05055
9/25/2023	Wendy	Wolfe		Norwich	05055
10/20/2023	Jim	Antal	829 Union Village Rd	Norwich	05055

9/24/2023	Liz	Blum	48 Cliff St	Norwich	05055
10/20/2023	Wendy	Wolfe		Norwich	05055
9/21/2023	Ulrike	von Moltke		Norwich	05055
9/28/2023	Rachel	Kent	65A Ladeau Rd	Norwich, VT	05055
11/9/2023	Russ	Layne	3452 Greenhill Road	Pawlet	05761
9/28/2023	Leah	Mowry	1547 Old Manchester Rd	Peru	05152
11/7/2023	Becky	Atchinson	2141 Lower Road	Plainfield	05667
9/22/2023	Bob	Atchinson	2141 Lower Road	Plainfield	05667
9/28/2023	Tina	Desmarais	879 Gray Rd	Plainfield	05667
9/28/2023	Benjamin	Martin	10 Aiken Ct	Plattsburgh	12903
10/20/2023	Bill	Keegan	17 Cross St	Post Mills	05058
11/9/2023	Bill	Keegan	PO Box 33	Post Mills	05058
10/20/2023	Kathleen	Guinness	133Broughton Ave	Poultney	05764
11/9/2023	Earl	Hatley	383 Old Quechee Rd	Quechee	05059
9/24/2023	Richard	Schramm		Quechee	05059
9/30/2023	Allison	Pineault		Richmond	05477
9/19/2023	Carter	Whitman		Richmond	05477
9/29/2023	Virginia	Clarke	636 Hillview Rd	Richmond	05477
9/25/2023	Mark	Nelson	289 Elzira Winter Road	Ripton	05766
9/28/2023	Michele	Fay	P.O. Box 106	Ripton	05766
9/28/2023	Steve	Crofter		Rockingham	05101
	Christine	Rua	249 Russ Hill Rd	Royalton	05068
9/21/2023	Candy	Jones	65 Church St	Rutland	05701
11/9/2023	Candy	Jones	65bChurch St	Rutland	05701
11/9/2023	Becky	Eno	11 Emmett Ave	Rutland	05701-2726
9/28/2023	Jennifer	Jabareen	221 Pleasant St.	S Royalton	05068
9/20/2023	John	Owen	148 Chipman St.	S. Burlington	05403
9/28/2023	Laura	Nace	158 N. Twin Oaks Terrac	S. Burlington	05403
10/21/2023	Michael	Barsanti	294 Kinney Farm Rd.	S. Royalton	05068
9/28/2023	Rebecca	Seibel	PO Box 154	S. Strafford	05070
9/18/2023	Dee	Gish		Sharon	05065
10/20/2023	Deborah	Crown	830 Moore Road	Sharon	05068
9/28/2023	Douglas	Smith	P. O. Box 65	Sharon	05065
9/26/2023	Jayn	Keller	2801 Chapel Hill Rd	Sharon	05065
10/21/2023	Rachel	Clark		Sharon	05065
9/24/2023	Steve	Gagliardone	527 Drum Heller Rd.	Sharon	05065
11/10/2023	Kevin	Gish	410 Harlow Rd	Sharon	05065
10/20/2023	Jill	Wilcox	Downer Road	Sharon	05065
9/26/2023	Judith	Raven	136 HARBOR RD	Shelburne	05482
9/28/2023	Carol Jean	Suitor		Shelburne	05482
9/24/2023	Janet	Sinclair	71 Ashfield St	Shelburne Falls	01370
9/28/2023	Charles	Parent	3219 Kittel Rd	Sheldon	05483
11/9/2023	charles	parent	3219 kittell rd	sheldon	05483

11/9/2023	· aimee	Pallozzi	747 watch point road	shoreham	05770	
11/10/2023	Rachel	Kurland	421 Star Mtn Rd	So Strafford	05070	
9/28/2023	· Aidan	Wertz	38 Cherry Street Apt 2	Somerville		02144
9/28/2023	· G.	Donovan	150 dorset Ste 245	South Burlington		05403
10/23/2023	Liz	Champagne	20 Larch Road	South Burlington	05403	
11/12/2023	Colin	Palmer	340 Patchen Rd	South Burlington	05403	
9/26/2023	· Isabella	O'Connor	115 South Windsor	South Royalton		05068
9/18/2023	· Heather	Buckner	34 Gee Hill Road	South Royalton		05068
10/21/2023	Susan	Hodges	PO Box 56	South Stafford	05070	
9/23/2023	· Vanessa	Rule	74 Alger Brook Road	South Strafford		05070
11/10/2023	David	McWilliams	421 Star Mtn Rd	South Strafford	05070	
10/23/2023	Nancy	Polan	10 Pine Meadow Drive	Southampton	01073	
10/22/2023	Hallie	Whitcomb	1855 Cherry Hill	Springfield	05156	
9/27/2023	· Cheryl	Malkin	189 High Street	St Albans		05478
	· Catherine	Connelly	15 James Circle	St. Albans		05478
	· Martin	Connelly	15 James Circle	St. Albans		05478
9/28/2023	· Eric	Becker	159 Lost Rd	St. George		05495
9/27/2023	· Beebe	Potter	BanknStreet	St.Albans		05478
11/9/2023	· Marguerite	Gregory	4428 Ireland Rd	Starksboro	05487	
10/20/2023	Gregory	McHugo	1051 Cross Road	Strafford	05072	
9/25/2023	· duncan	nichols	thetford	thetford		05074
10/20/2023	CLARE	KELSEY	98 NORFORD LAKE RC	THETFORD CENTER	05075-9024	
9/18/2023	· Stuart	Blood	851 Poor Farm Road	Thetford Center		05075
9/28/2023	· Susan	Mccaslin	360 Colby Rd N	Thetford Center		05075
10/3/2023	· Michael	Zens	1321 Tucker Hill Rd	Thetford Center		05075
10/21/2023	Andy	Rowles	515 Ulman Road	Thetford Center	05075	
11/9/2023	· Carolr	Petrillo		Thetford center	05075	
10/20/2023	Sylvie	Desautels	44 Clarksville Rd	Tunbridge	05077	
9/24/2023	· Chris	Wood	44 Clarksville Rd	Tunbridge		05077
9/28/2023	· Wendy	Andersen	105 Upper English Settle	Underhill		05489
9/27/2023	· Leah	Summerfield		Underhill		05489
	· Libby	Baldwin	14 Maple Ridge Rd	Underhill		05489
9/28/2023	· Peter	Duval	25 Pine Ridge Rd	Underhill		05489
9/28/2023	· Janice	SolekTefft	14 Blakey Rd	Underhill		05489
9/28/2023	· Rick	Peyser	25 Evergreen Lane	Underhill		05489
			275 Basin Harbor Rd.,			
9/18/2023	· Una	Fonte	Vergennes Vermont	Vergennes		05491
11/9/2023	· Karen	Horn	36 Bowman Rd	Vergennes	05491	
9/25/2023	· Peet	Pearson	55 Vershire Center Roac	Vershire		05079
9/27/2023	· Alice	Evans	262 Riverview Road	Waitsfield		05673
9/25/2023	· Callie	Willis	126 Old Orchard Way	Warren		05674
9/28/2023	· Jason	Parkin	12 Beaver Ln	Warren		05674
9/25/2023	· Alan	Pierce	1061 Mountainview	Waterbury		05676

10/8/2023	Laura	Fried	1926 Barnes Hill Rd.	Waterbury Ctr	05677
9/25/2023	J. William	Stubblefield	346 Farley Rd	Wendell	01379
9/25/2023	Kate	Goetz	99 Newark St	West Burke	05871
9/18/2023	Hayley	Rojas	111 Streeter hill rd.	West chesterfield	03466
9/20/2023	Catherine	Kidder	311 Tyler Farm Road	West Newbury	05085
9/26/2023	Lisa	Merton	742 Hickory Ridge Rd.	Westminster West	05346
9/20/2023	Alan	Coulter	1809 Quaker Village Rd.	Weybridge	05753
10/21/2023	Kate	Schaefer	55 Brick House Lane	White River Junction	05001
10/20/2023	Abraham	Oort	119 Laurel Lane	White River Junction,	05001
9/25/2023	Mirjam	Brett	2454 Cutting Hill Road	Whiting	05778
9/24/2023	Daniel	Brett	2454 Cuttinghill Rd	Whiting	05778
9/28/2023	Randy	Kritkauskys	278 North Road	Whiting	05778
9/20/2023	Ark	Lemal	981 S Brownell Rd	Williston	05495
9/19/2023	Marcy	Kass	202 Sunrise Drive	Williston	05495
9/20/2023	Kimberly	Hornung-Marcy	228 Blue Heron Drive	Williston	05495
9/28/2023	Michael	Hassenberg	223 Partridge Hill Lane	Williston	05495
9/21/2023	Deborah	Miuccio	50 Spruce Lane	Williston	05495
9/23/2023	Margaret	Laughlin	222 McJay dr	Williston	05495
9/18/2023	Brian	Forrest	114 Williston Woods Road	Williston	05495
	Bruce	Wyatt	35 Ian Place	Williston	05495
	Carol	Wyatt	35 Ian Place	Williston	05495
	Carolyn	Pillsbury	1727 Butternut Rd	Williston	05495
	Christopher	Stewart	363 Oak Knoll Rd	Williston	05495
	Daniel	Clark	53 Kadence Circle	Williston	05495
	Don	Thurston	70 Lois Lane	Williston	05495
	Gary	Lewis	21 Forest Run Rd	Williston	05495
	Ginger	Isham	3512 Oak Hill Rd	Williston	05495
	Kristin	Clark	53 Kadence Circle	Williston	05495
	Larry	Pillsbury	1727 Butternut Rd	Williston	05495
	Peet	Grobler	622 Blair Park Rd	Williston	05495
	Robin	Coletta		Williston	05495
	Theodore	Marcy	228 Blue Heron Dr.	Williston	05495
	Trent	Coletta		Williston	05495
11/9/2023	Holly	Francis		Winooski	05404
11/14/2023	Thomas	Creswell		Winooski	05404
11/11/2023	Patrick	Flood	74 Log Town Rd	Woodbury	05650
9/25/2023	Geoff	Martin	51 River St	Woodstock	05091
11/11/2023	Fearn	Lickfield	233 downs rd	worcester	05682
9/27/2023	Fergus	Marshall	124 Stone Crest Ave	WRJ	05001

Lori Olberg

From: Nicholas Persampieri <nickpersamp@yahoo.com>
Sent: Friday, November 17, 2023 4:27 PM
To: Karen Paul; Joan Shannon; Mark Barlow; Sarah Carpenter; Ali Dieng; Gene Bergman; Joseph Magee; Melo Grant; Hannah King; Zoraya Hightower; Lori Olberg
Subject: McNeil District Energy- Report
Attachments: McNeil Report - Up in Smoke-The Economic Cost of the McNeil Generating Station to Burlington Ratepayers - 11-17-23 - FINAL (1) (1).pdf

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

Councilors,

Standing Trees and Biofuelwatch have asked me to forward to you the attached report titled, Up in Smoke: The Economic Cost of the McNeil Generating Station to Burlington Ratepayers. The report was prepared for them by Paul Messerschmidt, whose background and qualifications are described at the end of the report. The report concludes, among other things, that the McNeil Generating Station operates at a \$6 million to \$8 million loss most years, which ratepayers are shouldering.

As a concerned resident of Burlington and a Burlington Electric ratepayer, I request that you give the report careful consideration before taking any action on a resolution supporting further efforts to advance the McNeil District Energy project. Mr. Messerschmidt can be made available to discuss the report.

Many Burlington residents, including City Council members, have been informed that operating McNeil provides low cost electricity that protects ratepayers. This report reaches a contrary conclusion. I hope that you will postpone the vote planned for Monday evening to allow the time necessary to determine whether keeping McNeil open will harm ratepayers, and whether we should be planning for a transition that is fair to both ratepayers and employees.

I respectfully request that you add the report to the Consent Agenda for Monday evening's City Council meeting.

Thank you for your consideration of this important matter and for your service to the City.

Nick

Nick Persampieri
(802) 552-8410



Up in Smoke: The Economic Cost of the McNeil Generating Station to Burlington Ratepayers

By

Paul Messerschmidt

November 17, 2023

Prepared for: Standing Trees and Biofuelwatch

STANDING
TREES



Standing Trees is a Vermont-based nonprofit organization that works to protect and restore New England's native ecosystems.

Biofuelwatch provides information and undertakes advocacy and campaigning in relation to the climate, biodiversity, land and human rights and public health impacts of large-scale industrial bioenergy.

Summary

This report assumes that the Burlington Electric Department's assertion is correct that, at present, the McNeil Generating Station produces “green” power that emits marginally lower greenhouse gas emissions than natural gas, despite the growing scientific consensus that burning forest biomass to generate electricity emits more carbon than fossil fuels per unit of energy produced and needs to cease immediately.¹

Assuming that BED is correct about emissions, this report answers the three questions that decision-makers should be answering.

1. Are BED and GMP's ratepayers using McNeil's allegedly green power? No. McNeil's “green” attributes have been sold to utilities in Connecticut under the “REC” system. Local ratepayers instead are using ISO-NE grid mix power.
2. Could McNeil operate without selling its RECs out of state? No. Even when selling its RECs, McNeil operates at a \$6 to \$8 million loss most years, which ratepayers are shouldering. If McNeil did not sell its Renewable Energy Certificates (RECs), the losses would exceed \$12 million each year, which would be an even larger burden on ratepayers.
3. If McNeil were to be closed, could alternative investment of the \$6 to \$8 million result in more emissions reductions and keep jobs in Vermont? Yes. Investment in weatherization, thermal energy networks, heat pumps and local wind and solar would reduce emissions more than the green attributes that BED currently sells in Connecticut, and could employ many Vermont workers.

¹ See, e.g., <https://www.tandfonline.com/doi/full/10.1080/00963402.2022.2062933>; and <https://assets-woodwell.s3.us-east-2.amazonaws.com/wp-content/uploads/2021/02/12102409/Scientist-Letter-to-Biden-von-der-Leyen-Michel-Suga-Moon-Re.-Forest-Biomass-February-11-2021.pdf>

Analysis

Cost Borne by Ratepayers

Historically, the cost of generating electricity by running the McNeil plant has been significantly higher than the cost of other sources available to the ISO-NE system [Joint Owners info packet page 32 of 32, line item "McNeil REC Revenue": \$7.1 million (FY2023), \$8.5 million (FY 2022)]. Annually, the added cost to BED by operating McNeil, rather than purchasing electricity, has been about \$12 million per year. BED has been able to reduce that gap to \$6 or \$8 million by selling RECs for about \$7 million per year. [Joint Owners info packet page 32 of 32, line item "Total Fuel" reported as \$/MWh: \$78.40/MWh (FY2023), \$82.53/MWh (1st half CY 2023). (See Appendix A)]. As can be seen in Table 2-1 - "Average Real-Time Hub LMP (\$/MWh)" (Appendix C; p. 12 of 55), ISO-NE wholesale prices (which are the basis for McNeil generation revenues) have been trending below \$35/MWh, now that energy markets have recalibrated after the perturbation triggered by the Russian invasion of Ukraine. In general, the net cost to ratepayers of operating McNeil has been about \$8 million annually. [In the recent November Joint Owners meeting minutes (Appendix B), it was reported in §8 - "McNeil Operating Statement": "The September 30, 2023, calendar year-to-date net loss was (\$4,719,306)."]

McNeil's Capacity Energy Revenue will continue to decrease as well, based on the results of the ISO-NE's latest Forward Capacity Auction (Appendix C, p 47 of 55) in Table 5-1: "Primary and Secondary Market Outcomes" and will only receive \$2.00/kW-month in 2023-2024, \$2.62/kW-mo in 2024-2025, and \$2.59/kW-mo in 2025-2026 compared with the

\$3.80/kW-mo they received in 2022-2023. This will result in a decrease of approximately \$1 million for FY 2024.

The most recent data from ISO-NE includes the 2021 and 2022 prices for natural gas, which were elevated because of Russia's invasion of Ukraine, and have largely returned to equilibrium as energy markets adjust. Since ISO-NE generation is primarily natural gas, it is reasonable to use natural gas price futures as a proxy for ISO-NE electricity prices. Even as far out as 2035, futures prices are below \$5/MMBtu, which as a fuel source for a natural gas generator with an average heat-rate of 10,000 Btu/kWh (a very conservative value), results in wholesale electricity prices of less than \$50/MWh.²

Using recent data from the Joint Owners, fuel costs alone for McNeil in FY 2023 exceeded \$78/MWh (and over \$82/MWh for the first half of FY 2024). Since McNeil generated about 230,000 MWh in 2022, just in fuel costs alone, notwithstanding high natural gas prices, ratepayers paid a biomass premium exceeding \$6 million (projected to exceed \$7 million at current prices).

BED and GMP were able to counterbalance this expenditure by sale of REC's. REC payments exceeded \$7 million in FY 2023.³

If the future average cost of McNeil relative to the cost of generating electricity with natural gas returns to the neighborhood of the historical average, ratepayers will again be paying \$7 to \$8 million dollars extra each year. That is a large amount of ratepayer money. [The ongoing BED rate-case (No. 23-2044-TF) includes a request to charge ratepayers for the \$4 million revenue shortfall, due to incorrectly overestimating ISO-NE forward prices.]

² See <https://www.cmegroup.com/markets/energy/natural-gas/natural-gas.settlements.html>

³ See <https://www.iso-ne.com/static-assets/documents/100004/2023-summer-quarterly-markets-report.pdf>.

If Connecticut eventually follows the example of other New England states and excludes large biomass from the list of acceptable REC's, the loss will rise to \$12 million annually. This is a very large amount of ratepayer money.

The extra amount paid per ratepayer will depend on the amount of electricity used and whether the customer pays a residential rate or a commercial rate.

BED Ratepayers Are Not Using McNeil's Green Attributes

Regardless of whether BED or its critics are correct about McNeil's alleged emissions reductions, the allegedly green emissions' attributes of McNeil's output are not used by BED and GMP ratepayers. They can't be. They have been sold to utilities (or private, profit-seeking REC broker/dealers who then sell to regulated utilities) in Connecticut (for about \$4 million a year). (Note: we have not seen any details of these transactions, prices, or counter-parties.)

So long as BED and GMP sell RECs from McNeil, by definition that means that the electricity consumed by BED and GMP ratepayers has been shorn of the "renewable" or "green" electricity attributes of burning biomass. Someone else (utilities in Connecticut) has purchased those green attributes, and by law and logic they cannot be counted twice. The operation of McNeil generates environmental benefits only for the ratepayers of the Connecticut utilities that have purchased the RECs. (Note: BED's attempts to claim environmental redemption is through purchase of low-cost REC "indulgencies", in a REC arbitrage strategy, which could be the subject of a separate report.)

Only if REC sales were discontinued (or required to be retired in Vermont, where they would generate no incremental income) could local ratepayers enjoy the alleged green benefits of burning wood—but that would raise the extra cost to \$12 million annually.

This means that the necessary analysis should not compare the emissions from McNeil with the emissions from the ISO-NE grid mix. BED and GMP ratepayers are already using, and responsible for, the greenhouse gasses of, ISO-NE's mix. BED and GMP ratepayers are paying \$7 to \$8 million annually to run McNeil, to sell the RECs, and to use the environmental attributes of the ISO-NE grid mix.

A Better Use of \$7 to \$12 Million Annually.

BED's fact sheets favorably compare the emissions of McNeil and its harvesting protocol with the emissions of generating electricity by burning natural gas. Many scientists dispute those comparisons.

A more useful comparison is with other potential investment of the same funds. Instead of annual expenditures of \$7 to \$12 million per year on McNeil, if its owners spent the same amounts on weatherizing homes and businesses, installing thermal energy networks, installing air and ground-source heat pumps, and constructing electric vehicle charging stations, the greenhouse gas emissions reductions would be much greater. If the funds were spent on Vermont solar or Vermont wind, the emissions reductions would be far greater than what BED claims for burning wood.

The employment impact of alternative investment could be either neutral or positive. BED's workforce could be retained and retrained to install the alternative investments. As for the forestry jobs, only about 40% of the wood harvested for electric generation is from Vermont.⁴

⁴ See <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Economic-Impact-26-June-2023.pdf>, p.12.

District Energy Impact on McNeil Operations and Economics

As presented in the City Council materials from 23 October 2023, there is acknowledgement that DES will degrade McNeil's generation performance by 3.5 MW.

3.5 MW may not sound like much, but it represents 7% of McNeil's 50 MW output.

Since all of McNeil's revenue generation is directly and proportionally linked to its energy output, this will have a major and material impact on McNeil's profitability (or loss).

Both energy and REC revenues are directly calculated based on MWHs of generation.

Capacity revenue is directly based on MWs of generating capacity to support the ISO-NE grid.

Using the Joint Owner statement for FY 2023, the 7% reduction in output will result in an annual revenue decline of over \$1.8 million.

For a business that is already hemorrhaging red ink, this is a major issue for BED and its ratepayers -- who should not be made to make up this shortfall with future rate increases.

Conclusion

BED and GMP need to plan now for a future that saves ratepayers money and mitigates emissions more effectively than running McNeil at a loss, selling its RECs to reduce its losses, and delivering to ratepayers only the environmental attributes of the ISO-NE grid mix. By adopting a plan that fairly transitions McNeil employees and suppliers, both the climate and climate justice can be served.

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Appendices

Appendix A
<https://www.burlingtonelectric.com/wp-content/uploads/Joint-Owner-Packet-091123.pdf>

Appendix B
<https://www.burlingtonelectric.com/wp-content/uploads/Joint-Owner-Minutes-1100623.pdf>

Appendix C
<https://www.iso-ne.com/static-assets/documents/100004/2023-summer-quarterly-markets-report.pdf>

Appendix D
<https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Economic-Impact-26-June-2023.pdf>

Author Bio

Paul Messerschmidt

Paul works at the nexus of NEW ENERGY and NEW FINANCE, where he leverages his decades of hands-on experience in the energy and financial services industries in support of client initiatives. Extensive sector-specific emphasis on trading, risk management, complex option analyses, market design, regulatory/legislative affairs, and renewable energy initiatives. Expertise in sales and marketing of energy and financial products and services. Breadth and depth of skills built on a wide range of managerial, consulting, and research assignments. Advisor to government officials, journalists, and financial analysts on energy policy, demand-side management, deregulation, restructuring, and risk management strategies. Extensive quantitative skill sets, coupled with deep understanding of valuation, risk management, exchange-traded and over-the-counter financial products, option valuation methodologies, and crypto-market ecosystems.

Professional Strengths

Energy and Regulatory - Responsible for market design and regulatory analysis in Texas and throughout Northeastern United States. Elected Chairman of Texas IPP trade association. Served on numerous ERCOT committees. Implemented energy scheduling, trading, and settlement software system.

Supported origination, settlement, and clearing of electricity and natural gas transactions. Advised on acquisition of power plants and implementation of renewable energy technologies. Managed energy procurement strategies for electric and gas end-users. Developed energy and weather risk management analytical tools and strategies. Completed Green-House Gas accounting course.

Trading - Registered broker authorized to trade full-range of equities, commodities, and options on US futures, equity, and derivative exchanges. Formulated commodity trading and hedging programs. Developed proprietary option trading strategies. Managed crypto-currency trading accounts across multiple exchange platforms.

Research - Evaluated energy supply/demand dynamics. Developed electricity forward price curves. Provided litigation support for state and federal cases regarding energy market manipulation. Analyzed energy economics of, and energy conservation alternatives to, large-scale generation projects and long-term power contracts.

Managerial - Initiated joint-ventures, business alliance, partnerships, and capital-raising efforts. Directed e-commerce sales and marketing strategies. Developed remote-learning initiative establishing social media guidelines within regulated financial services markets.

Cryptocurrency - Leveraged decades of work in centralized finance (CEFI) to support over half a decade in decentralized finance (DEFI), with initiatives in Bitcoin, Blockchain, Masternodes, and NFTs.

Qualifications

- Master of Science Curriculum, Mechanical/Nuclear Engineering, McCormick School of Engineering, Northwestern University
- Master of Management Studies in Organizational Behavior and Technological Innovation, Kellogg Graduate School of Management, Northwestern University
- Research Fellow, Center for the Interdisciplinary Study of Science and Technology, Kellogg Graduate School of Management, Northwestern University
- Researcher, Tokamak Fusion Reactor, Argonne National Laboratory, Argonne, IL
- Bachelor of Science, Mechanical/Nuclear Engineering (minor in Astrophysics), Northwestern University
- Director, Energy Risk Management Council (in partnership with NYMEX)
- Chapter President, International Association for Energy Economics (IAEE), Boston, MA

Lori Olberg

From: Nicholas Persampieri <nickpersamp@yahoo.com>
Sent: Sunday, November 19, 2023 2:10 PM
To: Gene Bergman; Hannah King; Karen Paul; Mark Barlow; Melo Grant; Sarah Carpenter; Joan Shannon; Joseph Magee; Zoraya Hightower; Ali Dieng; Lori Olberg
Subject: November 20, 2023 City Council Meeting Agenda Item No. 7.6- McNeil District Energy Resolution
Attachments: 20231119 Letter to City Council with Exhibits.pdf

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

Councilors,

I attach a paper that I have prepared which addresses Item No. 7.6 on the City Council Agenda for Monday, November 20, 2023- the McNeil District Energy Resolution.

If it is not too late, please add the paper to the Consent Agenda for the meeting.

Thank you for considering my views and for your service to the City.

Nick

Nick Persampieri
Burlington, VT
(802) 552-8410

NICHOLAS F. PERSAMPIERI
Burlington Vermont
nickpersamp@yahoo.com
(802) 552-8410

I write as a concerned Burlington resident and a professional who has worked on air quality and climate issues for many years.¹

The climate crisis is upon us as evidenced by harmful air quality from Canadian wildfires and the catastrophic flooding in parts of our state this past summer. The climate crises demands that Burlington do its part to reduce greenhouse gas emissions. This means addressing the emissions from the Joseph F. McNeil Generating Station, the largest stationary source of greenhouse gas emissions in Vermont.

Rather than recognize McNeil as part of the problem and begin a community discussion about planning for its retirement, Burlington Electric and its business partners, Vermont Gas and Ever-Green Energy, propose a \$42 million project to provide steam to the University of Vermont Medical Center from the plant via a one and one-half mile long steam pipe. Rather than undertake an objective analysis of the pros and cons of the project and reasonable alternatives, the project proponents commissioned a series of one-sided advocacy papers, at least some of which were prepared by biomass and forest industry insiders. The papers make preposterous claims of climate benefits from the project. The claims are based on the fiction that burning wood to generate electricity is carbon neutral, misapplication of IPCC reporting standards for National Greenhouse Gas Inventories, and misleading statements about the harvest practices used by Burlington Electric to obtain wood chips for the plant.

I ask the City Council to look beyond the barrage of misleading information presented by Burlington Electric, reject the steam pipe project and initiate plans to retire McNeil.

- I. Burlington Electric Denies Science by Failing to Account for McNeil's Stack CO₂ Emissions to Erroneously Conclude that Burning Wood Offers Climate Benefits Relative to Burning Natural Gas.
 - A. Burning Wood Emits More Greenhouse Gas Per Unit of Energy Produced than Burning Fossil Fuels.

Burlington Electric has presented a number of reports on its website to support its claim that burning wood in the McNeil plant to generate electricity results in substantially lower greenhouse gas emissions than burning natural gas. Damon Lane & Adam Sherman, VEIC, *Summary Memorandum Re: Assessment of lifecycle GHG emissions from Joseph C. McNeil Generation Station* (April 29, 2022) ("Lane & Sherman Memo") 14 (claiming 85% reduction);² *McNeil, Climate and Forestry* (Aug. 31, 2023) (author not disclosed) 2 (citing National Renewable Energy Laboratory paper finding that "biopower/biomass has 52 grams of CO₂

¹ A brief resume is included at the end of this paper.

² <https://www.burlingtonelectric.com/wp-content/uploads/VEIC-Final-Memo-to-BED-LCA-of-GHG-emissions-4.29.22-.pdf>.

equivalent per kilowatt-hour compared to 486 grams of CO₂ equivalent per kilowatt hour for natural gas”).³ It also presents reports claiming substantial greenhouse gas emission reductions from the District Energy project. *Id.* at 4 (“First Environment Analysis showed McNeil District Energy would produce a carbon intensity score of 3.6 grams of CO₂ equivalent per megajoule of energy . . . compare[d] to a natural gas at a score of 79 grams, meaning McNeil-based District Energy would reduce greenhouse gas emissions by over 95% compared to fossil-based natural gas.”); Untitled, Undated Report, First Environment 4. (calculating carbon intensity of 3.6 g CO₂e/MJ using GREET model).⁴

The conclusions of each of these reports are based on the fiction that burning wood to generate electricity is carbon neutral, and that, therefore, the carbon dioxide emissions from McNeil’s stack may be ignored. *See* Lane & Sherman Memo 1-2; First Environment Report (relying on GREET model)⁵; McNeil Climate and Forestry (relying on National Renewable Energy Laboratory summary paper)⁶. The reality is that “burning wood to generate electricity emits more carbon dioxide per kilowatt-hour generated than fossil fuels- even coal, the most carbon intensive fuel.” John Sterman, William Moomaw, Juliette N. Rooney-Varga, Lori Siegel, *Does wood bioenergy help or harm the climate?* Bulletin of the Atomic Scientists, Vol 78, No. 3

³ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf>.

⁴ <https://www.burlingtonelectric.com/wp-content/uploads/CI-Model-Letter-Report-draft-ver-3.pdf>. The natural gas score of 79 grams does not appear in the First Environment report and it is not clear where it comes from. The author of the First Environment Report is not identified.

⁵ The GREET Model assumes that biogenic carbon, such as carbon dioxide emitted by wood burning, is carbon neutral *See* <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:af211862-503d-4226-8fd7-e849c888f176> 3. GREET Model is shorthand for the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation model. It was developed as a tool to examine the lifecycle impacts of liquid biofuels used for transportation.

⁶ The National Renewable Energy Laboratory paper cited in the McNeil Climate & Forest Report is a short summary report that relies on compilations of studies in two earlier reports, which are based on the assumption that burning biomass is carbon neutral. *See* <https://www.nrel.gov/docs/fy21osti/80580.pdf> (relying on EPRI 2013 and Renewable Energy Futures Study 2012); EPRI 2013, <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:234ddc82-9965-4b95-97ac-b1c8731d401a> 6-19 (“Our analysis does not tackle any major issues associated with biomass feedstocks and the assumption about carbon neutrality. In the long-term emissions from the combustions of biomass are presumed to be up taken by regrowth of biomass for a net neutral impact. However, in practice the actual dynamics are much more complex, depending on the feedstock. For example, the removal of forest residues that would otherwise be left on the forest floor may take decades to be regrown. Essentially this study does not address the climatic implications of the short-term large carbon flux of combusting that biomass versus the longer-term sequestration for establishment and regrowth of the forest in which new residues would be collected.”); Renewable Energy Futures Study 2012 <https://www.nrel.gov/docs/fy12osti/52409-2.pdf> 6-47 (“An important assumption of the ReEDS model is that carbon dioxide emissions from biopower generation equal the carbon dioxide absorption during biofeedstock growth, and thus “net” to zero.”)

(2022) 130⁷. According to EPA, burning wood releases about 75 percent more carbon dioxide per joule of primary energy than natural gas. *Id.*⁸ Relative to natural gas and other fossil fuels, the higher carbon dioxide emissions create a carbon debt- an increase in carbon dioxide in the atmosphere worsening climate change which continues unless and until the debt is repaid over time through forest regrowth. *Id.* The payback period varies based on a number of factors, including the type of feedstock and forest management regime. Gunn, et al, *Scientific Evidence Does Not Support The Carbon Neutrality of Woody Biomass*, A Review of Existing Literature 2.⁹ A meta-analysis of 245 case studies generated a mean payback period of 102 years for roundwood, 74 years for whole trees, 18 years for residues, 14 years for stumps and 75 years for mixed feedstocks. Gunn 4. We simply do not have this kind of time to avoid the worst impacts of climate change. In addition to taking time, payback by regrowth is highly uncertain. “Land harvested for bioenergy might be converted to pasture, cropland, or development, preventing regrowth.” Sterman 130. “Even if the harvested land is allowed to regrow, the trees may be harvested again, legally or illegally. . . . Even if the recovering forest is somehow protected against all future harvest, the trees face risks from wildfire, insects, disease, extreme weather and drought, all increasing as the climate warms.” *Id.* at 131.

Burlington Electric repeatedly emphasizes the alleged difference between combustion of fossil fuels “from a geologic source, which is on a significantly longer time scale” than “carbon dioxide from the combustion or decomposition of biogenic materials which are part of the faster carbon cycle [and] are assumed to be sequestered by the regrowth of the biogenic material that produced them,” in one report quoting a State of Vermont guidance document at length.¹⁰ The report omits the statement immediately following some of the language that it quotes, which states that “the distinction between short-term and long-term carbon storage is important to understand; however, depending on the timescale of carbon movement within the faster carbon cycle, the sequestration of CO₂ emitted by the combustion or decomposition of biogenic materials may still be on a longer timescale than would be required to meet mandated GHG emissions reductions.”¹¹ This is true of the carbon dioxide from burning whole tree chips at McNeil.

B. Burlington Electric’s Arguments for Ignoring McNeil’s Stack CO₂ Emissions Lack Merit.

1. Burlington Electric Misapplies IPCC and Other Emission Inventory Guidelines.

⁷

<https://www.tandfonline.com/share/ZNXYYKZWENE2SHT56TDE?target=10.1080/00963402.2022.2062933>.

⁹ https://www.sig-nal.org/_files/ugd/f5c52e_a51f246c8a854cf594ce47e6d05d9616.pdf.

¹⁰ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf> 1 & n.5.

¹¹

https://outside.vermont.gov/agency/anr/climatecouncil/Shared%20Documents/_Methodology_Vermont_Greenhouse_Gas_Emissions_Inventory_1990-2020_Final.pdf 7.

Burlington Electric has taken the position that its disregard of McNeil's stack greenhouse gas emissions is consistent with IPCC and other inventory/accounting guidelines. For example, an Innovative Natural Resources Solutions LLC report posted on its website states that the "2006 IPCC Guidelines for National Greenhouse Gas Inventories" states that "carbon released through biomass combustion is excluded from reported energy related emissions."¹² The report suggests that this is because "[t]he release of carbon from biomass combustion is assumed to be balanced by the uptake of carbon when the feedstock is grown, resulting in net zero emissions over some period of time."¹³ These statements are misleading in three different ways.

First, the report neglects to mention that under the IPCC guidelines carbon released through biomass combustion (ie. at the McNeil stack) is excluded from national inventory reporting in the energy sector because it is reported elsewhere- in the Agriculture, Forestry, and Other Land Use (AFOLU) sector.¹⁴

Second, the IPCC did not adopt this methodology because it has determined that burning biomass is carbon neutral; rather the IPCC adopted this as a reporting convention to avoid double counting. In the words of the IPCC:

Q2-10. According to the IPCC Guidelines CO2 Emissions from the combustion of biomass are reported as zero in the Energy sector. Do the IPCC Guidelines consider biomass used for energy to be carbon neutral?

A: The overall IPCC approach to estimating and reporting bioenergy greenhouse gas emissions at the national level requires complete coverage of all IPCC sectors, including the AFOLU and Energy sectors. All CO2 emissions and removals associated with biomass are reported in the AFOLU sector. Therefore, CO2 emissions from biomass combustion used for energy are only recorded as a memo item in the Energy sector; these emissions are not included in the Energy sector total to avoid double counting. The approach of not including these emissions in the Energy Sector total should not be interpreted as a conclusion about the sustainability, or carbon neutrality of bioenergy.

...

Thus, the IPCC Guidelines do not automatically consider or assume biomass used for energy as "carbon neutral", even in cases where the biomass is thought to be produced sustainably.¹⁵

¹² <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Carbon-6.2023.pdf> 1.

¹³ *Id.*

¹⁴ Intergovernmental Panel on Climate Change, Task Force on National Greenhouse Gas Inventories, Frequently Asked Questions, Q 2-10, <https://www.ipcc-nggip.iges.or.jp/faq/faq.html>. One of the reports on Burlington Electric's website admits this point. <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf> 2.

¹⁵ *Id.* (emphasis added).

Third, these IPCC Guidelines, are guidelines for development of National Greenhouse Gas Emission inventories. They are not intended to be used for evaluating the merits of individual projects. Instead, they set guidelines for national inventories that nations use to track their total emissions and their compliance with international commitments to reduce emissions. EPA's Scientific Advisory Board "found that it is not appropriate to use the Intergovernmental Panel on Climate Change (IPCC) national accounting methodologies to evaluate biogenic CO₂ emissions at individual stationary sources:

The IPCC inventories a status snapshot of emissions at any given point in time and are a reporting convention that has no associated connections to policies or implementation. These inventories do not explicitly link biogenic CO₂ emission sources and sinks to stationary sources nor do they provide a mechanism for measuring changes in emissions as a result of changes in the building and operation of stationary sources using biomass."¹⁶

Burlington Electric also relies on the State of Vermont's Vermont Greenhouse Gas Emissions Inventory and Forecast – Methodologies.¹⁷ This State of Vermont guidance looks to the IPCC guidance.¹⁸ It is guidance for a state level inventory, and, like the IPCC guidance, is not intended to guide to decisions involving proposed actions at individual plants such as McNeil.¹⁹

2. Tree Growth Outside the Lands Harvested for Burlington Electric Does Not Offset McNeil's Stack Emissions.

¹⁶ *Framework for Assessing Biogenic CO₂ Emissions from Stationary Sources*, U.S. EPA (November 2014) 3 (emphasis added), <https://19january2017snapshot.epa.gov/sites/production/files/2016-08/documents/frameworkfor-assessing-biogenic-co2-emissions.pdf>; see also <https://onlinelibrary.wiley.com/doi/full/10.1111/gcbb.12844> ("it is not the purpose of national-level reporting and accounting of GHG emissions to ensure sound decision-making and practices by actors operating 'on the ground'").

¹⁷ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf> 1.

¹⁸ https://outside.vermont.gov/agency/anr/climatecouncil/Shared%20Documents/_Methodology_Vermont_Greenhouse_Gas_Emissions_Inventory_1990-2020_Final.pdf 6.

¹⁹ The GHG Protocol's Corporate Standard and EPA Greenhouse Gas Inventory guidance relied on by the Lane & Sherman Memo <https://www.burlingtonelectric.com/wp-content/uploads/VEIC-Final-Memo-to-BED-LCA-of-GHG-emissions-4.29.22-.pdf> similarly are guidance for development of inventories, but at the corporate or organization level, which do not provide guidance for evaluating the merits of particular projects, and aim to prevent double counting of emissions. See <https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf> 25 (noting that CO₂ emissions from burning biomass/biofuels are reported separately from other emissions) accounting); <https://www.epa.gov/sites/default/files/2020-12/documents/stationaryemissions.pdf>.

Burlington Electric claims that tree growth in a statewide or regional area that is much larger than the areas harvested for McNeil's chips offsets McNeil's stack emissions. *See* Innovative Natural Resources LLC Report 2-3 (presenting data allegedly showing that total forest carbon in private timberlands in 8 Vermont counties and 4 New York counties from which McNeil has obtained wood increased between 2007 and 2010);²⁰ Lane & Sherman Memorandum 3 ("At the landscape level, Vermont's forests grow more new wood each year than is harvested by a 2 to 1 ratio. . . . Vermont and Northern New York's forests have been adding forest inventory (and stored carbon) consistently for decades.");²¹ McNeil, Climate and Forestry ("Vermont and Northern New York's forests have been adding forest inventory (and stored carbon) consistently for decades.");²² This argument is specious.²³ Burlington Electric does not get to take credit for increased carbon stocks on lands not impacted by its harvesting. It is common knowledge that out-of-control logging reduced forest cover to about 20% of Vermont by the late 1800s,²⁴ and the forests have, for the most part, been increasing in coverage ever since. However, this no more justifies logging for electricity generation than it does construction of a coal plant. In order to address climate change we need to both reduce emissions and increase the amount of carbon stored in our forests.

It is fundamental that in evaluating the merits of a particular activity, you look at the impacts of the activity. Burlington Electric admits that it has not accounted for "[s]ite-specific forest inventory change over time from harvest jobs from which wood fuel was procured . . . because McNeil does not own, manage, or directly control the forest management activities of the forestland from which the fuel is sourced." Lane & Sherman Memo 2.²⁵ There is no question that the amount of carbon stored on the lands harvested for Burlington Electric has been reduced by harvest activities and any recovery will take decades or more. This cannot be ignored.

²⁰ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Carbon-6.2023.pdf>. I have not attempted to verify the accuracy of the data.

²¹ <https://www.burlingtonelectric.com/wp-content/uploads/VEIC-Final-Memo-to-BED-LCA-of-GHG-emissions-4.29.22-.pdf>.

²² <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf> 2.

²³ *See* Phillip Duffy, William Moomaw, John Sterman and Juliette N. Rooney-Varga, *Burning Wood is not a solution to climate change*, The Hill (5/5/20) (rejecting argument that expansion of forests in the United States and some other nations offsets the carbon dioxide that would be released from increased use of wood energy), <https://thehill.com/opinion/energy-environment/496021-burning-wood-is-not-a-solution-to-climate-change/>.

²⁴ *See* <https://vtdigger.org/2018/07/15/green-mountains-not-green/> ("By the late 1800s, fully 80% of Vermont had been shorn of trees." Governor Woodbury in his 1894 inaugural address stated that "The owners of timber lands in our State are pursuing a ruinous policy in the method used in harvesting their timber Some measure should be adopted to lessen the wanton destruction of our forest.")

²⁵ <https://www.burlingtonelectric.com/wp-content/uploads/VEIC-Final-Memo-to-BED-LCA-of-GHG-emissions-4.29.22-.pdf>.

3. Whole Trees are Chipped for Burlington Electric and Actions of its Foresters Do Not Render McNeil Carbon Neutral.

During a presentation to the September 14, 2023 Ward 2 and 3 Neighborhood Planning Assembly meeting I stated that whole trees were being chipped for Burlington Electric and that I had obtained copies of contracts calling for whole tree chips. Burlington Electric's General Manager responded by stating that Burlington Electric does not cut trees for energy; rather Burlington Electric takes chips from trees that are being cut down for another purpose. The report, McNeil, Climate and Forestry posted on Burlington Electric's website states that "McNeil's wood supply is primarily (88.4%) from in-woods chips/residues *such as the tops and limbs left over from harvests occurring for higher-value wood products*, with an additional 9.7% from sawmill residue and 1.6% from waste-wood yard wood."²⁶ A report by Innovative Natural Resources, LLC, describes the 88.4 percent share "as-chips-generally obtained from harvesting projects that utilize in-woods chippers to produce fuel. In these harvesting operations the majority of the wood harvested is used for other purposes, such as sawlogs for lumber or pulpwood for papermaking, and *the balance of the tree such as the tops and limbs are then chipped and used by McNeil as fuel*, referred to as "in-woods chips."²⁷ These statements all conceal from the public the fact whole trees are harvested and chipped to provide fuel for McNeil.

There is no question that there has been a practice of chipping whole trees for McNeil. Signed Purchase Wood Agreements, which are filed annually with the Public Utility Commission, indicate that at least through August 2022, Burlington Electric obtained signed "Purchased Wood Agreement(s)," which call for delivery of "Whole Tree Chips." *See, eg., Exhibit 1, attached.*²⁸ As Burlington Electric's foresters pointed out in a Front Porch Forum Post, harvesting is done pursuant to a Certificate of Public Good issued by the Public Utility Commission. The "whole tree chipping" harvest method is described in a finding in the Certificate of Public good as follows: "Harvesting of fuel will be accomplished by a technique known as whole tree chipping. After they are cut and brought to a central location, trees which can be utilized for lumber are separated and delimbed. The remaining trees are fed into a chipper which reduces them to one inch by two inch chips. The chips are then blown into a tractor trailer for direct delivery to the site at which they are to be burned or to a transfer site." Exhibit 2, ¶ 87 attached. Further, a landowner has advised me that whole trees from his property were chipped for Burlington Electric. Exhibit 3, attached.

²⁶ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf> 3 (emphasis added).

²⁷ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Economic-Impact-26-June-2023.pdf> 5 (emphasis added).

²⁸ Attached to the agreement is an "Appendix to Purchase Wood Agreements, Whole Tree Chips." After I appeared before the Ward 2 and 3 NPA with Burlington Electric's General Manager, an "Appendix to Purchased Wood Agreements, Wood Residue Chips" was placed in the Agenda Packet for the McNeil work session held on October 23, 2023. While the title and certain words have changed, this does not require cessation of Burlington Electric's practice of harvesting and chipping whole trees. The word "residue" has no fixed meaning and can include whole trees that have no higher commercial value than chipping for bioenergy.

It will take decades- 74 years according to the meta-analysis cited above- to repay the carbon debt relative to burning fossil fuels created by harvesting and burning whole trees for McNeil. Further the whole trees harvested and chipped for McNeil- trees which lack value for lumber and could have been left in place- would have real value if left standing, not only for carbon sequestration, but also for wildlife habitat, erosion and flood prevention. To the extent tops and limbs are left in the forest, they would decompose gradually, releasing some carbon to the air over time, but also providing habitat and nutrients and carbon to the soil.

The sustainable forest management Burlington Electric states that its practices do not render the harvest and burning of trees for McNeil carbon neutral. Typical rotation periods for working forests are far shorter than the time required for them to reach maturity and maximum carbon storage.²⁹ Burlington Electric's foresters have stated that their harvests are conducted in accordance with the Certificate of Public Good's "strict harvesting standards." However, a review of those standards, which were established in 1981, indicates that they were not intended to ensure that post-harvest lands are managed to enhance carbon uptake and storage and do not do so.

The Certificate of Public Good requires:

- Advance notice of harvesting operations to the Vermont Department of Fish and Game and adherence to the Department's recommendations regarding cutting near deer yards, wetlands or the habitat of endangered species;
- Compliance with all applicable environmental protection standards established under state or federal law; and
- That clear cutting be limited to 25 acres, except in cases of land conversion.

Ex. 2, ¶ 10. The Certificate of Public Good also requires that all agreements for the harvesting of woodchip fuel require the harvester to comply with a "Harvesting Policy for Whole Tree Chipping Operations in Vermont (Second Revised Draft)." *Id.* ¶ 10. A copy of the policy is attached as Exhibit 4.³⁰ The policy requires a number of additional measures, including measures related to erosion and sediment control, prevention of visual impacts, protection of wildlife and fisheries, development of timber harvesting goals, harvesting procedures and specific silvicultural techniques. *Id.* The measures imposed do not ensure that harvested trees will be allowed to regrow, let alone that carbon uptake and storage will be fostered. As far as I can tell requirements are imposed only on the logging company and not on the landowner. As stated above, Burlington Electric admits that "McNeil does not own, manage, or directly control

²⁹

<https://www.tandfonline.com/share/ZNXYXKZWENE2SHT56TDE?target=10.1080/00963402.2022.2062933> 131.

³⁰ I have seen what may be a more recent version of this document. I do not know if Burlington Electric obtained the PUC's approval to change it. In any case, it is not significantly different.

the forest management activities of the forestland from which the fuel is sourced.”³¹ Even assuming that “sustainable forestry management” helps address the impacts of climate change, Burlington Electric’s admitted lack of control over the lands indicates that Burlington Electric cannot ensure that the lands will be subject to sustainable forestry management going forward, or even that they will remain forest lands and be allowed to recover and increase their storage of carbon over time.

4. Burlington Electric Relies on Reports of Biomass and Forestry Industry Insiders and Reports for Which the Author is Not Disclosed.

In evaluating the value of the reports presented by Burlington Electric the City Council should consider the report’s authors. Here some reports were prepared by biomass and forestry insiders and the authors of other reports are not identified.

The first report that Burlington Electric posted on its website about the alleged carbon benefits of McNeil is the Summary Memorandum, Assessment of lifecycle GHG emissions from the Joseph C. McNeil Generation Station (April 29, 2022), prepared by Damon Lane and Adam Sherman of VEIC.³² Burlington Electric describes this report as “Third-party analysis by the experts at VEIC (the organization that runs efficiency Vermont).”

One of the authors, Adam Sherman is a biomass industry insider who came to VEIC when it acquired the Biomass Energy Resource Center in 2012.³³ “BERC works to advance the use of community-scale biomass energy throughout North America and beyond by providing technical consulting services, biomass energy program design and delivery, and education and outreach on benefits and best practices.”³⁴ Prior to joining VEIC, Adam Sherman was the Program Director of BERC.³⁵ Adam Sherman has been a member of the Board of the Biomass Thermal Energy Council (BTEC) from 2018 to the present. BTEC is a biomass energy advocacy organization which does “governmental affairs advocacy,” “technical standards development,” education and outreach activities in support of biomass heating, combined heat and power and other thermal applications. It works to expand markets for “modern wood heating” to bring it “into the mainstream.”³⁶ Adam Sherman has also served on the editorial board of Biomass Magazine since 2016. “Biomass Magazine is a monthly trade publication tailored to serve companies and organizations engaged in producing and/or utilizing biomass power and heat, advanced biofuels, biogas, wood pellets and biobased chemicals.” He has also served on the

³¹ <https://www.burlingtonelectric.com/wp-content/uploads/VEIC-Final-Memo-to-BED-LCA-of-GHG-emissions-4.29.22-.pdf> 2 & n.1.

³² <https://www.burlingtonelectric.com/wp-content/uploads/VEIC-Final-Memo-to-BED-LCA-of-GHG-emissions-4.29.22-.pdf>

³³ <https://vermontbiz.com/news/2012/july/16/veic-takes-over-berc-consolidate-sustainable-energy-efforts>.

³⁴ <http://vermontbioenergy.com/biomass-energy-resource-center-launches-updated-community-scale-wood-heating-database/>.

³⁵ <https://www.veic.org/company/team/adam-sherman>.

³⁶ <https://www.biomassthermal.org/mission-and-vision/>.

board of the Alliance for Green Heat, which promotes wood and pellet stoves and boilers,³⁷ since 2017. Adam's publications in Biomass Magazine include an article titled, "Expanding Use of Modern Wooding Heating and Improving Air Quality," which argues that "we can use more wood and actually improve air quality." <https://biodieselmagazine.com/articles/expanded-use-of-modern-wood-heating-and-improving-air-quality-14249> This is not what we need in Vermont where, following years of state subsidies for "advanced" wood heating, 59% of fine particulate matter emissions, the leading environmental cause of death worldwide, is attributable to residential wood burning.

Burlington Electric also relies on a report prepared by Eric Kingsley of Innovative Natural Resource Solutions, LLC, and a second report prepared by that firm which does not identify an individual author.³⁸ Mr. Kingsley has also served on the board of the Biomass Energy Resource Center, and is a current or past member of numerous forestry related organizations.³⁹ While the firm has represented a wide range of private, non-profit and government work, it also has done biomass energy consulting.⁴⁰

Burlington Electric also relies on a report by First Environment, which was commissioned by Vermont Gas,⁴¹ who stands to benefit from the steam pipe project. An individual author of the report is not identified.

Finally, Burlington Electric relies on three reports, which do not identify the firm or organization which prepared them, let alone an individual author.⁴² I hope that the City Council will not be misled by the reports on Burlington Electric's website. Further, the City Council should demand disclosure of the authors of all of the reports, and the amounts and sources of funding for them.

II. The Proposed Resolution Violates Sound Planning Principles by Allowing Burlington Electric to Proceed with District Energy Before Critically Important Issues Have Been Considered, and May Have the Effect of Locking in McNeil's Excessive Emissions for Decades.

A. McNeil Must Be Retired for Burlington to Do its Part to Address Climate Change.

³⁷ <http://forgreenheat.org/>.

³⁸ <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Carbon-6.2023.pdf>; <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Economic-Impact-26-June-2023.pdf>.

³⁹ <https://www.startupmaine.org/people/eric-kingsley/>.

⁴⁰ https://www.nhsec.nh.gov/projects/2011-02/documents/110520levesque_exh_a.pdf.

⁴¹ <https://www.burlingtonelectric.com/wp-content/uploads/CI-Model-Letter-Report-draft-ver-3.pdf>.

⁴² <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-District-Energy-QA-2023-08-31.pdf>; <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Economics-QA-2023-08-31.pdf>; <https://www.burlingtonelectric.com/wp-content/uploads/McNeil-Climate-and-Forestry-QA-2023-08-31.pdf>.

The Biden Administration has set a goal of 100% carbon free electricity generation by 2035.⁴³ As discussed above, wood is neither a carbon free nor a low carbon source of electricity. Burlington Electric contends, erroneously, that burning wood is better from a carbon standpoint than burning natural gas. This argument misses the point. The ISO New England grid mix is already dramatically lower carbon than either wood or natural gas. While natural gas is the largest source, it supplied only 46% of the grid's power in 2022.⁴⁴ Approximately half of the grid mix is low or zero carbon, including 23% from nuclear; 14% from net imports (most of which is hydro), 6% from hydro and a share of the 11% that is listed as "renewable."⁴⁵ The grid is continuing to become lower carbon as new sources come on line. As of January 2023, developers had proposed 32,000 MW of new generating resources, including 50% wind, 35% battery storage, 12 % solar, and only 2% natural gas.⁴⁶

Rather than squabble over whether wood is better than natural gas, we should recognize that we need to move toward wind, solar and other low carbon sources, and that McNeil has no place in a low/zero carbon future.

B. Proceeding with the Steam Pipe Project Before Considering McNeil's Fate Violates Sound Planning Principles and May Lock in McNeil's Emissions for Decades.

It is fundamental that sound planning requires evaluating the consequences of a proposed action and alternatives to the proposed action before committing resources to it. This is a fundamental principle of the National Environmental Policy Act, which requires assessment of the impacts of proposed major federal actions on the environment, including climate impacts before "an irretrievable commitment of resources," to the action. The estimated project cost is \$42 million. The University of Vermont Medical Center has stated that it needs a 20-year commitment for steam. Making a long-term investment and entering into a contract of 20 years or more will create pressure to keep McNeil operating for decades at a time when we should be planning for its closure.

As far as I can tell, there has been no formal consideration by City leaders as to how long McNeil should be permitted to operate given the climate emergency. Nor has there been any credible effort to weigh the alleged greenhouse gas emission reductions from the steam pipe project against the emissions reductions that could be achieved by closing McNeil. Absent such analysis it is imprudent to authorize further pursuit of the steam pipe project.

⁴³ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/20/fact-sheet-president-biden-to-catalyze-global-climate-action-through-the-major-economies-forum-on-energy-and-climate/>.

⁴⁴ https://www.iso-ne.com/static-assets/documents/2021/03/new_england_power_grid_regional_profile.pdf.

⁴⁵ *Id.*

⁴⁶ *Id.*

For these reasons, I ask you to vote no on the proposed resolution and begin planning for the retirement of McNeil, which should include a just transition for affected workers. Thank you for considering my views and for your service to the City.

/s/ Nicholas F. Persampieri

Nick Persampieri, Brief Resume

Vermont Attorney General's Office, Assistant Attorney General, 2010-2023 (retired 10/30/23). Lead lawyer on air quality issues and multistate matters involving air quality and climate issues. Participated in commenting on federal rules and/or litigation regarding power plants, oil and gas facilities, chemical plants, landfills, motor vehicles, and wood stoves.

Earthjustice, Attorney, 2005-2009 (the nation's largest nonprofit environmental law firm). Developed and litigated cases under Clean Air Act, National Environmental Policy Act and other environmental laws, including challenges to coal-fired power plant permitting, oil and gas leasing and air emissions. Played key role in preventing construction of two massive coal-fired power plants.

United States Department of Justice, Environmental Enforcement Section, Trial Attorney, 1999-2005. Litigated cases under federal environmental laws. Lead counsel on Clean Air Act case settlement requiring \$320 million investment to reduce emissions at 6 petroleum refineries in 4 states and \$3.6 million civil penalty. Second chair on multi-party Superfund litigation resulting in \$120 million cost recovery settlement.

New Mexico Environment Department, Staff attorney, 1996-1999; Sole Practice, 1993-1996 (began to specialize in environmental law); Two New Mexico law firms, 1985-1993 (became partner in 40-lawyer firm).



**Burlington Electric Department
Purchased Wood Agreement**

Contract #WTC27231

Date: August 11, 2022

This Agreement is between City of Burlington, acting by and through its Electric Department, hereinafter called BUYER, and **Emerson & Sons Logging, LLC** of **Groton, VT** hereinafter called SUPPLIER. It is understood by all parties that the SUPPLIER is an independent contractor and is neither an agent nor employee of the BUYER for any purpose whatsoever.

Quantities and Price:

It is mutually understood and agreed that the SUPPLIER will produce and deliver to the BUYER at the time and place(s) designated below, subject to the stipulations and conditions set forth below, the following products, for which the BUYER will pay the SUPPLIER at the following rates:

<u>Tonnage</u>	<u>Product</u>	<u>Rate</u>	<u>Delivery Point</u>
As needed	WTC	Market Price	Swanton/Burlington

Delivery and Specifications:

Harvesting and delivery will be conducted in accordance with provisions mandated by the Vermont Public Utility Commission, formerly known as the Vermont Service Board, and in accordance with all of the BUYER'S regulations and specifications which appear in the attached Appendix, which is incorporated herein by reference. Any material which fails to meet product specifications, may be rejected.

The BUYER reserves the right to pay a discounted price for deliveries which fail to comply with contract specifications to offset costs of additional handling, reprocessing or disposal.

Deliveries shall commence on **July 1, 2022** and continue through **June 30, 2023** unless the SUPPLIER is prevented from delivering, or the BUYER prevented from accepting because of strikes, lockouts, fire, flood, major mechanical breakdown of Buyer's McNeil generating facility which prevents full operation for periods in excess of 14 days in any 30 day period, or other factors beyond the control of the SUPPLIER or BUYER.

Expiration:

This Agreement shall be in effect until the agreed upon tonnage is produced and accepted by the BUYER or until this Agreement expires, whichever occurs first. Expiration of this Agreement terminates BUYER'S obligation to purchase and SUPPLIER'S obligation to produce and deliver the wood products covered by this Agreement. Payment will be made only for tonnage's accepted by the BUYER at the point(s) of delivery specified herein, up to the date of expiration.

This Agreement shall terminate on: June 30, 2023

Exhibit 1

Subcontracting:

The SUPPLIER shall be free to subcontract the production and delivery of products covered by this Agreement, however, all contractors and subcontractors shall be held responsible for meeting all terms and conditions of this Agreement.

Scale and Payments:

All products delivered and accepted under this Agreement shall be weighed on a scale provided by the BUYER or an Agent designated by the BUYER. The weight thereby determined shall be the basis of payment to the SELLER.

Compliance:

The SUPPLIER agrees that all products covered by this Agreement shall be produced and delivered in compliance with all applicable local, State and Federal laws and regulations, particularly applicable environmental laws and provisions/conditions of the McNeil Generating Station Certificate of Public Good, mandated by the Vermont Public Utility Commission.

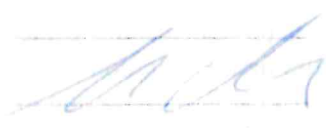
Liability:

The SUPPLIER agrees to indemnify, save and hold BUYER, to the greatest extent permissible by law, harmless from and against (1) any and all mortgages, liens, encumbrances, claims or demands of title, of any and every kind, by any person, firm or corporation, upon or against any and all products produced hereunder, (2) any and all claims, demands, suits, actions, proceedings, judgements, decrees, orders and expenses (including and not limited to legal fees and expenses of any and all persons, firms and corporations (including but not limited to employees, agents, representatives or independent contractors of either party to the Agreement)), including any death or injury of any person or persons, of any loss, damage or destruction to any property, by reason of anything done or omitted to be done by the SUPPLIER or its agents, employees or independent contractors in connection with all or any part of the supplies or equipment used in its production, cutting, skidding, piling, loading, delivering, unloading or handling and (3) any loss, damages or destruction to property of the BUYER or Swanton Limestone Corp. caused directly or indirectly by any willful or negligent act or omission of the SUPPLIER or his employees, agents or independent contractors. The SUPPLIER agrees to maintain in effect during the term of this Agreement comprehensive general and vehicular liability insurance in an amount acceptable to the BUYER, and provide BUYER with written proof of such insurance coverage.

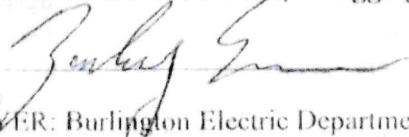
Termination:

This Agreement may be terminated by either party at any time by giving sixty days notice of such intention to terminate. If terminated, no payment will be made for any costs associated with overhead or profit, incidental or consequential damages. Payment will only be made for products which are accepted by the BUYER up to the date of termination.

Witnesses:




SUPPLIER: Emerson & Sons Logging, LLC

By: 

BUYER: Burlington Electric Department

By: 

**Appendix to
Purchased Wood Agreements
Whole Tree Chips**

Specifications:

All chips delivered under this agreement shall be of a nominal size of 1 inch by 1 inch. Twigs and oversize chips shall not exceed 5 inches in any dimension. Chips shall not be abnormally wet, dirty, decayed or otherwise in poor condition. Loads of chips which in the opinion of the Buyer, fail to meet these Specifications will not be accepted. Unaccepted loads will not be purchased.

Delivery:

All chips delivered under this agreement are to be delivered in trucks with a wheelbase which can fit on a 60 foot scale platform in a single weighing. The maximum trailer length which will be dumped at McNeil Station is 45 feet. The maximum trailer length which will be dumped at Swanton yard is 48 feet. Self-unloading trailers of any length are acceptable at either location. Any trucks deemed unsafe by the Buyer will not be allowed to deliver. Deliveries shall be subject to the following provisions ordered by the Vermont Public Service Board:

1. No fuel trucks may enter or utilize the five corners intersection in Essex Junction, VT between the hours of 7:00 and 8:30 AM and 4:00 and 5:30 PM Mondays through Fridays inclusive, holidays accepted.
2. No fuel trucks may enter or utilize streets or highways within the cities of Burlington or Winooski on Sundays or before 6:30 AM or after 9:30 PM on any other day. Loads that originate south of Burlington shall be delivered via Burlington Truck Routes, not through Winooski.
3. No fuel shall be off-loaded at the McNeil Generating Station from any truck on Sundays or before 7:00 AM or after 9:00 PM on any other day.
4. The Seller will adhere to the recommendations of the Vermont Department of Fish and Wildlife regarding cutting near deer yards, wetlands and habitats of Endangered Species.
5. The Seller will comply with all applicable environmental protection standards established under State or Federal law.
6. The Seller will limit clearcutting to 25 acres or less except in cases of genuine land use conversion.
7. The Seller will comply with all terms and conditions of the Burlington Electric Whole Tree Harvesting Guidelines, receipt of which is hereby acknowledged.

June '14

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 4450

Petition of the City of
Burlington Electric Department
requesting a certificate of public
good pursuant to 30 V.S.A. Section
248 to construct and operate a
50 MW wood-fired electric
generating station to be known as
the Joseph C. McNeil Station --

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Order Entered:

9/14/81

INTRODUCTION

On March 14, 1980 the City of Burlington Electric Department (BED or the Petitioner) filed a petition pursuant to 30 V.S.A. §248 seeking a certificate of public good for the construction of an electric generating facility to be known as the Joseph C. McNeil Station.

Plans for the proposed facility were submitted by the Petitioner to the City of Burlington Planning Commission and the Chittenden County Regional Planning Commission. By resolution of August 27, 1979, the Chittenden County Regional Planning Commission waived its right to receive said plans 45 days prior to the submission of the application for a certificate of public good; and by resolution of September 4, 1979, the City of Burlington Planning Commission did likewise.

Pursuant to Section 248(a), notice of the hearing on this petition was properly given to the Vermont Attorney General, the Department of Health, the Agency of Environmental Conservation, the Historic Sites Board, the Scenery Preservation Council, the State Planning office, the Agency of Transportation, the Chairman of the Burlington Planning Commission, the Executive

Exhibit 2

87. Harvesting of fuel will be accomplished by a technique known as whole tree chipping. After they are cut and brought to a central location, trees which can be utilized for lumber are separated and delimbed. The remaining trees are fed into a chipper which reduces them to one inch by two inch chips. The chips are then blown into a tractor trailer van for direct delivery to the site at which they are to be burned or to a transfer site. (Tr., 1/23/81, pp. 5-11; Pet's Ex. No. 100.)

88. The forests of Vermont in which woodchip harvesting will be performed contain an overabundance of low quality timber which presently has no substantial market and which takes growing space from more valuable timber. (Tr., 2/24/81, pp. 140-141; Tr., 3/4/81, pp. 34-35; State's Ex. No. 18.)

89. Harvesting the quantity of woodchips required for operation of the proposed facility provides an opportunity to improve the management of a substantial portion of Vermont's forests. (Tr., 1/22/81, pg. 156; Tr., 3/4/81, pp. 34-35; State's Ex. No. 13.)

90. Although harvesting performed in an improper manner can cause soil erosion, stream sedimentation, needless destruction of wildlife habitat and esthetic degradation, (Tr., 3/4/81, pp. 92-95) the conditions imposed by this certificate will require woodchip suppliers to adhere to procedures which will protect against such effects.

91. The proposed location of the plant itself is a 46 acre portion of a 400 acre parcel owned by the City of Burlington within an area known as the Intervale. (Pet's Ex. No. 96.)

8. All agreements between the Petitioner and other parties for the delivery of wood fuel by truck shall be in writing and shall provide that no fuel trucks may enter or utilize the five-corners intersection, so called, in Essex Junction, Vermont between the hours of 7:00 A.M. and 8:30 A.M. nor between the hours of 4:00 P.M. and 5:30 P.M., Mondays through Fridays, inclusive, holidays excepted, and that no such trucks may enter or utilize streets or highways within the Cities of Burlington or Winooski on Sundays or before 6:30 A.M. or after 9:30 P.M. on any other day. Violation of any such provision shall expressly be made a cause for cancellation of such agreements, and in the case of any such violation, then, at the discretion of the Petitioner or upon order of this Board, such termination shall be effected. The Petitioner shall promptly notify the Board of any violation of such provisions of which it becomes aware. Copies of all agreements for delivery of wood fuel by truck shall be furnished to the Board promptly upon the execution thereof.

9. No fuel shall be off-loaded at the facility from any truck or railway car on Sundays or before 7:00 A.M. or after 9:00 P.M. on any other day.

10. All agreements between the Petitioner and other parties for the harvesting of woodchip fuel shall be in writing and shall provide that the harvester shall (a) advise the Vermont Department of Fish and Game in advance of the location of harvesting operations; (b) adhere to the recommendations of the Vermont Department of Fish and Game regarding cutting near deer yards, wetlands or the habitat of any endangered species; (c) comply with all applicable environmental protection standards

established under state or federal law; (d) limit clear cutting to 25 acres or less except in genuine cases of land use conversion, and in all such cases, the harvester shall advise the Petitioner sufficiently far in advance to permit the Petitioner to verify that the conversion is in fact genuine; and (e) comply with all terms and conditions of "Harvesting Policy for Whole Tree Chipping Operations in Vermont (Second Revised Draft)" as set forth in Petitioner's Exhibit No. 101. Violation of any such provision shall expressly be made a cause for cancellation of such agreements and, in the case of any such violation, then, at the discretion of the Petitioner or upon order of this Board, such termination shall be effected. The Petitioner shall promptly notify the Board of any violation of such provisions of which it becomes aware. Copies of all agreements for harvesting of woodchip fuel shall be furnished to the board promptly upon the execution thereof. Not later than the first day upon which woodchip harvesting commences, the Petitioner shall have and maintain a staff of not less than 11 professional foresters to monitor the provisions of this paragraph.

11. Acoustic louvers shall be installed on all plant building openings. All outdoor pumps shall be enclosed to minimize site noise. Wood fuel at the site shall be handled by a front end loader or other equipment having a maximum noise rating of 77 dBA at a distance of 50 feet. The acoustic noise levels of major pieces of plant equipment shall be given significant weight in evaluating their acceptability for use at the plant.

12. The Board recommends that, with the permission of the property owners, the Petitioner purchase and install air conditioners for those residences on Manhattan Drive and Intervale Road

Re: Whole Trees are Harvested for McNeil

From: John Brabant (johnbvce@yahoo.com)
To: nickpersamp@yahoo.com
Date: Friday, November 17, 2023 at 06:00 PM EST

I asked the loggers (Chris Emerson & Sons) where they were trucking the chips and they told me McNeil in Burlington.

[Sent from Yahoo Mail on Android](#)

On Fri, Nov 17, 2023 at 1:08 PM, Nicholas Persampieri
<nickpersamp@yahoo.com> wrote

Thanks, John. How do you know that they were chipped for McNeil?

On Friday, November 17, 2023 at 01:04:33 PM EST, John Brabant <johnbvce@yahoo.com> wrote:

Hi Nick:

Back in 2011, I had some logging performed on my property in Calais, VT by a father and son logging outfit out of Groton, VT. Among the overly large and heavy equipment for this size job brought to my property were 2 grapple skidders, a massive diesel powered chipper, a tractor trailer truck and chip van, a feller-buncher. Large, 40 + foot straight, whole trees were brought to the landing and sent through the the chipper. This chipper in a matter of seconds reduced these whole green trees to chips which were blown into the back of the tractor trailer van trailer. It would be a total fiction to say that only scrap limbs were chipped. In point of fact, the limb wood and tops were left in the forest on the ground, which is better than having chipped them to be burned as they contain large amounts of nutrients that would be lost from our forest land. I don't know the rationale other than the market value at the time for alternative uses for the trees that were chipped, but the fact of the matter is that it wasn't "waste wood and limbs" that were chipped during this operation, but entire limbed trees. I really wish BED would get their story straight and stop misleading the public as to the real source of their wood chips, that is whole trees that would have been better left standing.

John Brabant
Regulatory Affairs Director
Vermonters for a Clean Environment
802-498-5661

Burlington Electric Department

Harvesting Policy for Whole Tree Chipping Operations in Vermont

2nd Revised Draft

It will be the policy of Burlington Electric Department to accept delivery of whole tree chips only from harvesting operations in Vermont certified by a professionally trained forester as meeting the criteria of "good forestry practice" as outlined below. Burlington Electric Department foresters or their authorized agents will conduct periodic on-site inspections to insure compliance with the following practices. Unresolved violation of these practices will result in the termination of chip purchase from the offending producer.

1. The use of necessary and applicable erosion and sedimentation control practices will be required. Every harvesting contractor will become familiar with the publication Guides for Controlling Soil Erosion and Water Pollution on Logging Jobs in Vermont. Contractors will be required to implement procedures outlined in the guide to the satisfaction of Burlington Electric Department foresters.
2. Consideration for visual quality will be required.
 - A. All refuse will be removed from the landing/logging site prior to termination of the operation.
 - B. Appropriate techniques will be used adjacent to major hiking trails to protect the integrity of the trail and the hiking experience. Trail treadways will be kept clear of logging debris. Crossing of trails by logging vehicles will be at right angles and kept to the minimum number necessary. Cutting within 50 feet of either side of major trails will be limited to the removal of high risk trees or the removal of less than 30%

Exhibit 4

of the basal area of existing trees greater than 5 inches DBH, whichever is less.

- C. Landings will be laid out so as to reduce adverse visual impact.

Newly constructed landings along public highways will be screened by a strip of undisturbed vegetation at least 25 feet wide when such vegetation exists. Where open areas or abandoned landings are suitable for use as landings, they will be so used in spite of the lack of a buffer strip, so as to reduce the amount of area cleared for such use.

3. Wildlife and fisheries will be given consideration in harvesting planning.

- A. Landowners will be made aware of wildlife and fishery options and impacts in determining management goals.
- B. Burlington Electric Department foresters will refer to maps furnished to B.E.D. by the Vermont Fish and Game Department in July 1980, and as from time to time amended, to determine if scheduled harvest areas coincide with bonafide deer wintering areas as delineated by the Vermont Fish and Game Department. In the event such areas do coincide, guidance in harvest planning will be sought from a Vermont Fish and Game Department wildlife biologist or other trained wildlife biologist prior to the commencement of harvesting.
- C. Modification or curtailment of normal harvesting practices will be required where adverse impacts would otherwise be felt on species recognized by the Vermont Fish and Game Department as rare or endangered.
- D. When landowner goals require silvicultural manipulation for wildlife management purposes, guidance may be sought from the Vermont Fish and

Game Department or other qualified source as well as the publication A Landowners Guide to Wildlife Habitat Management for Vermont Woodlands by the Vermont Fish and Game Department.

- E. Protection of fisheries resources will be provided through the use of acceptable erosion and sedimentation control practices including the use of filter strips and protection of streamside shade. Harvesting contractors will be required to implement applicable procedures outlined in the publication Guides for Controlling Soil Erosion and Water Pollution on Logging Jobs in Vermont to the extent specified by Burlington Electric Department foresters.
4. Burlington Electric Department foresters will seek guidance in protecting significant archeological sites. Such guidance will be provided by the Vermont Division for Historic Preservation in the form of State-sponsored training to aid in on-the-ground identification of such sites and/or in the form of guidance from the Division of Historic Preservation in the determination of the likelihood of occurrence of significant archeological deposits within areas scheduled for harvesting. Burlington Electric Department will require the modification or termination of harvesting in areas thought to be archeologically significant by the Division of Historic Preservation until such time as examination of the area has been completed. Burlington Electric will also make the landowner aware of significant archeological sites on his property and aid him in adjusting his management decisions to protect such sites.

5. Timber Harvesting -

The development of management goals will involve consideration of;

- A. The objectives of the landowner and alternatives available to him.
- B. The characteristics of the site and forest stand.
- C. The impacts on related resources (water quality, wildlife, scenic quality, recreation).

The landowner or land manager, the harvesting contractor, and a professional forester representing Burlington Electric Department will confer in developing a harvesting procedure which meets the foresters approval. In all cases, harvesting will incorporate to the extent reasonably possible, the protection of residual trees, minimization of waste and assurance of rapid and adequate regeneration. Every effort will be made to see that higher value products are separated and put to their best use.

In developing specific silvicultural techniques for meeting management goals, reliance will be placed on a combination of the foresters' professional judgement and recognized silvicultural guides including but not limited to;

- A. A Silvicultural Guide for Northern Hardwoods in the Northeast by Leak, Solomon and Filip.
- B. A Silvicultural Guide to White Pine in the Northeast by Lancaster and Leak.
- C. A Silvicultural Guide for Spruce-Fir in the Northeast by Frank and Bjorkhom.

- D. A Silvicultural Guide for Developing a Sugarbush by Lancaster, Walters, Laing and Foulds.
- E. Uneven-Aged Management of Northern Hardwoods in New England by Leak and Filip.
- F. A Landowner's Guide to Wildlife Habitat Management for Vermont Woodlands by Vermont Fish and Game Department.
- G. Manager's Handbook for Red Pine in the North Central States by North Central Forest Experiment Station, U.S.D.A. Forest Service.
- H. A Guide to Hardwood Timber Stand Improvement by U.S.D.A. Forest Service, Northeastern Area State and Private Forestry.
- I. Establishing Even-Age Northern Hardwood Regeneration by the Shelterwood Method - A Preliminary Guide by North Central Forest Experiment Station, U.S.D.A. Forest Service.

Specific types of cutting will include,

- A. The Selection System - A silvicultural system involving the removal of trees of all sizes singly or in groups, at regular intervals resulting in an uneven-aged stand. This system involves a continuous forest cover and favors shade - tolerant species.
- B. The Seed Tree System - A silvicultural system involving the retention of a very light stocking of selected trees after an initial cut. The role of the residual trees is to furnish seed for the next crop. This system results in an even-aged stand.

- C. The Shelterwood System - A silvicultural system that involves the removal of the overstory in several stages. The partial overstory removal provides favorable conditions for the establishment of regeneration. The residual overstory is removed after the new stand is well-established. Shelterwood cutting also results in an even-aged stand and modified forms of it have found favor with many New England foresters.
- D. The Clearcutting System - A silvicultural system which involves the harvesting in one cut of all trees larger than 2 inches in diameter on an area and results in an even-aged stand. The size and configuration of the cut area is variable (even to as small as a fraction of an acre). Clearcutting is recognized to be useful in certain silvicultural and wildlife management situations. However, due to public sensitivity, only modified forms of clearcutting will be allowed by B.E.D. (narrow progressive strips and small blocks under 25 acres in size). It should be noted that land clearing operations involving land use conversions do employ larger clearcut openings. However, the objective in such cases is not future timber production.
- E. Improvement Cut - An improvement cut is an intermediate cut which can be prescribed by a forester as part of either of the previously mentioned silvicultural systems and can be carried out at various times during the rotation (in even-aged stands) or as part of the regeneration cut (in the Selection System). The objective of an improvement cut is the reduction

of low-value and low-potential-value stand components through the removal of poorly formed stems and less valuable species.

- F. Thinning - Thinning is an intermediate cut prescribed by a forester to reduce the level of tree stocking to a recommended level in order to concentrate tree growth on fewer but selected stems.

It should be noted that due to variability in forest stands as a result of site conditions and past treatment, it will often be necessary to incorporate more than one of the above-mentioned types of cutting within a single woodlot. In addition, dependent upon the intensity of past high-grading, it will often be necessary to leave numerous poor quality trees uncut in order to maintain recommended stocking levels.

6. Harvesting contractors will be expected to abide by all applicable local, State and federal regulations including but not limited to;
- A. Occupational safety and insurance coverage.
 - B. Forest fire prevention and control.
 - C. Protection of property of others.
 - D. Water quality protection.
 - E. Harvesting and transportation of forest products.
7. Landowners will be made aware of the desirability of having a stumpage sale contract outlining the details of the harvest operation. If the landowner elects to utilize such a document, the harvesting contractor will be required to meet the terms of that contract.

Lori Olberg

From: Dan Quinlan <dan@vtcha.org>
Sent: Sunday, November 19, 2023 2:17 PM
To: Lori Olberg
Subject: Letter to the City Council
Attachments: Burlington Town Council Letter VTCHA Nov 2023.pdf

You don't often get email from dan@vtcha.org. [Learn why this is important](#)

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

Hi Lori -

I sent the attached letter to the City Council members regarding the McNeil project. A colleague suggested I also ask you if it can be amended into the Consent Agenda?

Thank you,
Dan Quinlan
130 Northshore Dr
Burlington

--

[The Vermont Climate and Health Alliance](#)

Medical and Health Professionals Calling for Change

Vermont Climate and Health Alliance

Medical and Health Professionals Calling for Change

Nov 17, 2023

City Council
Burlington City Hall
149 Church Street
Burlington, VT 05401

Dear City Council members,

We would first like to express our appreciation to the City Council for its attention to the challenge of climate change and the promise of clean energy. As a group representing hundreds of medical and health professionals across Vermont, the Vermont Climate and Health Alliance is deeply grateful for that work and for your on-going commitment to protecting the health of city residents. We would also like to recognize the intention and dedication of the many individuals who have worked for more than a decade on the McNeil/UVM Health district energy project.

We believe this project should not go forward and we respectfully submit these comments explaining our rationale. Given the passage of time, our view is that the McNeil district energy project no longer reflects reality on the ground. Despite the complex and challenging work that has brought this proposal to where it is today, that work represent “sunk costs.” And, as financial leaders know, smart investment decisions are made by attending to future costs and opportunities, not sunk costs incurred when different information was available.

The Centers for Disease Control and Prevention (CDC) defines the social determinants of health as the “*conditions in the places where people live, learn, work, and play that affect a wide range of health and quality-of-life-risks and outcomes.*” As City Council members, you are engaged in the critical work of ensuring that Burlington’s public health policy focuses on the social determinants of health. Just under five years ago, the World Health Organization declared climate change to be “*the greatest threat to global health in the 21st century.*” Virtually every professional medical and health organization in the United States has since issued similar statements. Climate change is poised to become a staggeringly powerful and overarching force undermining all social determinants of health in Burlington and beyond. The lives of the young citizens of the city, and every other young person on the planet, will soon be overtaken by climate change if we do not radically change the track we are on. The McNeil/UVM project does not meet that standard. It is an incremental step that will impede far better solutions.

As this past summer so harshly brought home to Vermont, we have entered a new era in human history. The ‘Anthropocene’ is ushering in a world that is radically changing in alignment with the predictions of 40 years of scientific endeavor. We also know that the climate change driven events we experienced this summer will continue and will intensify because of the carbon pollution that has already been emitted around the world. On November 2nd, James Hansen, the former NASA lead scientist who first raised the alarm in the 1980's, released his team’s latest findings. Their conclusion: “The planet is now out of (energy) balance by an incredible amount.” In the ensuing scientific

debate around the details of the team's work, there has been one consistent message: universal agreement that we are nowhere near lowering the warming of the atmosphere and the oceans at a rate commensurate to the threat. As such, we argue that this project must be re-evaluated in light of today's scientific reality.

There are five broad ideas that have become exceedingly clear:

- We must stop burning anything to generate the energy (electric or thermal) consumed in buildings. All combustion, including the burning of wood, generates carbon pollution. Rather than investing in the McNeil plant, we should be working to phase it out as quickly as possible.
- We must electrify our buildings (and, where technically and economically viable, use geothermal solutions) to heat and cool air and water. This is particularly true of health care facilities which consume 2-3 times the energy use per sq. ft. that commercial real estate uses.
- As we electrify our building and transportation sectors, we know that the demand for electricity will rise far beyond current supply. We must dramatically accelerate the build out of wind, solar, and geothermal in Vermont. (For a variety of reasons, including transmission line loss and demand projections across the Northeast, importing electricity from outside the state is not a rational and cost-effective approach to meet this growth.)
- An adjacent and interrelated issue is that we must also stop burning natural gas as soon as possible. In addition to the carbon pollution generated, the gas supply is not renewable and will not be for many decades (if ever).
- We cannot continue to pollute the air local to low income and disadvantaged communities. As the EPA Clean Markets Program shows of the McNeil Generating Station, emissions include nitrous oxide and sulfur dioxide – both known to be toxic pollutants. Short-term exposures make breathing harder for those with asthma, and long-term exposure negatively impacts lung function and can exacerbate a wide range of respiratory symptoms.

In our collective discussion of the challenges that climate change poses, we humans tend to backtrack to intermediate solutions like the McNeil/UVM Health district energy project. Put simply, that mindset is no longer viable. Mother Nature has no regard for our short-term considerations. If we do not address the problem commensurate to the speed and scale of the threat, we are wasting ratepayer and taxpayer money, as well as time and effort that could be more wisely used.

Instead of spending now to protect the health and well-being of our children, we are in effect saddling them with ever growing future costs – financial and to their well-being. The future costs for adaptation expenditures, and for higher health care costs, are rising exponentially with each passing decade. Two painful examples from just this year are the wildfire smoke we experienced this past summer and the flooding. Neither was a surprise to those of us who work on this topic. That understanding has been in the public domain for more than a decade, even though few take the time to examine the work of the CDC, the International Panel on Climate Change and so many others examining the impacts of climate change on human and animal health.

With respect to the McNeil Project:

- As with all energy generation by combustion, burning wood releases carbon pollution - the core driver of climate change. As such, the combustion of wood as a source of thermal or electrical energy is antithetical to protecting the health and well-being of Vermonters.
- Expenditures made on this project will further delay investments on a far better solution – major investments in on-site and off-site solar, wind, and geothermal projects. Until that happens across the UVM Health locations and across the city, the city and UVM Health will remain wedded to a path that is outdated. We should not be spending rate payer and taxpayer money on projects that are rooted in old thinking.
- If the US health care sector was a country, it would be the 13th largest emitter globally (ahead of the entire United Kingdom). That fact does not square with the “do no harm” ethic of the medical profession. That is why the Inflation Reduction Act includes set asides specifically designed to lower the emissions of the US health care sector. These funds are intended to make energy generation projects more financially attractive. As such, the IRA can be a gamechanger for the UVM Health Network and the Medical Center.
- The idea that the burning of wood can be considered carbon neutral is highly flawed and poor public policy. Yes – trees are a carbon sink. But the carbon pollution released when burning wood happens in an instant whereas the absorption process takes years. Furthermore, when we lower the carbon load in the atmosphere by not burning wood, our trees will be absorbing carbon dioxide from other sources.

As a society we are clearly moving too slowly in addressing this unprecedented global health challenge. Unless we shift our thinking as a community and as a society in alignment with the diagnosis, we know what lies in store for our children and grandchildren. Institutions like city government and the UVM Health Network must act far more definitely, robustly, and quickly if we truly intend to protect the health and well-being of future generations.

We respectfully ask that you take on this challenge knowing that such a shift is in fact an enormous undertaking. But leadership exemplified by far more rational and enlightened action on the ground is desperately needed. As a city, as a state, as a nation and as a world, can no longer afford further delay.

Sincerely,



Dan Quinlan

Chair

Vermont Climate & Health Alliance

Lori Olberg

From: ashley adams <ashleyjaneadams@gmail.com>
Sent: Monday, November 20, 2023 7:12 AM
To: Ali Dieng; Benjamin Traverse; City Council; Gene Bergman; Hannah King; Joan Shannon; Joseph Magee; Karen Paul; Lori Olberg; Mark Barlow; Melo Grant; Mayor's Office; Sarah Carpenter; Tim Doherty; Zoraya Hightower
Subject: Thermal Energy Ordinance and "District" Energy System votes tonight

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

Good morning Councilors,

I write regarding two items on the agenda this evening:

Thermal Energy System Ordinance

I ask that you adopt Councilor Bergman's amendment to the ordinance. This is a very small, but necessary step toward achieving our city's climate goals. I am strongly opposed to the ordinance that passed out of the Ordinance Committee. As written, it will incentivize multiple polluting and harmful heating sources, namely "green" hydrogen, "renewable" natural gas, advanced wood heat, biofuels, and wood fired "district" energy (from the highly polluting McNeil plant). There is ample peer reviewed science making it clear that these heating sources have no part in an ordinance whose purported aim is to reduce carbon pollution. Additionally, the ballot question that led to the writing of this ordinance specifically stated it would result in a reduction of greenhouse gasses in the city. Please respect the will of the voters and strip all polluting heating sources out.

"District" Energy System

I ask that you do not allow the "District" Energy steam pipe expansion of McNeil to move forward. This is the only responsible position as we try to avert ecological collapse. The climate denialism that undergirds Burlington Electric's claims that the project will reduce carbon emissions have long been debunked by scientists. Whatever you believe the resolution before you will achieve, approving the project in any form will prolong the life of the polluting biomass plant for at least 20 years. Knowing that VT Gas is the primary beneficiary of the project and will claim the "clean heat credits" generated is scandalous. You must at least retain and retire these credits rather than subsidize the Canadian gas company. Additionally, the scheme to direct \$665,000 annually from BED to BDES and thereby meet Tier 3 energy transformation obligations is an outrage. Most ratepayers probably feel strongly that these funds should be used for actual energy transformation in the city.

Thank you,
Ashley Adams
Burlington



Memo

To: Members of the Burlington City Council

From: Gary Scott, Interim Network SVP Facilities Planning and Design, UVM Health
Network Corporate Leadership

Re: Carbon Fee Ordinance

Date: November 19, 2023

The UVM Medical Center (UVMHC) team has attended all TEUC and Ordinance committee discussions and submitted statements orally and in writing regarding our position on the Carbon Fee Ordinance. We appreciate the careful deliberations of both committees and want to express our sincere support for the City of Burlington's commendable pursuit of a Net Zero future; this aligns with our own commitment to fostering sustainable practices and minimizing our ecological footprint.

We urge the City Council to adopt the Carbon Fee Ordinance as passed by the Ordinance Committee. The language included in that version aligns with the State of Vermont's Clean Heat Standard and would allow for renewable fuels, including renewable natural gas, renewable hydrogen, bio-diesel, and advanced wood heat. We encourage a thoughtful and methodological approach as we work together to look for viable, green solutions to our future energy needs.

If any members of the City Council have questions, do not hesitate to contact Karen Vastine, karen.vastine@uvmhealth.org.

The University of Vermont



FACILITIES MANAGEMENT
DIVISION OF FINANCE AND ADMINISTRATION
Suite 12, Marsh Hall, Burlington, VT 05405

City Councilors
Burlington, VT

November 17, 2023

Re: Carbon Impact Fee Ordinance

Dear Councilors:

UVM has been present at the Ordinance Committee meetings discussions and has given testimony during the hearings regarding the Carbon Impact Fee Ordinance. We support the Ordinance as originally agreed upon by the Ordinance Committee and presented to the Council. We agree with the reference to the State of Vermont Clean Heat Standard, Affordable Heat Act definitions, and support keeping various options open, such as renewable fuels, including renewable gas, renewable hydrogen, biodiesel and advanced wood heat. We would not support an amendment that would restrict these alternatives at this time.

Luce R. Hillman

Digitally signed by Luce R. Hillman
DN: cn=Luce R. Hillman, o=The University of Vermont,
ou=Facilities Management, email=luce.hillman@uvm.edu,
c=US
Date: 2023.11.17 14:52:36 -05'00'

Luce R. Hillman, P.E.
Executive Director of Facilities Management
The University of Vermont

Lori Olberg

From: soverby@sover.net
Sent: Monday, November 20, 2023 10:15 AM
To: Zoraya Hightower; Joseph Magee; Sarah Carpenter; Benjamin Traverse; Karen Paul; Ali Dieng; Hannah King; Tim Doherty; Mark Barlow; Joan Shannon
Cc: Melo Grant; Gene Bergman; Lori Olberg
Subject: Support for McNeil waste heat recovery project to get UHC off gas as transition to non-combustion power production

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

City Councilors,

I am forwarding a communication I shared with my Ward 2 and Central District Councilors, Gene Bergman and Melo Grant, expressing my support for the McNeil waste heat recovery project.

I expect Council members have already solidified their positions on the McNeil plant waste heat proposal for the UVM Medical Center and are not likely to change them.

I have not been following the zigs and zags of who might vote which way. This information might be useful to your decision.

Solveig Overby

cc Lori Olberg to add to City Council Consent Agenda Communications

From: "soverby@sover.net" <soverby@sover.net>
Sent: 10/28/23 11:01 AM
To: "Melo Grant" <megrant@burlingtonvt.gov>, "gbergman@burlingtonvt.gov" <gbergman@burlingtonvt.gov>
Subject: Support for McNeil waste heat recovery project to get UHC off gas as transition to non-combustion power production

Melo and Gene,

I have been in Cape Breton and just returned Thursday night.

I think you have lined up with group opposing the McNeil project but I want you to know why I support the project.

I just read the October 24 Ashley Adams opinion piece from VT Digger that someone pointed me to. <https://vtdigger.org/?s=Ashley%20Adams> I was expecting new information about an alternate plan for UHC to replace the gas they now burn for their heating systems. According to BED, we could eliminate 16% of Burlington's fossil fuel burning if UHC stopped burning gas. I didn't see any proposal for an alternative for UHC's heating and cooling needs in her opinion piece. Do you have other information on the alternative plans for that?

I've heard people advocate for geothermal for UHC but not seen any proposals for getting that to happen. I have spent the last few years researching geothermal heat as a potential option for my Cape Breton home so I understand some of the complexities for doing geothermal. It requires lots of underground piping or many wells to be drilled. For my CB home, I would have had to drill a 300ft well and install piping, for a cost of \$25,000. Add to that the cost of the heat pump equipment. My house is a 33' x 33', two story. I ultimately had to install an air-source heat pump because I could find no geothermal heat pump company willing to serve my rural CB community. Geothermal systems are complex.

The amount of piping needed for geothermal relates to the square footage of the area to be heated or cooled. It's not realistic to advocate that UHC should install geothermal without recognizing the amount of wells and underground piping that would be required to do geothermal for a large facility like UHC. The cost will be high and

the system will still require electricity generated somewhere, to operate. It will require significant planning and financial investment to accomplish this.

Years ago, I took a woodlot management course at UVM. The alternative to burning woodlot tree branches at McNeil from Vermont woodlot operations (cutting trees for wood for furniture, house construction, and paper) is to burn it in place. That means large industrial size open burns of the slash piles. The burns happen in the woods as opposed to at McNeil. McNeil is giving us power as a byproduct of the slash burning. McNeil claims that 88% of the woody material burned is this unwanted slash of branches and scrap left when loggers take the part of the trees they want. I think we'll be using wood for furniture, house construction and paper for the time being, thus there will always be slash to be burned.

We have a valuable asset in McNeil, making use of this slash material for making power. I absolutely think it's right to plan for alternative non-combustion produced electrical energy production options besides burning anything. Geothermal requires electricity to operate, so we need to develop non-combustion produced electricity to run the geothermal systems. I have not seen an alternative proposal from the folks who are absolutist against using the McNeil waste heat to get UHC off gas. What's their plan? With no alternative, UHC will continue to burn gas. No entrepreneurs have stepped up to the plate to propose investment in the hypothetical geothermal alternative for UHC. Meanwhile, we waste all the heat from McNeil and UHC continues to burn gas.

We do need to plan for non-combustion methods to generate electricity: wind and hydro perhaps, or solar if we can start making solar panels in the US. Most solar panels are made in China currently. This could be a supply problem in the future. China has been diligently locking up the raw materials around the world that are required to build solar panels and other electronic devices.

My father was an engineering professor and for many years advocated for co-generation of electricity and capture of waste heat for Ohio University buildings, so I heard about it for over 50 years. We have wasted McNeil's heat since it was constructed. We could have heated the Riverside Apartments for years. I think we need to capture McNeil waste heat to get UHC off the burning of gas as a transition option toward non-combustion production of electricity which could in the long-term support geothermal heating and cooling at UHC, .

BED should have been clearer in their PR about this project explaining how it facilitates getting us to cleaner electric production options in the long-term. Everything about the currently claimed alternatives is theoretical pie-in-the-sky aspiration unless someone's willing to put financial investment to it. From what I've read, I don't see any of the folks who advocate against the McNeil project, having credible plans for financing the alternatives, or the alternatives they propose for use of the woodlot slash. They suggest manufacture of chip-board products from the slash but no one's put together the business plans for such businesses. If the slash material can't be chipped and used at McNeil, I anticipate Vermont will go back to burning the slash in the industrial-size piles in the woods . That's the easy way for loggers to handle the wood waste. The wood slash burning will happen anyway, but in an uncontrolled, wasteful way.

These are some reasons why I support the project to use the waste heat from McNeil as part of Burlington's transition to non-combustion-driven electricity production.

Solveig

P.S. It's fascinating how different countries address getting rid of waste, whether wood slash or actual trash. Burning trash is not favored in the US but you might find it interesting how Copenhagen is dealing with its trash using a combined power and waste heat recovery plant atop which they put a ski hill! Most people in the US don't know about the way other countries do things, because the US is so big, it doesn't matter that US folks don't know what's happening in other countries.
See:

Amager Bakke/Copenhill power/waste heat recovery ski hill:

<https://www.instagram.com/reel/CxdEL-1C2zg/?igshid=ODk2MDJkZDc2Zg%3D%3D>
https://en.wikipedia.org/wiki/Amager_Bakke

Lori Olberg

From: Michael Long <mjlongvt@gmail.com>
Sent: Monday, November 20, 2023 3:20 PM
To: Gene Bergman; Hannah King; Karen Paul; Mark Barlow; Melo Grant; Sarah Carpenter; Joan Shannon; Joseph Magee; Zoraya Hightower; Ali Dieng; Lori Olberg; Tim Doherty; Benjamin Traverse
Subject: BED Pipeline Project

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

Dear Councilors:

BED is hard selling their pipeline to the hilltop as if it's the stairway to heaven, but more objective observers and organizations committed to combating global warming say, No. This project may be good for BED as a company, but it is not good for the community, for Vermont, or for the Earth.

Sometimes it's brilliant to be bold and other times it's foolish. It's always wise to know the difference.

Six or seven years ago a purported big time developer had a bold plan to redevelop our downtown mall. This bold plan was a fiasco and it turned Burlington from the regional development and economic leader to a runner-up behind Winooski and South Burlington.

OGE, the home grown Church Street anchor that flourished while national brand-name department stores floundered is soon downsizing 40% and citing the pit or the "gaping chasm" as a major factor. The pit was a big mistake, as we all likely recognize now.

The plan for a miles long steam pipe from the intervalle to the hilltop would be another big mistake, clearly more foolish than bold. A [new report](#) paints a damning picture of Vermont's contribution to climate change and its lack of progress in reducing emissions.

Doubling down on biomass in this context is senseless. And it would be surprising if UVM's Medical Center were to sign on. There's no honor in giving up fossil fuels to instead burn wood as dirty as coal. Biomass is an obsolete and eco-toxic technology. Neighboring states have recognized and codified this. Vermont should too. The McNeil Plant is an inefficient behemoth that for forty years has been wasting the excess heat this project seeks to harness. This steam pipe may have been a good idea forty years ago; it would be nothing but an albatross now.

Best,

Michael Long

Application

DLL - Application - 32999

Approve

Reject

Applicant Action Required

Town Payment Received

Download

APPLICATION DETAILS

RELATED INFORMATION

✓ Application Information

DLL - Application Id

DLL - Application - 32999

Business Entity Name

High Fidelity, LLC

Phone number:

Applicant Email

shayne@hifvt.com (<mailto:shayne@hifvt.com>)

Renewal Application

Applicant Action Comments

License/Permit Location Description

Town Fee

0

Business Entity Phone

9703908618

✓ Location Details

Physical Location Name

High Fidelity

Physical Location Street 1

163 Cherry Street

Physical Location Street 2/Unit/Suite

Created By

[Bridget Conry \(/DLLicenseManagment/s/profile/0058x000000usGaAA/\)](/DLLicenseManagment/s/profile/0058x000000usGaAA/)

10/24/2023 1:20 PM

External Status

Application sent to municipality

Town Clerk/ Municipal Jurisdiction

Burlington

Historical Id

TOBC

Application Type

License

Application For

Tobacco License

Town User Approval/Rejection Comments

Eligibility of Tobacco Fee waiver

No

* recommended for approval @ 11/15/23
JC nity lo

Physical Location City/Town

Burlington

Physical Location State

Vermont

Physical Location Zip

05401

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Burlington Fire Department

136 South Winooski Avenue
Burlington, Vermont 05401-8378
(802) 864-4554 • (802) 658-2700 (TTY)

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



To: Board of Finance; City Council
From: Michael LaChance, Fire Chief
Stephen J. Petit, Deputy Chief of Administration
Date: BoF: November 13, 2023, C.C: November 20, 2023
Re: Burlington Fire Department – Station Alerting

The Burlington Fire Department is seeking approval and authorization to replace the existing fire station alerting system at a cost not to exceed \$430,000.00. When lives are on the line, seconds matter. A modern station alerting system will ensure our firefighters rapidly receive reliable and critical call information in a variety of methods, reducing the time it takes to respond to emergencies, whether our members are in or out of the fire stations.

Proposal

The Burlington Fire Department currently relies on the Zitron Model 26 Station Alerting System to notify our fire stations of an incident requiring our members' response. This system, purchased in 1998, is antiquated, has been prone to failures, and does not provide the option for "heart healthy" alerting. The current station alerting system is not covered by warranty and is past its useful life.

In evaluating the need for updating our station alerting, consideration was given to the following:

- Reducing response times and improving the community ISO rating.
- Leveraging multiple modes of communication
- Adopting a flexible deployment architecture, which would allow for future expansion
- Leveraging existing equipment
- Prioritizing firefighter health

- Considering remote apparatus and personnel
- Building for high reliability and accessibility
- Designing for service and ease of maintenance
- Using a standards-based approach (NFPA 1221 & NFPA 1710)

We propose replacing the existing system with an alerting system that would allow for “heart healthy” alerting through ramped audio levels and low-intensity lighting, increased customization for audible and visual notification types within the fire stations, zoned alerting to provide notification to only those responders needed, off-site control of fire station apparatus doors, and increased reliability to ensure timely emergency response. The proposed system also includes additional safety mechanisms, such as placing panic buttons near entrances and within workout areas so that members within the station and our emergency communication specialists at the dispatch center are aware of potential emergencies within the building. Unlike our existing station alerting system, a modern system can be built for high reliability due to automated self-monitoring, alerting over multiple communications pathways simultaneously (radio, mobile application, sign boards, audible tones, lighting, and digital displays), and receipt of call information by the alerting system via a variety of methods. Upgrading our station alerting system would allow us to utilize a consistent, automated voice for the initial audible dispatch. The consistency and clarity of an automated voice make it easier and less stressful for first responders to gather necessary information efficiently. Additionally, an updated alerting system would be software-based, allowing for flexibility and customization and increasing the lifetime of the alerting system. These new features are designed to increase speed and reliability while reducing stress on our first responders.

Occupational stress is inherent to firefighting. There are subtle, often unseen stresses, such as the effect of receiving alerts in the fire station, especially at night. Interrupted sleep, jarring alarms, and bright lights take a toll. A modern alerting system can utilize ramped audio levels to awaken firefighters without the acute stress that abrupt, loud tones can produce. Additionally, low-intensity lights that turn on at the time of an alert, rather than the traditional bright lights, are easier on the body and preserve the firefighters night

vision. The introduction of zone-specific notification is now possible with an updated station alerting system so that based on the station configuration and incident type, only those responders needed are alerted. In contrast, those not needed can continue sleeping.

An RFP was issued in July 2023, with bid proposals received in August 2023. Three bids were received, with only two of the submissions meeting all requirements listed in the RFP. Off-site visits were made to Hartford, VT, in September and Rochester, NY, in October to view products offered by the vendors who had submitted proposals meeting all of the listed requirements. In our review process and comparison, we considered upfront costs, reoccurring costs, reliability, implementation timeline, customization, warranty coverage, and service. The selected vendor, Bryx, Inc., is cloud-based, requires minimal hardware, and utilizes commercially available equipment. As a result, complete installation is possible within 90 days, and future expansion is simple and affordable. Furthermore, the Bryx, Inc. station alerting product can function independently of our computer-aided dispatch (CAD) system, providing a reliable option for notification in the event of a CAD failure. Bryx, Inc. provides a product that meets the criteria from NFPA 1221 (Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems):

- Self-monitoring
- Back up power supply during a loss of power
- Alert tones
- Automatic recording of system activity

Additionally, as a value-added, the selected vendor will provide a mobile application for members and digital dashboards within the fire stations, replacing 3rd party products and reducing our vendor list. We currently utilize a similar mobile application to recall off-duty personnel in the event of a large incident. The Bryx, Inc. mobile application will provide the same service but include additional features such as the ability to live stream fire ground audio. This application is available at no additional cost and with no limit on the number of devices. It would provide a method for group messaging to recall off-duty

personnel, as well as provide a means of rapid incident notification for on-duty members when out of the fire stations.

Included in the package is a warranty covering all hardware and software provided by the vendor. The warranty includes a service and maintenance agreement ensuring that the Burlington Fire Department receives the following:

- All future updates, enhancements, and upgrades to the station alerting platform;
- Customer support 24/7;
- Replacement of hardware component(s) delivered within (1) day of reported failure;
- Unlimited and unrestricted usage of Bryx Management and Dispatch Sites.

Funding

The City's 2022 General Obligation Capital Bond has the funds available to pay the \$430,000 for this project, as was explicitly discussed when the voters passed the bond during the 2022 Town Meeting Day. This ask was included in the \$4,000,000 budget for the Public Safety Communications Upgrade. A summary of the overall project budget, including the station alerting expense, is below. If approved, there will still be \$76,341 remaining in the funds obligated toward the public safety communication upgrade project.

Public Safety Communication Upgrade Budget	
Contract	Expense
Motorola	\$3,285,000.00
Burlington Communications	\$208,659.00
Station Alerting	\$430,000.00
Total Expenses:	\$3,923,659.00
Remaining Project Budget:	\$76,341.00

Attachments

1. Bryx, Inc. Bid Proposal

Board of Finance Motion

To approve and recommend that the City Council approve and authorize the Chief of the Burlington Fire Department to execute a contract with Bryx, Inc. for the installation of a fire station alerting system, with a maximum limiting amount of up to \$430,000.00, which is the contract cost plus a 6.6% contingency, subject to the final review and approval of the City Attorney's Office.

City Council Motion

To approve and authorize the Chief of the Burlington Fire Department to execute a contract with Bryx, Inc. for the installation of a fire station alerting system, with a maximum limiting amount of up to \$430,000.00, which is the contract cost plus a 6.6% contingency, subject to the final review and approval of the City Attorney's Office.

Board of Finance and City Council Submission Checklist

Department: Fire Submitter: Chief LaChance

Title/Subject: Fire Station Alerting System

	Approval:	Meeting Date:
☒	Board of Finance	11/13/2023
☒	City Council	11/20/2023
☐	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	11/1/2023	Chief LaChance
Mayor's Office informed and approved memo	Yes	11/6/2023	J. 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	10/30/2023	J. Pellerin
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	10/30/2023	J. Pellerin
CAO has reviewed budget, financing, and memo	Yes	11/1/2023	K. 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	Yes	11/7/2023	S. Barker

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	Bid Proposal
Draft Resolution or Motion?	Yes	Included
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

Memorandum

To: City Council
From: Ben Traverse, Co-Chair, Joint Committee on Police Oversight
Date: November 20, 2023
Re: Committee Status

The Joint Committee on Police Oversight has now completed a dozen meetings in order to accomplish the goals of the Council's February 6, 2023 resolution. There are three overarching goals. First is to allow the public to have additional input and engagement on police oversight and accountability. Second is to have the committee review a number of prior proposals on the issue. Third is to review and make legislative (charter and/or ordinance) proposals on the chief's authority over discipline, the Police Commission's oversight role, and the creation of a community oversight body, independent from the Police Department.

The committee has endeavored to accomplish these goals. We have a webpage with a listing of and links to its meetings, minutes, and key documents. [Ordinance and Charter Change Joint Committee on Police Oversight | City of Burlington, Vermont \(burlingtonvt.gov\)](https://www.burlingtonvt.gov/joint-committee-on-police-oversight)

The committee is currently focused on finalizing a draft charter change instead of ordinances in light of the December statutory deadline for the council to vote on charter change language to warn for a public hearing in later January. The working draft of the committee's proposed charter change and the committee's minutes should be posted as soon as possible on the committee's webpage. What follows is a summary of the committee's work, agreed to either by consensus or majority vote.

- Language increasing the size of the Police Commission to 9 from 7 in charter section 183 was advanced. So was language stating that the city council with mayor presiding "should" appoint members of the commission who "represent the diverse nature of said city's constituents, including those from historically marginalized communities."
- The authority of the city council to obtain from the chief any information about the department (not just financial information), to the extent allowable by law, was clarified in section 184(a).
- The authority of the Police Commission to audit and monitor the functioning of the department, as well as having authority over the department's management, all subject to the orders (i.e., resolutions) and ordinances of the council, was made explicit in section 184(b).
- In section 184(d), the Police Commission's authority to receive and review all civilian and internal allegations of misconduct by members of the police department was made explicit. So was its authority to independently investigate any allegation of misconduct by members of the police department after the chief has had an opportunity to review the allegation. The committee is still considering

the threshold the commission would need to activate this investigative authority, the question being whether or not a majority or a supermajority is required.

- In section 184(e), the Police Commission's authority to recommend a different measure of "discipline" than that recommended by the chief and the establishment of a new independent body to resolve difference between the Police Commission's and chief's recommendations. The committee's most recent draft contemplates a 3-person body. The committee is still considering how this body would be appointed, whether by the City Council or the Mayor, and if there should be requirements that this body's members have relevant professional experience like that required for regulatory bodies of other professions.
- Like with other department heads, the charter should reflect the role of the mayor as the chief executive officer of the city and that the police chief is subject to the mayor's authority as the City's CEO as well as the orders and ordinances of the city council.

The committee has scheduled two additional meetings with the intention of trying to wrap up our work in time to report out proposed charter change language for the December council meeting when it is due. Those meetings are on November 27 at 5:30 and on a date to be determined in the first week of December.

In addition to the above, there are a number of issues still to consider. These include:

1. the authority of the commission to issue subpoenas upon "probable cause," a "reasonable basis" or other threshold,
2. changes to the appeal body and process if the commission is vested with a pre-appeal role in the disciplinary process

We, co-chair Bergman and I, want to thank the committee members and the public for their hard work and attention. We look forward to completing this work in our next two meetings.



CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS

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MEMORANDUM

To: Board of Finance and City Council
Fr: Laura Wheelock, P.E., Senior Public Works Engineer
Olivia Darisse, P.E., Public Works Engineer
CC: Chapin Spencer, Director of Public Works
Norman Baldwin, P.E., Assistant Director Public Works and City Engineer
Ashley Parker, Capital Program Director
Megan Moir, Water Resources Division Director
Brian Pine, Director of Community and Economic Development Office

Re: Great Streets Main Street Construction Award and Contract Amendments
Date: November 20, 2023 (Board of Finance & City Council)

I. SUMMARY OF REQUESTS

The Department of Public Works (DPW) is seeking Board of Finance recommendation and City Council authorization to:

1. Execute Amendment with Vanasse Hangen Brustlin, Inc.
2. Execute Amendment with EIV Technical Services
3. Execute Amendments with four artists (with Burlington City Arts)
4. Execute Memorandum of Understanding with Burlington Electric Department
5. Execute Construction Contract with S.D. Ireland Brothers Corporation
6. Execute Budget Amendment

II. PROJECT UPDATE

The City project team has been working with engineering consultant Vanasse Hangen Brustlin, Inc. (VHB) on the Main Street design since October of 2021. VHB submitted final design plans at the end of July and has been working with the City through the bidding process. After receiving City Council authorization in June, the City brought EIV Technical Services on as the project's resident engineer and outreach consultant. EIV has been providing valuable input and peer review of project documents as well as pre-construction outreach services.

The public vote in March 2015 authorized the initiative's first efforts in the City's Downtown Tax Increment Financing (DT-TIF) District by supporting the borrowing of \$10,000,000 to make new investments in downtown public infrastructure to ensure that Burlington residents have a downtown that is a vibrant, walkable and sustainable urban center. Voters additionally supported the Great Streets

Main Street Project at the March 2022 Town Meeting Day public vote with support to secure an additional \$25,920,000 in debt, matching the Vermont Economic Progress Council (VEPC) approved borrowing amount of \$35,920,000. In August 2022, the City then issued Bond Series 2022B in the original principal amount of \$30,120,000 to support the improvements associated with the Great Streets Main Street project.

III. CONTRACTOR BIDS AND SELECTION

This item was presented as a work session item at the Board of Finance on November 13, 2023. DPW staff issued an Invitation for Bids on July 27, 2023, and opened competitive bids on September 19, 2023. If authorization to award the construction contract to the low bidder is granted by the City Council tonight, the project team anticipates that construction will begin as early as late November.

Two bids were received in response to the Invitation to Bid. The total bid prices for each are shown in Table 1 – Bid Results below.

Table 1 – Bid Results

Contractor	Bid	Add Alternate 1
Kubricky-Jointa Lime, LLC	\$46,714,545.00	\$140,279.00
S.D. Ireland Brothers Corporation	\$37,364,229.00	\$124,570.00

S.D. Ireland was determined to be the lowest responsive qualified bidder for the project with a total bid price of \$37,364,229.00. The City's design consultant, VHB prepared a bid analysis of both bids received compared to the Engineer's Estimate, which recommended that S.D. Ireland's bid should be accepted. The Bid Analysis is included in Attachment A.

The low bid for this project was nearly 50% higher than the engineer's estimate of \$24,900,000. This can be attributed to the dramatic rise in material and operating costs over the last few years and it's continued volatility. The most recent Vermont Agency of Transportation (VTrans) standard pricing, which the design engineers used to complete the estimate, does not adequately account for recent or anticipated inflation. The project team would also like to acknowledge that as a large, unique project with complex means and methods, a number of items also presented challenges developing accurate estimates such as contaminated soils management, mobilization and demobilization, traffic management, and utility relocations.

Initially, the City team responded to the high costs by developing two alternative solutions:

- A) Identifying additional funding sources that could be used toward this project, and eliminating or substituting (value engineering) certain bid items in order to mitigate high construction costs. The multi-departmental value engineering effort evaluated cost-saving strategies developed by both S.D. Ireland and the project team. The advantage of this option is constructing all blocks under the same project, guaranteeing continuity of improved facilities between the Downtown and Waterfront districts within the near term, and eliminating the need to construct the project in phases. The disadvantage of this option is that removing or substituting design elements would deviate from design standards, compromise longevity, and

potentially impact future initiatives by committing several City Capital funding sources to this project.

- B) Reducing the scope of the project from six blocks to three blocks. The advantages to reducing the scope of the project include maintaining the original design within the downtown core – from Pine Street to South Winooski Avenue (“Phase 1”) – instead of compromising the longevity and functionality of all six blocks by eliminating or substituting various design elements; affords the City the opportunity to seek alternative funding sources for Battery through Pine Street (“Phase 2”), such as state and federal grants, while leaving City funds available to other City initiatives; and takes advantage of the opportunity to build the South Winooski to South Union block into the redevelopment effort for Memorial Auditorium and the entire area known as the Gateway Block. The disadvantages of this approach include the need to divide the Main Street redevelopment into multiple phases, requiring a higher level of effort. In addition, any federal funds awarded will require the City to satisfy Federal processes such as National Environmental Policy Act (NEPA) and Right-of-Way clearance. These processes will add time to the project’s schedule.

In evaluating Option A, the project team considered a number of value engineering items as well as potential resources of additional funding and determined that this option was not financially feasible due to a funding shortfall of approximately \$2 million. After reviewing these findings with the design consultants, S. D. Ireland, and the Administration, the City team determined that Option B was the most fiscally responsible option, while preserving preferred design elements and maximizing Main Street’s longevity. The transition from diagonal to parallel parking will be implemented starting at Battery Street, as planned, and bicycle network connectivity will be maintained by adding on-street bicycle facilities in each direction – which will connect the on-street facilities on lower Main Street to the off-street facilities starting at Pine Street. The work will include full improvements (signaling, crosswalks, bump outs, and streetscaping) at the Pine Street, St. Paul Street, Church Street, and South Winooski Avenue intersections – three of which are high-crash locations – with new infrastructure tying in west and east of the Pine Street and South Winooski Avenue, respectively. This approach includes a selection of value engineering items that the City identified as advantageous to the project:

- *Eliminate Improvements between South Winooski Avenue and South Union Street*
The City team proposes the elimination of streetscape improvements from South Winooski Avenue to South Union Street from the project. Elimination of this work would result in an overall savings of roughly \$2.6 million. This change includes elimination of curb adjustments, new sidewalk, bike paths, and streetscape features. The ravine sewer work will remain, and the contractor will be required to perform limited work on underground utilities as it relates to tying in the improvements being made west of South Winooski Avenue. Upon completion of the ravine sewer work, this block will be milled and resurfaced. On-street bicycle facilities will be added to maintain bicycle network connectivity on this block. As mentioned above, the streetscape improvements on this block will be included as part of the Memorial Auditorium and Gateway Block redevelopment. The developer will be required to implement improvements in accordance with the Great

Streets Main Street final plans developed as part of this project in order to maintain consistency along the corridor and meet required design standards.

- *Traffic Control*
S.D. Ireland has proposed a more flexible traffic control approach to reduce project costs and overall timeline. As opposed to the City's preferred approach of maintaining vehicular and bicycle access on blocks actively under construction, S.D. Ireland proposes the closure of up to two blocks and one intersection at a time, which could last anywhere from 4 to 8 weeks depending on location and construction activity. Closures would be evaluated case-by-case on the basis location, time of year, safety, and detour plans. The contractor will be required to accommodate tenants and businesses who need access to driveways, trash and recycling service, loading and unloading of delivery vehicles, and emergency vehicles. Sidewalks and businesses will remain accessible to pedestrians. Support will be provided for business patrons with accessibility needs. Support for maintaining vehicular access through active construction areas was split within the business community on Main Street, with some businesses were supportive of maintaining vehicular access through the construction zone, and others preferring closures to promote more efficient completion of the work. Additional information on business outreach is provided in Section IX. Business and Public Outreach.
- *Eliminate Use of the Municipal Parking Lot for Construction Staging*
S.D. Ireland elected to renounce the option of renting the Municipal parking lot (at the corner of Main Street and South Winooski) to use as a construction staging area. The option to rent this lot at a rate of \$171,000 per calendar year was included in the bid documents as an option available to all bidders, but not required. Without the utilization of this staging area, the City saves a total of \$513,000 in rental reimbursement fees.
- *Concrete Bike Lanes*
S.D. Ireland suggested substituting colored concrete for asphalt in the bike lanes. This substitution gives S.D. Ireland the ability to complete this work themselves as opposed to hiring a subcontractor, which contributes a net savings to the project. The City feels concrete will be a more durable solution, which will allow for cleaner repairs and easier maintenance in the future. The proposed color will add a warm element to the streetscape.
- *Remove Items from Base Bid and move to Add Alternative #2*
Several items were removed from the Base Bid and moved to an Add Alternative bid schedule in order to preserve project contingency funds in the early phases of construction. The City will seek to add items from the Add Alternative #2 Bid Schedule back into the contract as construction progresses and contingency funding allows. These items total \$1,728,035.00.

S.D. Ireland provided a revised bid based on the scope reduction and value engineering items as follows:

Base Bid (Revised Project Scope)	\$25,837,973.26
Add Alternative #1	\$124,570.00

DPW recommends advancing the award of the Base Bid for the Revised Project Scope and Add Alternative #1 at this time for a contract total of \$25,962,543.26 with a 10% contingency of \$2,596,254.83 resulting in a total amount of \$28,550,798.09. DPW is seeking City Council approval of an initial contract that fits will utilize Downtown TIF proceeds that are authorized by VEPC, as well as additional City resources as noted in this memo. City staff are also looking for support to move forward with a future budget amendment, pending VEPC authorization to utilize premiums the City received as part of its financing strategy for the Downtown TIF in August 2022. Staff expects VEPC to review a substantial change request related to the use of these premiums in late January/February 2024, with a final decision expected in May or June of 2024. Upon receipt of VEPC approval, staff would like to execute the proposed budget amendment to incorporate the premiums into the project budget. Please refer to Section X. Project Financials for the project budget and details on bond premiums.

IV. CONSTRUCTION SCHEDULE

If the project team receives authorization to award the contract to S.D. Ireland, the Notice to Proceed will be issued as soon as late November. The contractor is required by contract to begin work no later than April 8, 2024, although SDI anticipates beginning work as soon as the Notice to Proceed is issued and continuing work throughout the winter. Within their proposed schedule they have communicated their plans to begin with replacement of the ravine sewer on Church Street, which they have projected to complete in Spring 2024. Per bid documents and proposed contract, the required substantial completion date is November 1, 2026. With the reduction of scope, we anticipate that the completion date will be revised to the end of August 2026, but we have not formally amended the completion date in the bid documents or proposed contract. The project team will have the ability to review and approve the contractor's proposed schedule as a project submittal.

V. DESIGN CONSULTANT CONTRACT AMENDMENT

DPW is seeking to amend VHB's existing contract to include supplemental construction support services, as detailed below. These supplemental services include Water Resources Engineering construction support, Qualified Environmental Professional services, and additional fees for revising the plans according to the reduced scope of work. DPW is also seeking to supplement VHB's contract with existing design fees to cover the plan revisions necessary as a result of reducing the scope of work to three blocks. This effort includes tying in proposed infrastructure at each end of the project, revising notes and details, and revising quantities. Together, these services make up Amendment #8 to VHB's contract in the amount of \$614,811.00, bringing the total contract value up to \$3,160,488.00.

WATER RESOURCES FIELD ENGINEER

DPW is seeking to add Water Resources Field Engineering services through Amendment #8 to VHB's contract, where VHB's subconsultant, Dufresne Group, will act as the City's field representative during the construction of water and sewer infrastructure work. As a current subconsultant of VHB, Dufresne Group completed the design of the water and sewer system for the Main Street project, and is intimately familiar with the City's existing systems and the work that will be performed under this contract. Dufresne Group has a strong working relationship with the City's Water Resources Division,

and is expected to maintain a strong line of communication between field and office staff throughout the project. Amendment #8 to VHB's contract includes \$182,400.00 to be used toward the construction support services that Dufresne Group will be providing.

QUALIFIED ENVIRONMENTAL PROFESSIONAL

VHB performed environmental due diligence and soils pre-characterization assessments and identified potential areas of concern throughout the project area. Laboratory analytical results verified that several of these areas contain contaminants of concern (COCs) with concentrations exceeding regulatory standards. In order to properly manage these soils during construction, VHB developed a Soils Management Plan in cooperation with the Vermont Department of Environmental Conservation (VT-DEC). The Soils Management Plan requires on-site observation by a Qualified Environmental Professional (QEP). DPW is seeking to add QEP services to VHB's contract. The role of the QEP is to provide qualified environmental oversight during construction to monitor excavation and soil handling operations and document daily activities to ensure compliance with the project's approved Soil Management Plan. Amendment #8 to VHB's contract includes \$304,137.00 to be used toward the Qualified Environmental Professional services.

VI. RESIDENT ENGINEER AND OUTREACH CONSULTANT CONTRACT AMENDMENT

The City procured EIV Technical Services as the project Resident Engineer and Outreach Consultant following Board of Finance and City Council authorization June 5th, 2023. EIV has since provided a constructability review of the project plans and bid documents, and has provided valuable support and input to the City throughout the project bidding process. EIV's original proposal did not include construction resident engineering or inspection services for winter months (December – March), as the City had not yet received bids or proposed construction schedules and was uncertain if construction would occur during the winter. The low bidder's schedule proposes work throughout the winter months, so EIV's original contract needs to be amended to include additional hours. EIV is also requesting a fee for their field office, which was not included in the original proposal or the contractor's bid. The amendment also takes into account the reduction in project scope which translates to a reduction in EIV's hours toward the project. EIV's original contract was executed in the amount of \$1,636,876.00 with use of an additional \$163,124.00 (10%) in contingency, for a total authorized amount of \$1,800,000.00. We are seeking approval to amend their contract by \$298,974.00, bringing the total amended contract amount to \$2,098,974.00, plus \$209,897.00 in contingency funds bringing the total authorized amount to \$2,308,871.00.

VII. PUBLIC ART CONTRACT AMENDMENTS

In April, DPW and BCA received Board of Finance recommendation and City Council authorization to execute contracts with artists Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and WOWHAUS for Phase 1 - design of public art installations for the Main Street project, utilizing Downtown Tax Incremental Financing (DT-TIF).

The City team collaborated with the artists on the Phase I installation designs from May through June as the final design of the project was completed. As the project team moves toward construction, A combined total budget of \$500,000 was earmarked for Phase 1 (Design) and Phase 2 (Fabrication). This request will allocate \$474,626 towards the design/fabrication/installation contracts with the four artists and \$25,374 in construction contingency for the public art projects.

Artist	Project	Phase 1	Phase 2	Total Project Budget
Nancy Winship Milliken Studio LLC	LakeBones Archways	\$15,550	\$124,476	\$140,026
WOWHAUS	Snail Family AKA Magnus	\$14,561	\$84,439	\$99,000
Pixel Patch Creative LLC	Block by Block	\$28,500	\$116,500	\$145,000
Lydia C Kern Studio	Anthology - Single Walkthrough	\$8,085	\$82,515	\$90,600
			TOTAL	\$474,626

The project team, including BCA, understands that there is a desire to evaluate the financial impact of the procured public art projects on the overall project scope. In June of 2021, the City Council passed a 1% for public art ordinance. In accordance with this ordinance, the project team set aside \$500,000 for public art to be incorporated into the Main Street project. Public art is identified as an integral component of the Great Street Standards that have been adopted by the City of Burlington, recognizing that public art contributes heavily to a unique sense of place, and that the selection process builds pride and ownership of our public spaces across many stakeholders.

With the reduction in scope for this phase of the project, an approximate \$120,000 savings could be achieved through a public art budget reduction after accounting for the 1% ordinance; The City team does not recommend reducing the public art budget for the following reasons:

- Respecting community engagement. Since the Call-to-Artists was issued on November 1, 2022, a great deal of time from citizens, business owners and the project team has been invested in the procurement of artists and the four public art projects that have been presented and integrated into Main Street's design to date.
- Where cuts can be achieved. A reduction in the public art budget at this stage in the process would require cutting an entire public art work from the project.
- Selection process. Removing an entire public art work would necessitate reengaging the original selection panel and the Public Art Committee to determine which project is removed from the scope.
- Added costs without benefit. Locations for artworks have been defined in the scope; removing one project will affect the design timeline and add new costs.

At this time, DPW, in collaboration with BCA, seek Board of Finance recommendation and City Council authorization to enter into Amendment #1 to contracts with Lydia Kern, Nancy Winship Milliken Studio LLC, Pixel Patch Creative LLC, and WOWHAUS for Phase 2- fabrication of public art installations. Materials procurement and fabrication efforts will start immediately upon amendment execution as required for coordination with the contractor's schedule.

The Great Streets Main Street design team, DPW, and BCA worked with each of the artists in Phase 1 to confirm the final location of their piece(s) within the corridor and the public art procured. All pieces shall be placed in their designated sites 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. Anthology will be located on the north sidewalk of Main Street south of City Hall Park. Snail Family will be located on the south sidewalk of Main Street in front of the Chittenden County Courthouse. Block by Block will be located on the north sidewalk of Main Street at the intersection of Church and Main Street.

Currently, DPW and BCA are working with Nancy Winship Miliken on sighting her piece “Lakebones Arch”. The piece was originally slated over the sidewalk in front of 60 Main Street. Since the reduction in project scope does not include the block between Battery Street and South Champlain Street, the project team is working to site the piece adjacent to 106 Main Street. The alternative location will need to fit within the constraints of the new design, as well as satisfy the artist’s vision. The construction contingency included in the public art budget is expected to cover additional effort and redesign associated with this change and will be noted in the Artist’s amended budget. Similar to a typical design contract, the proposed motion seeks to obtain authorization to enter into a Phase 2 contract with the Artists, and to obtain authorization to use public art contingency for design revisions. This will allow the City to amend Nancy’s contract to account for design revisions related to the new proposed location without delaying the fabrication process, and does not pose any major financial risks to the City.

VIII. MEMORANDUM OF UNDERSTANDING WITH BURLINGTON ELECTRIC DEPARTMENT

DPW and Burlington Electric Department (BED) are working to jointly enter into a new Memorandum of Understanding (MOU) for construction work of decorative street lighting associated with this project. This MOU will lay out a scope for BED to facilitate implementation of new lighting and electric along the project limits. Per BED’s Lighting Policy, the project shall be responsible for Decorative Street Lighting and Standard Street Lighting costs for any sections that currently meet Illuminating Engineering Society (IES) recommendations. BED will be responsible for costs for Standard Street Lighting for sections that do not currently meet IES recommendations. The curb line and reconstruction of the street trigger the need for a full redesign and illumination with IES compliant lighting. BED’s estimate of the standard lighting, which would be required from the streets redesign shall be provided as a credit to DPWs decorative IES lighting design.

Decorative Street Lighting Inspection and Engineering – Phase 1	\$609,379
Standard Street Lighting Inspection and Engineering – Phase 1	\$(210,340)
Resulting Total (includes contingency)	\$399,039

Existing Lighting Removal costs will be borne by BED based on the significant relocation of streetscape elements and need to update lighting within project limits.

IX. BUSINESS AND PUBLIC OUTREACH

The project team has carried out extensive outreach efforts over the course of project design. Outreach to date includes:

February – May 2022 (Conceptual Design)

- Community Meetings (February & April 2022)
- Business Community Meetings (February & May 2022)
- City Council and Board of Finance
- Transportation, Energy and Utilities Committee
- Burlington Walk-Bike Council
- REIB Committee

- Burlington Business Association
 - Burlington Aging Council
 - Public Works Commission
 - Church Street Marketplace Commission
 - Burlington Parks, Recreation and Waterfront Commission
 - Neighborhood Planning Assemblies
 - Focus Groups (Immigrants & Refugees, Youth, BIPOC, Business Owners, Mobility Support)
 - Website Survey
- February – June 2023 (Final Design)*
- Public Art Selection Process
 - Meetings with individual business and property owners
- October 2023 – Present*
- Flyering efforts on lower Main Street
 - Church Street Marketplace Commission
 - Burlington Walk- Bike Committee
 - Meetings with individual business and property owners

Since early 2022, the project team has held one-on-one meetings with nearly thirty businesses and properties within the project area. Our effort to connect with every business along the corridor continues. Our team welcomes meetings with business owners and property owners at any time, and we continue communicating with business owners we have built relationships with throughout this process.

As the project moves toward construction, DPW is working with EIV as the project outreach consultant to update the project website and connect with tenants and business owners along lower Church Street, ahead of the start of the ravine sewer work. Larger meetings for the general and business communities will be held in early 2024, prior to the start of work along Main Street. Throughout construction, the project team will maintain communication with the community and project stakeholders through weekly construction updates, email, and phone. Natalie will be available for meetings with stakeholders as needed, as well as by email and phone. The project team is collaborating with the Business and Workforce Development on ways to support businesses through construction such as social media content, signage, and regular meetings. S.D. Ireland will have a full-time safety officer assigned to the project, who will monitor site conditions and access to businesses, and be assigned to addressing complaints or deficiencies in site conditions.

X. PROJECT FINANCIALS

Downtown TIF

Phase 1 of Great Streets Main Street is being defined as Main Street improvements from Pine Street to South Winooski, including Ravine Sewer work. The majority of this project is to be funded by Downtown Tax Increment Financing as approved by the Vermont Economic Progress Council (VEPC) and Burlington voters in March of 2015 (\$10,000,000), and again in March of 2022 (\$25,920,000). Following these approvals, the City then bonded for the design and construction of the project in August of 2022. The resulting bond proceeds totaled \$30,120,000 , and \$4,261,971 in premiums .

City staff has reviewed the change in scope relative to the overall project and procurement as well as with consideration to the DT-TIF Bond and VEPC approval.

- The project procurement solicited bids of contractors that have significant technical ability to complete work across several areas of expertise. During this procurement as well as others like it in scale and scope DPW has found there is a limited number of companies capable of doing the work required for this project within Vermont and surrounding region. The revised project scope with ravine sewer include the most technically challenging components of the project and therefore limit the companies that are qualified to do this type of work. There are no changes in the unit prices. As we reduce the scope of the project, the unit prices are held consistent and quantities in the bid tabulation have been scaled down proportionally. With this understanding, DPW believes the outcome of any new solicitation for the project would result in the same low bidder; and the revised project does not materially change the solicitation. Additionally, this project utilizes unit priced items and pays by the quantity of material used and therefore the quantity of nearly every item is expected to change from the time of the bid to the final reconciliation of the project.
- DPW and CT Staff have reviewed the revised project option with the City's Bond Counsel to ensure that the refined project fits within the original conditions of the DT-TIF bond. Based upon this review, bond counsel advised that the voter authorization specifically allows the funds to be used on the relocation and upgrades to the ravine sewer. It also includes street improvements to all 6 of the originally identified blocks. It does not require the funding be applied to street improvements across all 6 blocks, suggesting that the revised 3-block project is supported by the original authorizations.
- The revised project and proposed use of additional capital funding requires that the City update the TIF project description and subsequent financing plan with VEPC. This revised project classifies as a substantial change and requires the VEPC Board take action. Staff anticipates this substantial change to be reviewed by VEPC in January/February of 2024.
- The original November 2021 VEPC approval included a total project budget of \$30,658,933. Upon procurement of the final bonding City staff submitted a substantial change request to VEPC in July of 2023. Within this request, one of the items was to update the Main Street Project Budget to a total of \$34,381,971. This accounts for use of the full Bond Proceeds and Bond Premiums procured under the voter authorization. This substantial change request remains open until such time that the ongoing State Auditor report on the Downtown TIF fund is completed and can be included for the VEPC consideration of the City's request. We estimate that this report will be completed by the end of 2023 and the City will resume the Substantial Change Request process in early 2024.
 - As such DPW is seeking to bifurcate the execution of the construction contract into an initial contract that will make use of the voter and VEPC Approved Bond Proceeds and a future budget amendment that will incorporate use of the Bond Premiums pending approval by VEPC.

Street Capital Funding

Street Capital tax revenues from FY25 will be used towards items in the project that are not DT-TIF eligible, as well as supporting the reconstruction of other sidewalks and street sections within the project area. This is anticipated to be \$395,706.03, and is outlined in the attached budget. This includes paving that occurs outside of the revised project limits, from South Winooski Avenue to South Willard Street which is an important connection for the project. Pavement condition of this section of Main

Street is one of our lowest Pavement Condition Index (PCI) arterial streets, and will allow bike lanes to be striped. The street capital funding anticipates that after this allocation towards this project and other local match allocations, approximately \$1.3 million will still be available towards annual paving. Capital funding and street capital will still be able to reconstruct approximately 2 miles of sidewalk in FY25.

Water Resources Funding

As appropriate to ensure the resiliency of the water, sewer and storm assets being constructed with the project, the Water Resources Division will contribute up to \$211,000 of FY25 Water Resources Enterprise Funds, to be approved during the annual budget approval, at which time the specific expense accounts will be identified.

City Staff will continue working with the selected contractor and consultants to identify areas where the project can take advantage of any efficiencies with the work to reduce the direct capital being used to support the project while adding back in the finishes and amenities under Add Alternative #2.

XI. MOTIONS

Board of Finance:

1. To approve and recommend that the City Council authorize the Director of Public Works to execute Amendment #8 to the design contract, subject to City Attorney review and approval, with Vanasse Hangen Brustlin, Inc. (VHB) in the amount of \$614,811.00, bringing the total contract value up to \$3,160,488.00, and authorize the use of an additional \$61,481.00 in contingency funds to be available to use toward any necessary future contract amendments needed to accomplish the design work herein contemplated, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$3,221,969.00 for the development of the design of the Great Streets Main Street project.
2. To approve and recommend that the City Council authorize the Director of Public Works to execute Amendment #1 to the resident engineer contract, subject to City Attorney review and approval, with EIV Technical Services in the amount of \$298,974.00, bringing the total contract value up to \$2,098,974.00, and authorize the use of an additional \$209,897.00 in contingency funds to be available to use toward any necessary future contract amendments needed to accomplish the services detailed herein, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$2,308,871.00 for resident engineering and outreach consulting services for the Great Streets Main Street project.
3. To approve and recommend that the City Council authorize the Director of Burlington City Arts to execute contract amendments with the Great Streets Main Street selected Artists from the current total approved amount of \$66,696 to a total authorized Phase I and Phase II project expenditure in the amount of \$474,626, subject to review and approval by the City Attorney's Office, and to further authorize the use of an additional \$in contingency funds to be available to use toward future amendments for any of the artist contracts, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$500,000.00:
 - a. A contract with Lydia Kern in an amount not to exceed \$90,600 for fabrication of artwork;

- b. A contract with WOWHAUS in an amount not to exceed \$99,000 for fabrication of artwork;
 - c. A contract with Pixel Patch Creative, LLC in an amount not to exceed \$145,000 for fabrication of artwork; and
 - d. A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$140,026 for fabrication of artwork.
- 4. To approve and recommend that the City Council authorize the Director of Public Works to execute a Memorandum of Understanding, subject to City Attorney review and approval, with Burlington Electric Department in the amount of \$399,039, for the lighting construction of the Great Streets Main Street project.
- 5. To approve and recommend that the City Council authorize the Director of Public Works to execute the following initial construction contract and future necessary contract amendments with S.D. Ireland Brothers Corporation to complete the reduced project scope as described herein for the Great Streets Main Streets project, for a total approved expenditure not to exceed \$25,962,543.26, subject to City Attorney Office review and approval:
 - a. an initial construction contract in an amount not to exceed \$21,700,572.20; and,
 - b. any such future contract amendments necessary to carry out the reduced project scope, in additional amounts not to exceed \$2,596,254.83 in contingency funds and \$4,261,971.06 in bond premium funds, totaling \$28,558,798.09 in additional reserve funds, provided that use of the bond premium funds shall be subject to the Vermont Economic Progress Council's (VEPC) review and approval.
- 6. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachments C and D, provided that such budget amendment and transfers of funds as detailed in Attachment D involving bond premium funds shall be subject to VEPC's prior review and approval of the use of such funds.

City Council:

- 2. To authorize the Director of Public Works to execute Amendment #8 to the design contract, subject to City Attorney review and approval, with Vanasse Hangen Brustlin, Inc. (VHB) in the amount of \$614,811.00, bringing the total contract value up to \$3,160,488.00, and authorize the use of an additional \$61,481.00 in contingency funds to be available to use toward any necessary future contract amendments needed to accomplish the design work herein contemplated,, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$3,221,969.00 for the development of the design of the Great Streets Main Street project.
- 3. To authorize the Director of Public Works to execute Amendment #1 to the resident engineer contract, subject to City Attorney review and approval, with EIV Technical Services in the amount of \$298,974.00, bringing the total contract value up to \$2,098,974.00, and authorize the use of an additional \$209,897.00 in contingency funds to be available to use toward any necessary future contract amendments needed to accomplish the services detailed herein,, and further authorize execution of any such necessary amendments upon

review and approval by the City Attorney's Office, for a total authorized amount of \$2,308,871.00 for resident engineering and outreach consulting services for the Great Streets Main Street project.

4. To authorize the Director of Burlington City Arts to execute contract amendments with the Great Streets Main Street selected Artists from the current total approved amount of \$66,696 to a total authorized Phase I and Phase II project expenditure in the amount of \$474,626, subject to review and approval by the City Attorney's Office, and to further authorize the use of an additional \$25,374 in contingency funds to be available to use toward future amendments for any of the artist contracts, and further authorize execution of any such necessary amendments upon review and approval by the City Attorney's Office, for a total authorized amount of \$500,000.00:
 - a. A contract with Lydia Kern in an amount not to exceed \$90,600 for fabrication of artwork;
 - b. A contract with WOWHAUS in an amount not to exceed \$99,000 for fabrication of artwork;
 - c. A contract with Pixel Patch Creative, LLC in an amount not to exceed \$145,000 for fabrication of artwork; and
 - d. A contract with Nancy Winship Milliken Studio, LLC in an amount not to exceed \$140,026 for fabrication of artwork.
5. To authorize the Director of Public Works to execute a Memorandum of Understanding, subject to City Attorney review and approval, with Burlington Electric Department in the amount of \$399,039, for the lighting construction of the Great Streets Main Street project.
6. To authorize the Director of Public Works to execute the following initial construction contract and future necessary contract amendments with S.D. Ireland Brothers Corporation to complete the reduced project scope as described herein for the Great Streets Main Streets project, for a total approved expenditure not to exceed \$25,962,543.26, subject to City Attorney Office review and approval:
 - a. an initial construction contract in an amount not to exceed \$21,700,572.20; and,
 - b. any such future contract amendments necessary to carry out the reduced project scope, in additional amounts not to exceed \$2,596,254.83 in contingency funds and \$4,261,971.06 in bond premium funds, totaling \$28,558,798.09 in additional reserve funds, provided that use of the bond premium funds shall be subject to the Vermont Economic Progress Council's (VEPC) review and approval.
7. To authorize the Chief Administrative Officer, or their designee, to affect all necessary budget amendments and transfers of funds to and from the above-referenced funding sources as needed to pay the above-referenced project expenses in FY24 and Overall Project Budgets, as further detailed in Attachments C and D, provided that such budget amendment and transfers of funds as detailed in Attachment D involving bond premium funds shall be subject to VEPC's prior review and approval of the use of such funds.

XII. ATTACHMENTS

- A. Bid Analysis
- B. Project Budget
- C. DRAFT Budget Amendment
- D. DRAFT Budget Amendment - Premiums



November 6, 2023

Ref: 58691

Ms. Laura Wheelock
Senior Public Works Engineer
645 Pine Street
Burlington, VT 05401

Re: Burlington Great Streets – Main Street Bid Analysis

Ms. Wheelock,

VHB is pleased to present this bid analysis for the bids received for the above-referenced project. The City advertised bids on July 26, 2023 and opened bids on September 19, 2023 in accordance with project contract requirements, and City procurement policies. The City received two bids, and a bid tabulation of the low base bid is included. A summary of the base bids is provided below.

1. Competitive Analysis:

Engineer's Estimate: \$ 24,702,128.43.

Low Bid: \$ 37,364,229.00 (SD Ireland)

Difference: \$ 12,662,100.57

Number of Bidders: 2

Range of Bids: \$ 37,364,229.00 - \$46,714,545.00

The lowest bid price was approximately 51% higher than the Engineer's estimate price.

2. Bid Submittal Evaluation:

The SD Ireland submittal was determined to be the lowest responsive, responsible bid. The bid was appropriately signed, VHB found no errors and/or omissions in their bid forms, and SD Ireland provided all the required enclosures with their bid proposal.

3. Major Cost Deviations Analysis for Reasonableness and Unbalancing:

Given the low number of bidders and the large discrepancy between the apparent low bid and the engineer's estimate, FHWA guidance recommends conducting a more detailed analysis of the low bid. Items with bid unit price amounts that differed from the Engineer's estimate by greater than or equal to 25% and whose amount is greater than or equal to 1% of the total base bid should be analyzed. Of the 227 project bid items, 111 items had bid unit prices in excess of 25% above the Engineer's estimate bid unit price, and one (1) item had a bid unit price 25% below the Engineer's estimate bid unit price. Thirteen (13) items had amount differences higher than the



acceptable deviation, calculated as approximately \$247,000. Below is a summary of the items further evaluated to determine if any unbalancing exists.

Item Number: 210.10
 Item Name: COARSE-MILLING, BITUMINOUS PAVEMENT
 Estimated Quantity: 5,350 SY

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$ 5.89	\$31,511.50	\$18.00	\$96,300.00	+\$64,788.50

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. The estimated unit price was based on the price generated by the iPD Software. The quantity has been verified. The high unit price is likely attributed to the current bidding climate and high fuel prices. This contractor's bid unit price was the lowest of the two prospective bidders, but higher than what SD Ireland proposed for the Winooski Main Street reconstruction project (\$15/SY for 1,450 SY). With the expected increase in coarse-milling area resulting from the recent project scope changes, the City should consider re-negotiating this bid price due to the potential for significant cost overruns.

Item Number: 203.15
 Item Name: COMMON EXCAVATION
 Estimated Quantity: 22,500 CY

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$ 15.00	\$337,500.00	\$46.00	\$1,035,000.00	+\$697,500.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. The estimated unit price was based on the price generated by the iPD Software. The quantity has been verified. The high unit price is likely attributed to the complexity of the work over multiple construction seasons while maintaining traffic operations. This contractor's bid unit price was the lowest of the two prospective bidders. Given the complexity of the work along the project corridor, VHB recommends accepting this bid unit price.



Item Number: 203.30
 Item Name: EARTH BORROW
 Estimated Quantity: 10 CY

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$ 20.89	\$208.90	\$60.00	\$600.00	+\$391.10

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. The estimated unit price was based on the price generated by the iPD Software. The quantity was an estimated placeholder in case the item is needed on the project. The high unit price is likely attributed to the complexity of the work over multiple construction seasons. If over-excavation is required due to the complexities of the project and the excavated material is not deemed suitable for reuse, there is potential for overrun of this item. An overrun is less likely if the resident engineer is involved and aware, therefore VHB recommends accepting this base bid unit price.

Item Number: 406.35
 Item Name: SUPERPAVE BITUMINOUS CONCRETE PAVEMENT
 Estimated Quantity: 11,560 TONS

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$ 100.00	\$596,000.00	\$185.00	\$1,102,000.00	+\$506,600.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. The estimated unit price was based on the price generated by the iPD Software. The quantity has been verified. The high unit price is likely attributed to the current bidding climate and high fuel prices. This contractor's bid unit price was the highest of the two prospective bidders by 20%, and approximately 53% higher than what SD Ireland proposed for the Winooski Main Street reconstruction project (\$121.00 / ton). Given the large quantity and price discrepancies, VHB recommends re-negotiating this base bid unit price.



Item Number: 618.10
 Item Name: PORTLAND CEMENT CONCRETE SIDEWALK, 5 INCH
 Estimated Quantity: 13,050 SY

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$ 78.66	\$1,026,513.00	\$140.00	\$1,827,000.00	+\$800,487.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price, and the lowest of the two prospective bidders. The high unit price is likely attributed to the complexity of the work along building frontages while maintaining pedestrian traffic. Given the recent project scope changes, there is an expected increase in the use of Portland cement concrete sidewalk for the bike lanes in addition to the pedestrian walking space. The City should consider renegotiating this base bid unit price.

Item Number: 635.11
 Item Name: MOBILIZATION / DEMOBILIZATION
 Estimated Quantity: 1 LS

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$ 2,630,000.00	\$ 2,630,000.00	\$6,000,000.00	\$6,000,000.00	+\$3,370,000.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. This bid unit price represents approximately 21% the cost of all other bid items. The high unit price is likely attributed to multiple construction seasons and the complexity of the work. However, given the typical range for mobilization/demobilization costs is somewhere between 6% and 10% of all other bid items, VHB would recommend re-negotiating this bid unit price.



Item Number: 641.11
 Item Name: TRAFFIC CONTROL, ALL-INCLUSIVE
 Estimated Quantity: 1 LS

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
1,000,000.00	\$1,000,000.00	\$2,500,000.00	\$2,500,000.00	\$1,500,000.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. The high unit price is likely attributed to the nature of the work while needing to maintain vehicular and pedestrian traffic accommodations active during construction. Given the complexity of the work along the project corridor, VHB recommends accepting this bid unit price.

Item Number: 630.15
 Item Name: FLAGGERS
 Estimated Quantity: 15,000 HR

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$36.77	\$551,550.00	\$70.00	\$1,050,000.00	+\$498,450.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price. This work would likely be outsourced to a subcontractor during construction. The high unit price is likely attributed to anticipated inflation and the likelihood that some overtime will be required to satisfy the traffic control needs. This quantity represents four-person crew could work full-time for over 90 weeks. Given the complexity of the work, there is an opportunity for overrun for the entirety of the project. The City should consider renegotiating this bid unit price.



Item Number: 641.15
 Item Name: PORTABLE CHANGEABLE MESSAGE SIGN
 Estimated Quantity: 1 EA

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$5,000.00	\$5,000.00	\$30,000.00	\$30,000.00	+\$30,000.00

Explanation: The low bid unit price is significantly higher than anticipated and much higher than what SD Ireland proposed for the Winooski Main Street reconstruction project (\$18,000.00 / EA). Given the City could likely purchase their own PCMS for less than this cost, VHB would recommend removing this item from the bid package and re-negotiate the traffic control needs for the project corridor.

Item Number: 646.424
 Item Name: DURABLE 6 INCH WHITE LINE, POLYUREA
 Estimated Quantity: 1,150 LF

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$2.89	\$3,323.50	\$6.00	\$6,900.00	+\$3,576.50

Explanation: The low bid unit price is significantly higher than anticipated. Given the recent project scope changes, there is an expected increase in 6 inch white lines for new bike lanes between Battery and Pine and S Winooski and S Union. Given the minor impact to total project cost, VHB recommends accepting this bid price.



Item Number: 900.608
 Item Name: SPECIAL PROVISION (SOIL CELLS -31" DEPTH)
 Estimated Quantity: 1281 CY

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$80.00	\$102,480.00	\$435.00	\$557,235.00	+\$454,755.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price. The high unit price is likely attributed to the complexity of the work while maintaining pedestrian traffic. The quantity has been verified. Given the cost, the City may want to consider using an alternative treatment, or considering using a smaller quantity of cells at each tree.

Item Number: 900.620
 Item Name: SPECIAL PROVISION (TREE GRATE)
 Estimated Quantity: 22 EA

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$775.00	\$17,050.00	\$6,500.00	\$143,000.00	+\$125,950.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price. The quantity has been verified and the bid price was based on outreach for prospective vendors. The City may want consider either re-negotiating this bid item or seek an alternative treatment for the tree pits.



Item Number: 900.620
 Item Name: SPECIAL PROVISION (BANNER POLE)
 Estimated Quantity: 4 EA

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$2,000.00	\$8,000.00	\$15,300.00	\$61,200.00	+\$53,200.00

Explanation: The low bid unit price for each banner pole is significantly higher than the engineer's estimated unit price. The City may want to consider re-negotiating these bid unit prices, seek an alternative, or work to install them by other means at a later date.

Item Number: 900.620
 Item Name: SPECIAL PROVISION (PRECAST DETENTION VAULT)(PRACTICE #)
 Estimated Quantity: 8 EA

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$30,000.00	\$240,000.00	VARIES	\$1,274,150.00	+\$1,034,150.00

Explanation: The low bid unit price for each vault is significantly higher than the engineer's estimated unit price. This cost represents a significant construction cost overrun. The City may want to consider re-negotiating these bid unit prices, reduce the number of vaults, or seek an alternative stormwater collection facility.



Item Number: 900.620
 Item Name: SPECIAL PROVISION (ELECTRIC VEHICLE CHARGER, LEVEL 3)
 Estimated Quantity: 1 EA

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$10,000.00	\$10,000.00	\$70,000.00	\$70,000.00	+\$60,000.00

Explanation: The low bid unit price for this item is significantly higher than the engineer's estimated unit price. The City may want to consider removing the item from the contract and work directly with Burlington Electric to install one at a future date.

Item Number: 900.640
 Item Name: SPECIAL PROVISION (PAVER CROSSWALKS)
 Estimated Quantity: 985 LF

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$200.00	\$197,000.00	\$625.00	\$615,625.00	+\$418,625.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. The high unit price is likely attributed to the complexity of work in an active traffic environment. The City may want to consider an alternative treatment for the crosswalks or re-negotiate the unit price with the contractor.



Item Number: 900.645
 Item Name: SPECIAL PROVISION (MAINTENANCE OF WATER FLOWS)
 Estimated Quantity: 1 LS

☒ Estimated quantity has been verified. ☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$250,000.00	\$250,000.00	\$1,400,000.00	\$1,400,000.00	\$1,150,000.00

Explanation: There is a large discrepancy between the engineer's estimated unit price and the contractor's bid price. A discussion with the contractor is warranted to discuss the scope of work and to re-negotiate this bid item.

Item Number: 900.645
 Item Name: SPECIAL PROVISION (MAINTENANCE OF WASTEWATER FLOWS)
 Estimated Quantity: 1 LS

☒ Estimated quantity has been verified. ☐ Estimated quantity has been found to be in error. (see explanation)

Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
\$100,000.00	\$100,000.00	\$725,000.00	\$725,000.00	+\$625,000.00

Explanation: There is a large discrepancy between the engineer's estimated unit price and the contractor's bid price. A discussion with the contractor is warranted to discuss the scope of work and to re-negotiate this bid item.



Item Number: 900.670
 Item Name: SPECIAL PROVISION (COLORED PAVEMENT MARKINGS)
 Estimated Quantity: VARIES

☒ Estimated quantity has been verified.

☐ Estimated quantity has been found to be in error. (see explanation)

Color	Estimated Unit Price	Extended Estimate	Low Bid Unit Price	Extended Low Bid	Low Bid Difference
Green	\$10.00	\$22,000.00	\$18.00	\$39,600.00	+\$17,600.00
Red	\$10.00	\$8,150.00	\$20.00	\$16,300.00	+\$8,150.00
Khaki	\$10.00	\$13,400.00	\$20.00	\$26,800.00	+\$13,400.00

Explanation: The low bid unit price is significantly higher than the engineer's estimated unit price for this item. Given the recent project scope changes, there is an expected increase in green pavement markings for new bike lanes between Battery and Pine and S Winooski and S Union. The City may want to consider painting some of the new markings with in-house staff.

Unit Price Assessment:

The following is the list of additional items whose bid unit price was more than 25% above or below the Engineer's estimate bid unit price:

ITEM NO.	ITEM DESCRIPTION
201.10	CLEARING AND GRUBBING, INCLUDING INDIVIDUAL TREES AND STUMPS
201.15	REMOVING MEDIUM TREES
201.16	REMOVING LARGE TREES
201.20	REMOVING MEDIUM STUMPS
203.16	SOLID ROCK EXCAVATION
203.30	EARTH BORROW
301.26	SUBBASE OF CRUSHED GRAVEL, FINE GRADED
301.35	SUBBASE OF DENSE GRADED CRUSHED STONE
406.35	SUPERPAVE BITUMINOUS CONCRETE PAVEMENT (TEMPORARY TRENCH PATCH)
406.35	SUPERPAVE BITUMINOUS CONCRETE PAVEMENT (PERMANENT TRENCH PATCH)
406.35	SUPERPAVE BITUMINOUS CONCRETE PAVEMENT (OVERLAY)
406.38	HAND-PLACED BITUMINOUS CONCRETE MATERIAL, DRIVES



507.11	REINFORCING STEEL
541.25	CONCRETE, CLASS B (STAIRS)
541.25	CONCRETE, CLASS B (LIGHT POLE FOUNDATIONS)
604.415	REHAB. DROP INLETS, CATCH BASINS, OR MANHOLES, CLASS II
605.10	UNDERDRAIN PIPE, 6 INCHES
605.20	UNDERDRAIN CARRIER PIPE, 6 INCHES
605.95	UNDERDRAIN FLUSHING BASIN
609.10	DUST CONTROL WITH WATER
616.21	VERTICAL GRANITE CURB
616.21	VERTICAL GRANITE CURB (GRANITE RETAINING WALL)
618.11	PORTLAND CEMENT CONCRETE SIDEWALK, 8 INCH
618.30	DETECTABLE WARNING SURFACE
622.10	INSULATION BOARD
630.10	UNIFORMED TRAFFIC OFFICERS
646.404	DURABLE 4 INCH WHITE LINE, POLYUREA
646.414	DURABLE 4 INCH YELLOW LINE, POLYUREA
646.464	DURABLE 12 INCH WHITE LINE, POLYUREA
646.484	DURABLE 24 INCH STOP BAR, POLYUREA
646.494	DURABLE LETTER OR SYMBOL, POLYUREA
646.504	DURABLE CROSSWALK MARKING, POLYUREA
651.20	AGRICULTURAL LIMESTONE
651.35	TOPSOIL
653.01	EPSC PLAN
653.02	MONITORING EPSC PLAN
653.41	INLET PROTECTION DEVICE, TYPE II
656.65	LANDSCAPE WATERING
675.20	TRAFFIC SIGN, TYPE A
675.341	SQUARE TUBE SIGN POST AND ANCHOR
675.60	RESETTING SIGNS
678.45.01	REMOVAL OF EXISTING TRAFFIC CONTROL SIGNAL SYSTEM
900.608	SPECIAL PROVISION (HORTICULTURAL SOIL)
900.608	SPECIAL PROVISION (COMPOST MULCH)
900.608	SPECIAL PROVISION (PEA STONE)
900.608	SPECIAL PROVISION (SOIL CELLS - 16" DEPTH)
900.620	SPECIAL PROVISION (BANNER POLES)
900.620	SPECIAL PROVISION (REMOVABLE BOLLARD)
900.620	SPECIAL PROVISION (POWER BOLLARD)
900.620	SPECIAL PROVISION ("BIKE" BIKE RACK)
900.620	SPECIAL PROVISION (BULLETIN BOARD)
900.620	SPECIAL PROVISION (BUS SHLETER)
900.620	SPECIAL PROVISION (REMOVE AND RESET WAYFINDING SIGN)
900.620	SPECIAL PROVISION (REMOVE AND RESET COMMERCIAL SIGN)
900.620	SPECIAL PROVISION (ELECTRIC VEHICLE CHARGER ,LEVEL 2)



900.620	SPECIAL PROVISION (REMOVE AND RESET USPS MAILBOX)
900.620	SPECIAL PROVISION (16-INCH BUTTERFLY VALVE WITH BOX)
900.620	SPECIAL PROVISION (INSERTION VALVE, 6")
900.620	SPECIAL PROVISION (INVERSTION VALVE, 8")
900.620	SPECIAL PROVISION (INSERTION VALVE, 10")
900.620	SPECIAL PROVISION (INSERTION VALVE, 16")
900.620	SPECIAL PROVISION (HYDRANT)
900.620	SPECIAL PROVISION (3/4-INCH CORPORATION STOP AND SERVICE SADDLE)
900.620	SPECIAL PROVISION (1-INCH CORPORATION STOP AND SERVICE SADDLE)
900.620	SPECIAL PROVISION (3/4" CURB STOP WITH BOX)
900.620	SPECIAL PROVISION (1" CURB STOP WITH BOX)
900.620	SPECIAL PROVISION (1-1/2" CURB STOP WITH BOX)
900.620	SPECIAL PROVISION (2" CURB STOP WITH BOX)
900.620	SPECIAL PROVISION (SEWER SERVICE WYE OR TEE)
900.620	SPECIAL PROVISION (SEWER SERVICE TEE LEG)
900.620	SPECIAL PROVISION (PRCDI, ALL-INCLUSIVE, 4' DIA.)
900.620	SPECIAL PROVISION (PRCMH, ALL-INCLUSIVE, 6' DIA.)
900.620	SPECIAL PROVISION (PRCMH, ALL-INCLUSIVE, 8' DIA.)
900.640	SPECIAL PROVISION (GRANITE STAIRS)
900.640	SPECIAL PROVISION (PLANTER RAIL)
900.640	SPECIAL PROVISION (SOTRM DRAIN, ALL-INCLUSIVE)(12" CPEP)(SL)
900.640	SPECIAL PROVISION (SOTRM DRAIN, ALL-INCLUSIVE)(15" CPEP)(SL)
900.640	SPECIAL PROVISION (HYDRANT EXTENSION)
900.640	SPECIAL PROVISION (3/4-INCH HDPE SERVICE)
900.640	SPECIAL PROVISION (1-INCH HDPE SERVICE)
900.640	SPECIAL PROVISION (1-1/2-INCH HDPE SERVICE)
900.640	SPECIAL PROVISION (2-INCH HDPE SERVICE)
900.640	SPECIAL PROVISION (48-INCH SUPERBLOCK SEWER PIPE)
900.640	SPECIAL PROVISION (8-FOOT DIAMETER SANITARY SEWER MANHOLE)
900.640	SPECIAL PROVISION (BULLNOSE CURB)
900.640	SPECIAL PROVISION (GRANITE PLANTER CURB)
900.640	SPECIAL PROVISION (GRANITE PLANTER CURB - FLUSH)
900.645	SPECIAL PROVISION (CONSTRUCTION VIBRATION AND CRACK MONITORING)
900.645	SPECIAL PROVISION (TEMPORARY LIGHTING)
900.645	SPECIAL PROVISION (ABANDON RAVINE SEWER)
900.645	SPECIAL PROVISION (SOIL MANAGEMENT PLAN-PROJECT OPERATIONS PLAN)
900.645	SPECIAL PROVISION (ABANDON EXISTING SEWER MAIN)
900.645	SPECIAL PROVISION (ABANDON EXISTING STORM DRAIN)
900.670	SPECIAL PROVISION (GRANITE DETECTABLE WARNING PAVER)
900.670	SPECIAL PROVISION (REMOVE AND RESET BRICK PAVERS)
900.670	SPECIAL PROVISION (COLORED PAVEMENT MARKINGS)(GREEN)
900.670	SPECIAL PROVISION (COLORED PAVEMENT MARKINGS)(RED)
900.670	SPECIAL PROVISION (COLORED PAVEMENT MARKINGS)(KHAKI)



While the Low Bid Difference of these items does not exceed the dollar value warranting individual analysis of the items, they have been reviewed and quantities have been checked.

4. Recommendations

VHB found evidence of significant unbalancing in the apparent low bidder's submittal. The complexity of the work over multiple construction seasons, along with labor shortages, availability of materials and rising fuel prices are the likely reasons for the higher than anticipated bid unit prices. With the uncertainty of the bidding climate in the future, there is no guarantee that a re-advertisement of the project in the Winter would result in more competition and more favorable bid unit prices. Therefore, it would be VHB's recommendation to value-engineer the current scope of work and attempt to re-negotiate some of the bid unit prices suggested above.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Vanasse Hangen Brustlin, Inc.

A handwritten signature in black ink, appearing to read "Evan P. Detrick".

Evan Detrick, PE

Project Manager
edetrack@vhab.com

NEW WORLD Project Name: 853 Main St

Project Manager: Olivia Darisse
 Project Supervisor: Laura Wheelock
 Last Updated: 11/14/2023

G/L NUMBER AND NAME	Detailed Project Name	NOTES	Total
REVENUE:			
853-19-700.4990_236	853 MAIN ST, DT TIF - Capital	DT TIF VA BOND - Construction	\$23,391,722.00
853-19-700.4990_236	853 MAIN ST, DT TIF - Capital Premiums	DT TIF VA PREMIUMS	\$4,261,971.06
853-19-700.4990_236	853 MAIN ST, DT TIF - Public Art	Public Art	\$500,000.00
853-19-700.4990_236	853 MAIN ST, DT TIF - Ravine Sewer	Ravine Sewer	\$6,228,278.00
		Water/Sewer/Storm	\$211,000.00
843-19-700.4875_130	842 Street Reconstruction - Paving	Street Capital	\$395,706.03
		Subtotal	\$34,988,677.09
EXPENSES:			
853-19-700.9500_236	853 MAIN ST, DT TIF - Capital	Design consultant - (Main St. & Ravine)	\$2,545,677.00
		Redesign	VHB/Agency/DG \$128,274.00
		Water/Sewer Special Inspection	VHB/Agency/DG \$182,400.00
		QEP Inspection	VHB/Agency/DG \$304,137.00
853-19-700.9500_236	853 MAIN ST, DT TIF - Public Art	Public Art (Design& Construction)	Nancy Winship Miliken, WOWHAUS, Pixel Patch Creative, Lydia Kern Studio \$500,000.00
853-19-700.9500_236	853 MAIN ST, DT TIF - Capital	Street Lighting (Decorative)	BED MOU \$399,039.00
853-19-700.9500_236	853 MAIN ST, DT TIF - Capital	RE and Outreach Consultant	EIV Fee with Contingency \$1,800,000.00
853-19-700.9500_236	853 MAIN ST, DT TIF - Capital	RE and Outreach Consultant	EIV Amendment #1 \$298,974.00
853-19-700.9500_236	853 MAIN ST, DT TIF - Capital	Construction Road/Utilities	SD Ireland \$14,865,588.17
853-19-700.9500_236	853 MAIN ST, DT TIF - Capital Premiums	Construction Road/Utilities	SD Ireland \$4,261,971.06
853-19-700.9500_236	853 MAIN ST, DT TIF - Ravine Sewer	Ravine Sewer	SD Ireland \$6,228,278.00
		Water/Sewer	SD Ireland \$211,000.00
843-19-700.8040_840	842 Street Reconstruction - Paving	Paving	SD Ireland \$271,136.03
843-19-700.8040_840	842 Street Reconstruction - Paving	Add Alternative #1	SD Ireland \$124,570.00
		Contingency	10% (Design/BED/RE/Const) \$2,867,632.83
		Subtotal	\$34,988,677.09
		NET	\$0.00

CITY OF BURLINGTON, VT
PROJECT BUDGET AMENDMENT REQUEST

Department: DPW Requested by: Laura Wheelock Date: DRAFT

Briefly explain the reason for the amendment:

Amend budget per City Council Approval 11/20/23. Amendment for the TIF Bond Premiums will be sought separately.

Dept. Head Approval (under 10k)

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

Mayor Date (25K - 50K)

BUDGET AMENDMENT DETAILS

Org Set	GL Account	Account Name	Project/Sub/Detail Name	Increase/ (Decrease)
853-19-700	9500_236	Main Street, Public Works, Capital Projects.Capital Outlay - Capital Outlay Downtown TIF	853 Main Street - Ravine Sewer-	6,228,278
853-19-700	4925_100	Main Street, Public Works, Capital Projects.Proceeds - Bank/Bond Note	853 Main Street - Ravine Sewer-	6,228,278
853-19-700	9500_236	Main Street, Public Works, Capital Projects.Capital Outlay - Capital Outlay Downtown TIF	853 Main Street - Public Art -	66,696
853-19-700	4925_100	Main Street, Public Works, Capital Projects.Proceeds - Bank/Bond Note	853 Main Street - Public Art -	66,696
853-19-700	9500_236	Main Street, Public Works, Capital Projects.Capital Outlay - Capital Outlay Downtown TIF	853 Main Street - DT TIF Capital	15,616,722

CITY OF BURLINGTON, VT
PROJECT BUDGET AMENDMENT REQUEST

Department: DPW Requested by: Laura Wheelock Date: DRAFT

Briefly explain the reason for the amendment:

Amend budget per City Council Approval 11/20/23 to allow the use of premiums as an expense in the project budget contingent upon approval of the City's July 2023 Substantial Change Request to VEPC.

_____ (under 10k)
Dept. Head Approval

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

_____ (25K - 50K)
Mayor Date

BUDGET AMENDMENT DETAILS

Org Set	GL Account	Account Name	Project/Sub/Detail Name	Increase/ (Decrease)
853-19-700	9500_236	Main Street, Public Works, Capital Projects.Capital Outlay - Capital Outlay Downtown TIF	853 Main Street - DT TIF Capital - Premiums-	4,261,971

Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Laura Wheelock and Olivia Darisse

Title/Subject: Main Street Construction Contract Award and Budget Amendment

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☐	City Council	Click or tap to enter a date.
☒	Concurrent	11/20/2023

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	11/16/2023	Chapin Spencer
Mayor's Office informed and approved memo	Yes	11/16/2023	Jordan Reddell
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	11/16/2023	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	11/16/2023	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	Click or tap here to enter text.
Contract Attached, if applicable?	No	Contract subject to review by City Attorney
Additional Materials, if necessary	Choose an item.	Budget Amendment documents
Draft Resolution or Motion?	Yes	Motions - Memo
If for submission to Council, are sponsors identified?	Yes	Board of Finance

Lori Olberg

From: Ali Dieng
Sent: Monday, November 20, 2023 6:22 PM
To: North Star Sports; City Council; Mayor's Office; Katherine Schad; Lori Olberg; Chapin Spencer
Subject: Re: Great Streets Vote - Please read and reply !!! Voice your thoughts

Hi Katherine and Lori,

I am respectfully requesting for this letter from Businesses to be added on Civic Clerk as apart of agenda item 7.4 Great Streets Main Street Construction Award and Contract Amendments.

Thank you,
Ali

From: North Star Sports <northstarsportsvt@gmail.com>
Sent: Monday, November 20, 2023 2:32 PM
To: Jason Levinthal <jason@jskis.com>; Catherine Z. Davis <cathy@vermont.org>; Michael Williams <kountrykartdeli@yahoo.com>; Becca Byrne <becca@flatbreadhearth.com>; David Ackerman <daveack802@gmail.com>; jwahl@flynnvt.org <jwahl@flynnvt.org>; ahlikabob@gmail.com <ahlikabob@gmail.com>; info@liveatnectars.com <info@liveatnectars.com>; The Brothers <thebrothers@thecafehot.com>; mr.mikesvt@gmail.com <mr.mikesvt@gmail.com>; hello@piesanosvt.com <hello@piesanosvt.com>; lezotmanager@gmail.com <lezotmanager@gmail.com>; info@honeyroadrestaurant.com <info@honeyroadrestaurant.com>; restaurantpoco@gmail.com <restaurantpoco@gmail.com>; info@mensroomvt.com <info@mensroomvt.com>; kmmstudio@gmail.com <kmmstudio@gmail.com>; drinkmanager135@gmail.com <drinkmanager135@gmail.com>; info@pizzeriaverita.com <info@pizzeriaverita.com>; don o'connell <donpatrickoconnell@gmail.com>; Will Clavelle <wclavelle@burlingtonvt.gov>; Mike Berger <mike@lippas.com>; Megan Zinner <mzinner@flynnvt.org>; jess ackerman <anjouvt@gmail.com>; Corrine Levinthal <corrinel@usa.net>; Olivia Darisse <odarisse@burlingtonvt.gov>; Kara Alnasrawi <kalnasrawi@burlingtonvt.gov>; Laura Wheelock <lwheelock@burlingtonvt.gov>; Robert Goulding <rgoulding@burlingtonvt.gov>; allan@thecafehot.com <allan@thecafehot.com>; mark.homeport@gmail.com <mark.homeport@gmail.com>; jeff@helloworldburlingtonvt.com <jeff@helloworldburlingtonvt.com>; austin@vermont.org <austin@vermont.org>; rubenjames05401@aol.com <rubenjames05401@aol.com>; dirtchicvt@yahoo.com <dirtchicvt@yahoo.com>; mimi@madriverdistillers.com <mimi@madriverdistillers.com>; ibrahim.wilson@td.com <ibrahim.wilson@td.com>; shannon.moore@hilton.com <shannon.moore@hilton.com>; Dave Farrington <dave@btvspaces.com>; Michael Sheehan <tas@mainstreetbarbers.net>; Paige Farrington <paige@btvspaces.com>; Johanna Schneider <jschneider@burlingtonvt.gov>; friends@augustfirstvt.com <friends@augustfirstvt.com>; Miro Weinberger <miro@burlingtonvt.gov>; Gene Bergman <gbergman@burlingtonvt.gov>; Sarah Carpenter <scarpenter@burlingtonvt.gov>; Benjamin Traverse <btraverse@burlingtonvt.gov>; Karen Paul <kpaul@burlingtonvt.gov>; Ali Dieng <adieng@burlingtonvt.gov>; Hannah King <hking@burlingtonvt.gov>; Tim Doherty <tdoherty@burlingtonvt.gov>; Joan Shannon <jshannon@burlingtonvt.gov>; Mark Barlow <mbarlow@burlingtonvt.gov>; Zandy Wheeler <zandyw@skirack.com>; mark@bananastand.store

<mark@bananastand.store>

Subject: Great Streets Vote - Please read and reply !!! Voice your thoughts

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

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

Hi all ,

I have just learned about a vote that DPW is asking the council to make tonight about the the Great St program. We received an email on 11/17 stating that DPW under budgeted the project by 50%. Now they want to just do 3 blocks , still take out parking and worry about the rest later. They also want to be able to close streets down for up to 4-8 weeks. Here is a letter I drafted please respond so that councilors know what you think

Best

JP Coseno - North Star Sports

Pat Miller - North Star Sports

Sarah Steward -Banana Stand

Mark Miller - Banana Stand

North Star Sports

100 Main St. Burlington,VT

<https://northstarsportsvt.com>

802-863-3832

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

To City Councilors and Mr. Miro

We are responding to a message we received from Olivia at the Department of Public Works on 11/17. The content stating city does not have enough money to accomplish the Great Streets Projects and now wants to implement construction in stages. The hope is to find additional money to complete the work at a later time. We are concerned that we are going to be redesigning the street parking for 3 blocks of Main St. redesigning the parking from diagonal to parallel. At the same time, creating a dedicated bike path that would not go to the waterfront and effectively stops at the Pine St intersection.

Why build something now, when we might not have enough money to complete this project?

Our suggestion is to design the street to add bike lanes at a later date, when additional funds are available. Consequently, keeping our parking numbers the same at a time when merchants and the city needs visitors. Save time and money by focusing on what is most important, those being more infrastructure related items such as storm water runoff, pipes etc. and better lighting for safety. Our priority shouldn't be art work, inconsistent bike lanes etc.

We also reject the DPW point that merchants are fine closing Main Street from 4-8 weeks a city block. We would like to know which merchants were contacted and are agreeing to this. We have yet to speak with a fellow merchant aware of, or agreeing to, this proposal. We cannot survive with blocks being closed for this long, especially with the retail climate the way it currently is. It is not the fault of merchant and building owners in Burlington that DPW grossly underestimated the cost of this project. To keep the project financially feasible, DPW is asking you as city councilors to allow SD Ireland to meet the requirements of the bid they submitted due to it being the lowest. We were told that there was not going to be any shutdown of any street during this process.

Additionally, we would also recommend security cameras on Main Street as part of this project. This would help the police during investigations such as the gunshot incident near the Hilton on Main St. and the break ins at Comedy Club, North Star Sports and the most recent at the Banana Stand.

In conclusion, Burlington needs to regain its reputation as a safe city that is welcoming to all. By prioritizing how our funds are spent will allow it to regain its reputation as the true Queen City.

Burlington merchants need your support more than ever and it is OK to say "No" to DPW. It is OK to ask them to revisit this plan so that it reflects what the city can afford and makes the most sense during this point in time.



Great Streets Main Street Project Update

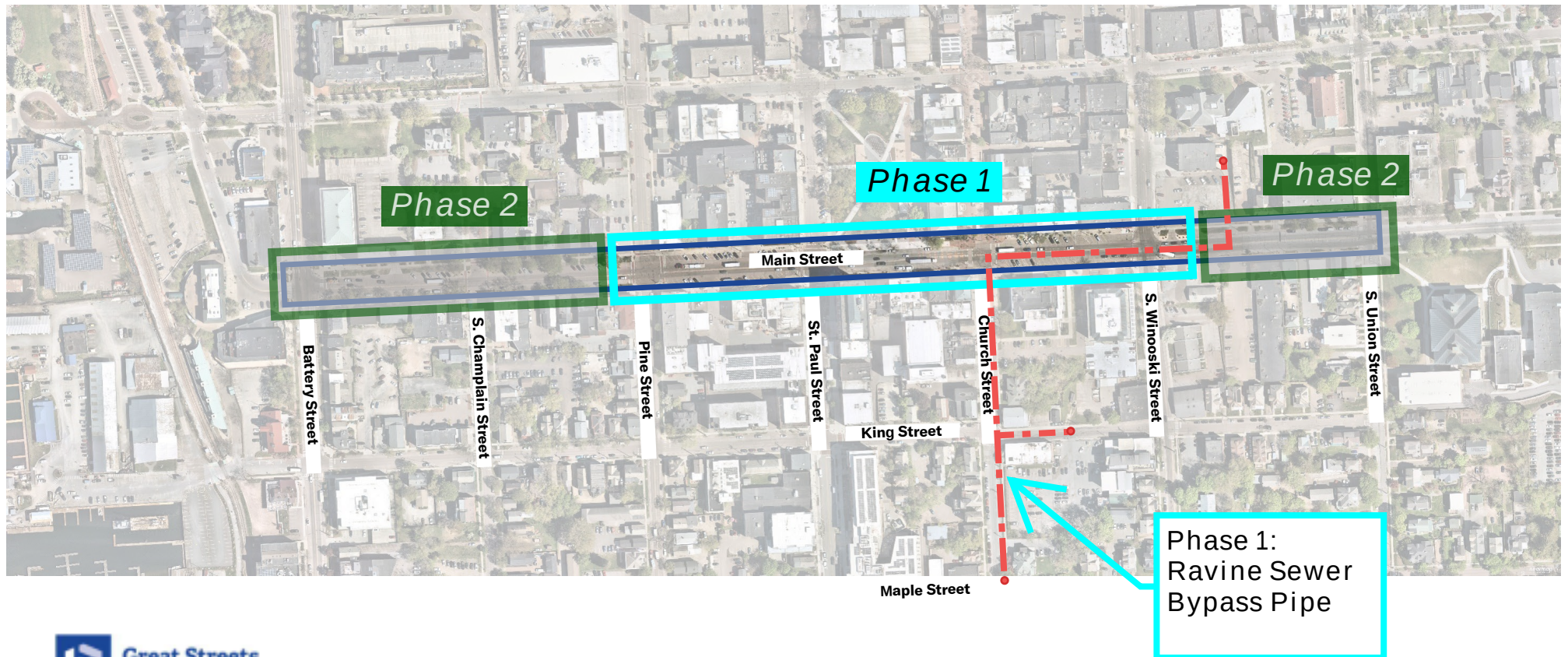
BOARD OF FINANCE and CITY COUNCIL
NOVEMBER 20, 2023

PROJECT SCHEDULE



Timeline has been progressing as planned!

REVISED PROJECT AREA



PROJECT OUTREACH TO DATE

February – May 2022 (Conceptual Design)

- Community Meetings (February & April 2022)
- Business Community Meetings (February & May 2022)
- City Council and Board of Finance
- Transportation, Energy and Utilities Committee
- Burlington Walk-Bike Council
- REIB Committee
- Burlington Business Association
- Burlington Aging Council
- Public Works Commission
- Church Street Marketplace Commission
- Burlington Parks, Recreation and Waterfront Commission
- Neighborhood Planning Assemblies
- Focus Groups (Immigrants & Refugees, Youth, BIPOC, Business Owners, Mobility Support)
- Website Survey

February – June 2023 (Final Design)

- Public Art Selection Process
- Meetings with individual business and property owners

October 2023 – Present (Pre-Construction)

- Flyering efforts on lower Main Street
- Church Street Marketplace Commission
- Burlington Walk- Bike Committee
- Meetings with individual business and property owners

SUPPORTING CONTRACT/ACTIONS

VHB (design consultant)

- Add Construction Support for:
 - Contaminated Soils
 - Water/Sewer Specialty Inspection
- Design for Plan Updates During Bid Period

Contract Amendment = \$614,811.00

Revised Contract Total = \$3,160,488

Contingency = \$61,481.00

SUPPORTING CONTRACT/ACTIONS

EIV Technical Services (inspection/outreach consultant)

- Winter Work (3 seasons)
- Field Office

Contract Amendment = \$298,974

Revised Contract Total = \$2,098,974

Contingency = \$209,897

SUPPORTING CONTRACT/ACTIONS

PUBLIC ARTISTS

Artist	Project	Phase 1	Phase 2	Contract Total
Nancy Winship Milliken Studio LLC	LakeBones Archways	\$15,550	\$124,476	\$140,026
WOWHAUS	Snail Family	\$14,561	\$84,439	\$99,000
Pixel Patch Creative LLC	Block by Block	\$28,500	\$116,500	\$145,000
Lydia C Kern Studio	Anthology – Single Arch Walkthrough	\$8,085	\$82,515	\$90,600
TOTAL		\$82,246	\$407,930	\$474,626

Total Amendment = \$407,930

Contingency = \$25,374

Total Public Art Budget = \$500,000

SUPPORTING CONTRACT/ACTIONS

BURLINGTON ELECTRIC DEPARTMENT (MOU)

- Removal of Existing Street Lighting
- Installation and Energization of New Decorative Lighting per the *Lighting Policy*

Decorative Street Lighting = \$609,379

Standard Street Lighting offset credit = -\$210,340

Total MOU = \$399,039 (*includes contingency*)

SUPPORTING CONTRACT/ACTIONS

S.D. Ireland

A total approved expenditure not to exceed \$25,962,543.26, subject to City Attorney Office review and approval

- a. an initial construction contract in an amount not to exceed \$21,700,572.20; and,
- b. any such future contract amendments necessary to carry out the reduced project scope, in additional amounts not to exceed \$2,596,254.83 in contingency funds and \$4,261,971.06 in bond premium funds, totalling \$28,558,798.09 in additional reserve funds, provided that use of the bond premium funds shall be subject to the Vermont Economic Progress Council's (VEPC) review and approval.

QUESTIONS

WHERE TO FIND INFORMATION

<http://greatstreetsbtv.com/>

Connect with Great Streets Team:

Natalie Boyle

Nboyle@eivtech.com



CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Councilors Traverse,
Barlow
Public Hearing Dates: _____

In the Year Two Thousand Twenty-Three

First reading: _____
Referred to: _____
Rules suspended and placed in all
stages of passage: _____
Second reading: _____
Action: _____
Date: _____
Signed by Mayor: _____
Published: _____
Effective: _____

An Ordinance in Relation to

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL ENERGYHEATING SYSTEMS

8-76 Purpose and Authority.

(a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and, ~~where possible,~~ reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.

(b) Authority. All provisions in this article relating to thermal energy~~heating~~ systems are adopted pursuant to the authority and powers granted by a majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the city and its inhabitants.

8-77 Definitions.

(a) A "fossil fuel ~~renewable primary heating~~thermal energy system" shall be subject to the alternative compliance carbon fee, and shall mean any space conditioning, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy from fossil fuels, including coal, oil, propane, kerosene or natural gas. -heating system that meets at least eighty-five (85) percent of the building's design heating load calculated per the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.1) and is fueled by:

(b) A “renewable fuel which reduces greenhouse gas emissions” is, based on the vote at the annual City meeting on March 7, 2023, not subject to the alternative compliance carbon fee, and shall mean any space conditioning, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy from:

- (1) Electric-powered thermal equipment, including cold-climate air source heat pumps, ground source heat pumps, and other heat pumps including district, network, grid, microgrid, and building geothermal systems; electric appliances providing thermal end uses; and heat pump water heaters (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3) or the Vermont Residential Building Energy Standards (RBES) Energy Code (Section 2.4b)); or
- (2) ~~Wood pellets or woodchips; Solar water heating systems;~~ or
- (3) ~~Other renewable fuel used by conventional primary heating systems, including renewable gas, biodiesel, and renewable district heating, if the building owner provides a contract demonstrating that the fuel required by the conventional primary heating system is fully sourced from such other renewable fuels for the life of that conventional heating system.~~Renewable energy-based district heating; or
- (4) Green hydrogen sourced exclusively from renewable energy sources; or
- (5) Advanced wood heating systems that meet the 2023 or subsequently issued Vermont Small Scale Renewable Energy Incentive Program (SSREIP) Advanced Wood Heating System (AWHS) terms conditions and requirements, including for efficiency and emission controls; or
- (6) Sustainably-sourced biodiesel; or
- (7) Renewable gas, meaning methane produced by organic material and sourced from landfills, wastewater treatment facilities, and farms as offered under a Vermont Public Utility Commission-approved tariff or supply contract from a gas utility such as Vermont Gas Systems, provided that the gas utility demonstrates that the renewable gas is purchased along with its renewable attributes and has a secured contractual pathway for the physical delivery of the renewable gas from the point of injection in the pipeline to the gas utility’s delivery system; or
- (8) Any other renewable fuel that reduces greenhouse gas emissions, provided the Department of Permitting and Inspections receives sufficient analysis or documentation from the applicant that the fuel reduces greenhouse gas emissions relative to the fossil fuel it is replacing consistent with the requirements of subsection (c) below.

(c) The Department of Permitting and Inspections may disqualify any renewable fuel that reduces greenhouse gas emission listed above from being eligible to satisfy the requirements of this section if such fuel is subsequently deemed by the Vermont Public Utility Commission not to satisfy the carbon intensity requirements of a State of Vermont Clean Heat Standard or any similar state thermal energy policy. In addition, the Department may require an applicant seeking to utilize a liquid or gaseous renewable fuel that

reduces greenhouse gas emissions to submit documentation or independent analysis - utilizing the Argonne National Laboratory GREET model or modeling of similar rigor adapted to Vermont's thermal energy context - demonstrating that the renewable fuel proposed for compliance under this section reduces greenhouse gas emissions relative to the fossil fuel system or fuel it is replacing.

~~“Renewable gas” shall mean methane produced by the organic material and sourced from landfills, wastewater treatment facilities, and farms as offered under a tariff or supply contract from a utility such as Vermont Gas Systems.~~

(d) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:

(1) All residential buildings; and

(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no thermal energy system that relies on renewable fuel available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.

(e) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.

(f) An “existing city building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.

~~(b) A “nonprimary heating system” shall include back-up heating system, water heating system, or ventilation/air tempering system.~~

8-78 Applicability.

(a) Applicants seeking permits pursuant to this chapter for a new buildings shall demonstrate that the new building will utilize a renewable primary heating thermal energy systems that rely on a renewable fuel which reduces greenhouse gas emissions. Applicants seeking permits to replace space conditioning systems or domestic water heating systems that are in large existing buildings shall demonstrate the new space conditioning or domestic water heating systems will utilize a renewable fuel which reduces greenhouse gas emissions. Existing City buildings shall follow the requirements for large existing buildings, but are not subject to the alternative compliance carbon pollution impact fee.

(b) If an applicant for a new building is seeking to use a thermal energy system that does not rely on a renewable fuel which reduces greenhouse gas emissions, or an applicant for a large existing building is seeking to use a space conditioning or domestic water heating system that does not rely on a renewable fuel which reduces greenhouse gas emissions, the applicant shall prior to receiving a permit pursuant to subsection (a) first have to demonstrate that the renewable system is uneconomical. To be determined to be uneconomical the twenty-five (25) year capital and operational cost of the least expensive renewable primary heating system, including any available incentives from the Burlington electric department or other State or

federal entities, must be more than the twenty-five (25) year capital and operational costs of a nonrenewable primary heating system, including the cost of externalities calculated by a building carbon price of one hundred fifty dollars (\$150.00) per ton for the life of the nonrenewable primary heating system. The building carbon price of one hundred fifty dollars (\$150.00) per ton shall be annually adjusted by the program administrator equivalent to one hundred (100) percent of the annual change in the Consumer Price Index For All Urban Consumers (CPI-U) in the Northeast Region, to go into effect January 1 of every ensuing year. A system demonstrating uneconomicability shall be assessed an alternative compliance -carbon pollution impact fee. However, an applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.

(c) Effective January 1, 2024, the alternative compliance carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions produced by the thermal energy system over its lifetime, based on a net present value calculation at the time the permit application is submitted. For large existing building applicants, the alternative compliance carbon pollution impact fee is capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system. On each subsequent January 1, the alternative compliance carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, but in no event shall the increase be greater than five percent. The adjusted alternative compliance carbon pollution impact fee shall be rounded off to the nearest dollar.

(d) For compliance purposes for all thermal energy systems that are capable of utilizing either a fossil fuel or a renewable fuel that reduces greenhouse gas emissions, such as gas utility services that could utilize fossil fuel or renewable gas, or oilheat systems that could utilize oil or biodiesel, an applicant shall demonstrate compliance either via (i) a contract demonstrating that the fuel required by the thermal energy system is fully sourced from such other renewable fuels or technologies for the life of that thermal energy system; or (ii) annual compliance certification that the applicant is purchasing renewable fuel to cover the entire need of the thermal energy system. If the applicant uses the annual compliance certification, and the applicant fails to provide an annual compliance certification in any year that the applicant is using renewable fuel that reduces greenhouse gas emissions, the applicant will be assessed an alternative compliance -carbon pollution impact fee equal to a pro rata share of the remaining expected life of the thermal energy system.

(e) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on a renewable fuel which reduces greenhouse gas emissions, the applicant may apply for a credit towards any alternative compliance carbon pollution impact fee equal to the carbon value of the renewable fuel which reduces greenhouse gas emissions used for any thermal energy system since January 1, 2023.

(f) All alternative compliance carbon pollution impact fee proceeds shall be placed in a Clean Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. Clean Energy Fund proceeds shall be made available as follows:

(i) The Department of Permitting and Inspections, with technical support from the Burlington Electric Department, shall determine which initiatives are eligible for funding for property owners or low income renters, but they may include, and shall not be limited to, the installation of new thermal energy systems that rely on renewable fuel, weatherization projects, or subsidizing any increased utility costs associated with purchasing renewable fuel rather than fossil fuel;

(ii) Half of the proceeds paid into the Clean Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor. The large existing building applicant must request these proceeds within one (1) year following payment of their alternative compliance carbon pollution impact fee, and any proceeds not requested within that year shall be made available under subsection (iii).

(iii) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the Clean Energy Fund by new construction applicants shall be available to either:

1. Provide financial assistance to help low-income Burlington residents with the purposes described in subsection (i), either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office (“CEDO”), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions; or
2. Subsidize the cost of converting the City’s vehicle fleet from fossil fuel to electric.

(g) Nothing in this section prevents or prohibits applicants from utilizing any and all available local, state, or federal incentives, rebates or tax credits that support implementation of renewable fuels listed above for their buildings, and applicants are encouraged to access available incentives or rebates or tax credits.

(h) Any applicant for a permit pursuant to this chapter, for any new or existing building regardless of size, seeking to utilize a wood chip or wood pellet heating system, must demonstrate that the system meets the 2023 or any subsequently issued Vermont Small Scale Renewable Energy Incentive Program (SSREIP) Advanced Wood Heating System (AWHS) terms conditions and requirements, including for efficiency and emission controls.

~~An applicant is permitted to install and utilize nonprimary heating systems in new buildings that use nonrenewable fuels.~~

8-79 Effective DateWaiver.

The provisions of this Article shall take effect on January 1, 2024.

211 ~~The department of permitting and inspections may grant a waiver to Section 8-78 on the grounds that~~
212 ~~utilizing a renewable primary heating system in a new building would be uneconomical. To be deemed~~
213 ~~uneconomical, the twenty-five (25) year capital and operational cost of the least expensive renewable~~
214 ~~primary heating system, including any available incentives from the Burlington electric department or other~~
215 ~~State or federal entities, must be more than the twenty-five (25) year capital and operational costs of a~~
216 ~~nonrenewable primary heating system, including the cost of externalities calculated by a building carbon~~
217 ~~price of one hundred dollars (\$100.00) per ton for the life of the nonrenewable primary heating system. The~~
218 ~~building carbon price of one hundred dollars (\$100.00) per ton shall be annually adjusted by the program~~
219 ~~administrator equivalent to one hundred (100) percent of the annual change in the Consumer Price Index For~~
220 ~~All Urban Consumers (CPI-U) in the Northeast Region, to go into effect January 1 of every ensuing year.~~

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Councilors Traverse,
Barlow

Public Hearing Dates: _____

In the Year Two Thousand Twenty-Three

First reading: _____

Referred to: _____

Rules suspended and placed in all

An Ordinance in Relation to

stages of passage:

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL ENERGY~~HEATING~~ SYSTEMS

8-76 Purpose and Authority.

(a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and, ~~where possible,~~ reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.

(b) Authority. All provisions in this article relating to thermal energy~~heating~~ systems are adopted pursuant to the authority and powers granted by a majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the city and its inhabitants.

8-77 Definitions.

(a) A "fossil fuel ~~renewable primary heating~~thermal energy system" shall be subject to the alternative compliance carbon fee, and shall mean any space conditioning, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy from fossil fuels, including coal, oil, propane, kerosene or natural gas. -heating system that meets at least eighty-five (85) percent of the building's design heating load calculated per the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.1) and is fueled by:

(b) A “renewable fuel which reduces greenhouse gas emissions” is, based on the vote at the annual City meeting on March 7, 2023, not subject to the alternative compliance carbon fee, and shall mean any space conditioning, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy from:

- (1) Electric-powered thermal equipment, including cold-climate air source heat pumps, ground source heat pumps, and other heat pumps including district, network, grid, microgrid, and building geothermal systems; electric appliances providing thermal end uses; and heat pump water heaters (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3) or the Vermont Residential Building Energy Standards (RBES) Energy Code (Section 2.4b)); or
- (2) Wood pellets or woodchips; Solar water heating systems; or
- (3) Other renewable fuel used by conventional primary heating systems, including renewable gas, biodiesel, and renewable district heating, if the building owner provides a contract demonstrating that the fuel required by the conventional primary heating system is fully sourced from such other renewable fuels for the life of that conventional heating system. Renewable energy-based district heating; or
- (4) Green hydrogen sourced exclusively from renewable energy sources; or
- (5) Advanced wood heating systems that meet the 2023 or subsequently issued Vermont Small Scale Renewable Energy Incentive Program (SSREIP) Advanced Wood Heating System (AWHS) terms conditions and requirements, including for efficiency and emission controls; or
- (6) Sustainably-sourced biodiesel; or
- (7) Renewable gas, meaning methane produced by organic material and sourced from landfills, wastewater treatment facilities, and farms as offered under a Vermont Public Utility Commission-approved tariff or supply contract from a gas utility such as Vermont Gas Systems, provided that the gas utility demonstrates that the renewable gas is purchased along with its renewable attributes and has a secured contractual pathway for the physical delivery of the renewable gas from the point of injection in the pipeline to the gas utility’s delivery system; or
- (8) Any other renewable fuel that reduces greenhouse gas emissions, provided the Department of Permitting and Inspections receives sufficient analysis or documentation from the applicant that the fuel reduces greenhouse gas emissions relative to the fossil fuel it is replacing consistent with the requirements of subsection (c) below.

(c) The Department of Permitting and Inspections may shall disqualify any renewable fuel that reduces greenhouse gas emission listed above from being eligible to satisfy the requirements of 8-78 this section if such fuel is subsequently deemed by the Vermont Public Utility Commission not to satisfy the carbon intensity requirements of a State of Vermont Clean Heat Standard or any similar state thermal energy policy.

In addition, the Department may require an applicant seeking to utilize a liquid or gaseous renewable fuel that reduces greenhouse gas emissions to submit documentation or independent analysis - utilizing the Argonne National Laboratory GREET model or modeling of similar rigor adapted to Vermont's thermal energy context - demonstrating that the renewable fuel proposed for compliance under this section reduces greenhouse gas emissions relative to the fossil fuel system or fuel it is replacing.

~~“Renewable gas” shall mean methane produced by the organic material and sourced from landfills, wastewater treatment facilities, and farms as offered under a tariff or supply contract from a utility such as Vermont Gas Systems.~~

(d) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:

(1) All residential buildings; and

(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no thermal energy system that relies on renewable fuel available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.

(e) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.

(f) An “existing city building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.

~~(b) A “nonprimary heating system” shall include back-up heating system, water heating system, or ventilation/air tempering system.~~

8-78 Applicability.

(a) Applicants seeking permits pursuant to this chapter for a new buildings shall demonstrate that the new building will utilize a renewable primary heatingthermal energy systems that rely on a renewable fuel which reduces greenhouse gas emissions. Applicants seeking permits to replace space conditioning systems or domestic water heating systems that are in large existing buildings shall demonstrate the new space conditioning or domestic water heating systems will utilize a renewable fuel which reduces greenhouse gas emissions. Existing City buildings shall follow the requirements for large existing buildings, but are not subject to the alternative compliance carbon pollution impact fee.

(b) If an applicant for a new building is seeking to use a thermal energy system that does not rely on a renewable fuel which reduces greenhouse gas emissions, or an applicant for a large existing building is seeking to use a space conditioning or domestic water heating system that does not rely on a renewable fuel which reduces greenhouse gas emissions, the applicant shall prior to receiving a permit pursuant to subsection (a) first have to demonstrate that the renewable system is uneconomical. To be determined to be

uneconomical the twenty-five (25) year capital and operational cost of the least expensive renewable primary heating system, including any available incentives from the Burlington electric department or other State or federal entities, must be more than the twenty-five (25) year capital and operational costs of a nonrenewable primary heating system, including the cost of externalities calculated by a building carbon price of one hundred fifty dollars (\$150.00) per ton for the life of the nonrenewable primary heating system. The building carbon price of one hundred fifty dollars (\$150.00) per ton shall be annually adjusted by the program administrator equivalent to one hundred (100) percent of the annual change in the Consumer Price Index For All Urban Consumers (CPI-U) in the Northeast Region, to go into effect January 1 of every ensuing year. A system demonstrating uneconomicability shall be assessed an alternative compliance -carbon pollution impact fee. However, an applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.

(c) Effective January 1, 2024, the alternative compliance carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions produced by the thermal energy system over its lifetime, based on a net present value calculation at the time the permit application is submitted. For large existing building applicants, the alternative compliance carbon pollution impact fee is capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system. On each subsequent January 1, the alternative compliance carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, but in no event shall the increase be greater than five percent. The adjusted alternative compliance carbon pollution impact fee shall be rounded off to the nearest dollar.

(d) For compliance purposes for all thermal energy systems that are capable of utilizing either a fossil fuel or a renewable fuel that reduces greenhouse gas emissions, an applicant shall demonstrate compliance by providing a certificate and supporting documentary proof, including but not limited to a contract, invoices, and subscription or participation in a tariff program, on an annual basis stating that the applicant is purchasing renewable fuel that is being delivered to that building's thermal energy system, that it reduces greenhouse gas emissions, and that the purchases cover the annual need of the thermal energy system. If the applicant fails to provide an annual compliance certification, the applicant will be assessed an alternative compliance carbon pollution impact fee equal to a pro rata share of the remaining expected life of the thermal energy system. For renewable liquid or gaseous fuels used in a thermal appliance or system capable of also using fossil fuels, to count towards compliance, the purchase of enough renewable fuel to fully offset the annual usage for the appliance or thermal system in question is required. such as gas utility services that could utilize fossil fuel or renewable gas, or oilheat systems that could utilize oil or biodiesel, an applicant shall demonstrate compliance either via (i) a contract demonstrating that the fuel required by the thermal energy system is fully sourced from such other renewable fuels or technologies for the life of that thermal energy system; or (ii) annual compliance certification that the applicant is purchasing renewable fuel to cover the entire need of the thermal energy system. If the applicant uses the annual compliance certification, and the applicant fails to provide an annual compliance certification in any year that the applicant is using renewable fuel that reduces greenhouse gas emissions, the applicant will be assessed an alternative

compliance carbon pollution impact fee equal to a pro rata share of the remaining expected life of the thermal energy system.

(e) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on a renewable fuel which reduces greenhouse gas emissions, the applicant may apply for a credit towards any alternative compliance carbon pollution impact fee equal to the carbon value of the renewable fuel which reduces greenhouse gas emissions used for any thermal energy system since January 1, 2023.

(f) All alternative compliance carbon pollution impact fee proceeds except those funds needed to administer this ordinance, shall be placed in a Clean Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. Clean Energy Fund proceeds shall be made available as follows:

(i) The Department of Permitting and Inspections, with technical support from the Burlington Electric Department, shall determine which initiatives are eligible for funding for property owners or low income renters, but they may include, and shall not be limited to, the installation of new thermal energy systems that rely on renewable fuel, weatherization projects, or subsidizing any increased utility costs associated with purchasing renewable fuel rather than fossil fuel;

(ii) Half of the proceeds paid into the Clean Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site City of Burlington owned by the payor. The large existing building applicant must request these proceeds within one (1) year following payment of their alternative compliance carbon pollution impact fee, and any proceeds not requested within that year shall be made available under subsection (iii).

(iii) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the Clean Energy Fund by new construction applicants shall be available to either:

1. Provide financial assistance to help low-income Burlington residents with the purposes described in subsection (i), either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office ("CEDO"), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions.

2. Subsidize the cost of converting the City's vehicle fleet from fossil fuel to electric.

(g) Nothing in this section prevents or prohibits applicants from utilizing any and all available local, state, or federal incentives, rebates or tax credits that support implementation of renewable fuels listed above for their buildings, and applicants are encouraged to access available incentives or rebates or tax credits.

(h) Any applicant for a permit pursuant to this chapter, for any new or existing building regardless of size, seeking to utilize a wood chip or wood pellet heating system, must demonstrate that the system meets the 2023 or any subsequently issued Vermont Small Scale Renewable Energy Incentive Program (SSREIP) Advanced Wood Heating System (AWHS) terms conditions and requirements, including for efficiency and emission controls.

~~An applicant is permitted to install and utilize nonprimary heating systems in new buildings that use nonrenewable fuels.~~

8-79 Effective DateWaiver.

The provisions of this Article shall take effect on January 1, 2024.

~~The department of permitting and inspections may grant a waiver to Section 8-78 on the grounds that utilizing a renewable primary heating system in a new building would be uneconomical. To be deemed uneconomical, the twenty-five (25) year capital and operational cost of the least expensive renewable primary heating system, including any available incentives from the Burlington electric department or other State or federal entities, must be more than the twenty five (25) year capital and operational costs of a nonrenewable primary heating system, including the cost of externalities calculated by a building carbon price of one hundred dollars (\$100.00) per ton for the life of the nonrenewable primary heating system. The building carbon price of one hundred dollars (\$100.00) per ton shall be annually adjusted by the program administrator equivalent to one hundred (100) percent of the annual change in the Consumer Price Index For All Urban Consumers (CPI-U) in the Northeast Region, to go into effect January 1 of every ensuing year.~~

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Three

ORDINANCE _____

Sponsor: Ordinance Committee

Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

An Ordinance in Relation to

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL HEATING SYSTEMS

8-76 Purpose and Authority.

(a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and, ~~where possible~~, reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.

(b) Authority. All provisions in this article relating to ~~heating~~thermal energy systems are adopted pursuant to the authority and powers granted by a majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the city and its inhabitants.

8-77 Definitions.

~~(a)—A “renewable primary heating system” shall mean a heating system that meets at least eighty-five (85) percent of the building’s design heating load calculated per the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.1) and is fueled by:~~

~~(1)—Electricity (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3); or~~

~~(2)—Wood pellets or woodchips; or~~

~~(3) Other renewable fuel used by conventional primary heating systems, including renewable gas, biodiesel, and renewable district heating, if the building owner provides a contract demonstrating that the fuel required by the conventional primary heating system is fully sourced from such other renewable fuels for the life of that conventional heating system.~~

~~“Renewable gas” shall mean methane produced by the organic material and sourced from landfills, wastewater treatment facilities, and farms as offered under a tariff or supply contract from a utility such as Vermont Gas Systems.~~

~~(b) A “nonprimary heating system” shall include back-up heating system, water heating system, or ventilation/air tempering system.~~

(a) A “thermal energy system” shall mean any space condition, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy.

(b) “Fossil fuel” shall include all fossil-based heating fuel, including coal, natural gas, kerosene, oil, and propane.

(c) “Renewable energy” shall include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of 30 V.S.A. § 8127. Renewable energy measures that do not rely on electrification, geothermal or solar will be subject the applicable requirements of section 8-78(a).

(d) Any “renewable energy” fuel or measure set forth in subsection (c) shall be considered excluded from the definition of “renewable energy” if the Vermont Public Utility Commission determines a renewable measure or fuel source is not eligible for renewable heat credits under the requirements of a State of Vermont Renewable Heat Standard or any similar State thermal energy policy.

(e) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:

(1) All residential buildings; and

(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no renewable energy thermal energy system available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.

(f) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.

(g) An “existing City building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.

8-78 ~~Applicability~~ Renewable Energy Requirements.

(a) New Buildings. Applicants seeking permits pursuant to this chapter for new buildings shall demonstrate that the new building will utilize ~~a renewable~~ energy thermal energy primary heating systems. ~~An applicant is permitted to install and utilize nonprimary heating systems in new buildings that use nonrenewable fuels.~~ If an applicant utilizes a primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must certify prior to receiving a permit that the use of electrification, geothermal, or solar measures is not technically feasible, is economically unduly burdensome, is not permitted by applicable regulation, or is not feasible for other similar reasons demonstrated to the satisfaction of the Department of Permitting and Inspections. If an applicant utilizes a non-primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must provide the Department of Permitting and Inspection a written explanation of the reason for not using a thermal energy system that relies on electrification, geothermal, or solar measures.

(b) Large Existing Buildings. Applicants seeking permits to replace space conditioning systems or domestic water heating systems that are in large existing buildings shall demonstrate the new space conditioning or domestic water heating systems will utilize renewable energy. This subsection (b) shall also apply to existing City buildings, except that existing City buildings are not subject to the carbon pollution impact fee established in Section 8-79.

(c) Annual Certification. If an applicant utilizes renewable energy in a thermal energy system capable of also using fossil fuels, the applicant must certify prior to receiving a permit and annually thereafter that the renewable energy fully offsets the annual usage for the thermal energy system. This certification may include, but shall not be limited to, submitting a contract, invoice, or proof of a subscription to or participation in a tariff program that demonstrates the applicant's purchased renewable energy fully covers the annual need of the thermal energy system. If the applicant fails to provide annual certification for any thermal energy system capable of also using fossil fuels, that thermal energy system shall be considered a fossil fuel thermal energy system that may only be utilized pursuant to subsection (d), subject to a carbon pollution impact fee established in Section 8-79 prorated to the remaining lifetime of the fossil fuel thermal energy system.

(d) Utilization of Fossil Fuel Thermal Energy Systems. An applicant covered by this Section may alternatively utilize a fossil fuel thermal energy system and the applicant's building shall be subject to the carbon pollution impact fee established in Section 8-79, but no permit shall be issued to an applicant utilizing a fossil fuel thermal energy system unless the applicant establishes that the cost of a renewable energy thermal energy system is unduly burdensome. To establish that the cost of a renewable energy thermal energy system is unduly burdensome, the applicant must demonstrate to the satisfaction of the Department of Permitting and Inspections that the twenty-five (25) year capital and operational cost of the least expensive renewable energy thermal energy system, including any available incentives, rebates, or tax credits, is more than the twenty-five (25) year capital and operational costs of the applicant's fossil fuel thermal energy system and the carbon pollution impact fee that will be assessed on the applicant's building.

(e) Supporting Incentives, Rebates, or Tax Credits. Nothing in this article prevents or prohibits applicants from utilizing any and all available local, state, or federal incentives, rebates, or tax credits that

support implementation of renewable energy for their buildings, and applicants are encouraged to access available incentives, rebates, or tax credits.

8-79 ~~Waiver~~ Carbon Pollution Impact Fee.

(a) Assessment of Fee. Applicants utilizing a fossil fuel thermal energy system pursuant to Section 8-78(c) shall be assessed a carbon pollution impact fee on the greenhouse gas emissions from the applicant's building or buildings that are attributable to the applied-for fossil fuel thermal energy systems. In no event should an applicant pay a carbon pollution impact fee twice for the same ton of carbon, and the Department of Permitting and Inspections should ensure in application of the fee that it is not duplicative for applicants with multiple buildings or campuses.

(b) Amount of Fee. Effective January 1, 2024, the carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions attributable to a building's fossil fuel thermal energy systems over their lifetime, based on a net present value calculation (using a discount rate that is the lower of the rate used by either the Environmental Protection Agency or the State of Vermont in calculating the social cost of carbon) at the time the permit application is submitted. The emissions attributable to a building's fossil fuel thermal energy systems will be based on the expected lifetime of the system and its expected annual emissions. Applicants shall be required to submit this information during the permit process, and Department of Permitting and Inspections may work with Burlington Electric Department Energy Services staff to assess and verify applicant information for expected lifetime and emissions of a system in a building. On each subsequent January 1, the carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, but in no event shall the increase be greater than five percent. The carbon pollution impact fee shall be rounded off to the nearest dollar.

(c) Exceptions.

(1) For large existing building applicants, the carbon pollution impact fee shall be capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system.

(2) An applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.

(3) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on renewable energy, the applicant may apply for a credit toward any carbon pollution impact fee equal to the carbon value of the renewable energy used for any thermal energy system permitted by the City of Burlington since January 1, 2024 and not regulated under this ordinance.

(c) Renewable Energy Fund. All carbon pollution impact fee proceeds, except those funds needed to administer this ordinance, shall be placed in a Renewable Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. Renewable Energy Fund proceeds shall be made available as follows:

(i) Half of the proceeds paid into the Renewable Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the applicant shall demonstrate to the satisfaction of the Department of Permitting and Inspections that the proceeds will be used to meaningfully reduce greenhouse gas emissions, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (iii).

(ii) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the Renewable Energy Fund by new construction applicants shall be available to provide financial assistance to help low-income Burlington residents with funding initiatives that reduce greenhouse gas emissions, including, but not limited to, the installation of renewable energy thermal energy systems, weatherization projects, or subsidizing utility costs associated with purchasing renewable energy rather than fossil fuel. This funding may be delivered either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office (“CEDO”), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions.

~~The department of permitting and inspections may grant a waiver to Section 8-78 on the grounds that utilizing a renewable primary heating system in a new building would be uneconomical. To be deemed uneconomical, the twenty-five (25) year capital and operational cost of the least expensive renewable primary heating system, including any available incentives from the Burlington electric department or other State or federal entities, must be more than the twenty-five (25) year capital and operational costs of a nonrenewable primary heating system, including the cost of externalities calculated by a building carbon price of one hundred dollars (\$100.00) per ton for the life of the nonrenewable primary heating system. The building carbon price of one hundred dollars (\$100.00) per ton shall be annually adjusted by the program administrator equivalent to one hundred (100) percent of the annual change in the Consumer Price Index For All Urban Consumers (CPI-U) in the Northeast Region, to go into effect January 1 of every ensuing year.~~

8-80 Effective Date and Reporting Requirement.

(a) The provisions of this Article shall take effect on January 1, 2024.

(b) The Department of Permitting and Inspections shall maintain records on applications submitted pursuant to this Article, including, but not limited to, information on applicant type, the size of an applicant’s building(s), the thermal energy system(s) applied for, whether the thermal energy

system(s) utilize fossil fuel or renewable energy, and information submitted in support of an applicant utilizing fossil fuel or renewable energy. The Department of Permitting and Inspections shall also maintain records on any carbon pollution impact fee proceeds paid into the Renewable Energy Fund and how these proceeds have been distributed. The records required under this section shall be reported to the City Council no later than January 1, 2026 and biannually thereafter, or otherwise upon request.

8-80~~1~~ – 8-99. Reserved.

* Material underlined added.

** Material stricken out deleted.

KS/Ordinances 2023/Thermal Energy Systems/BCO Ch. 8, Article V, Secs.8-76-8-80
10/30/2023

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Three

ORDINANCE _____

Sponsor: Ordinance Committee

Public Hearing Dates: _____

An Ordinance in Relation to

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

First reading: _____

Referred to: _____

Rules suspended and placed in all

Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL ENERGY SYSTEMS

8-76 Purpose and Authority.

(a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.

(b) Authority. All provisions in this article relating to thermal energy systems are adopted pursuant to the authority and powers granted by a majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the City and its inhabitants.

8-77 Definitions.

(a) A “thermal energy system” shall mean any space condition, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy.

(b) “Fossil fuel” shall include all fossil-based heating fuel, including coal, natural gas, kerosene, oil, and propane.

(c) “Renewable energy” shall include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of **30 V.S.A. § 8127**. Renewable energy measures that do not rely on electrification, geothermal or solar will be subject the applicable requirements of section 8-78(a).

(d) Any “renewable energy” fuel or measure set forth in subsection (c) shall be considered excluded from the definition of “renewable energy” if the Vermont Public Utility Commission determines a renewable measure or fuel source is not eligible for renewable heat credits under the requirements of a State of Vermont Renewable Heat Standard or any similar State thermal energy policy.

(e) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:

(1) All residential buildings; and

(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no renewable energy thermal energy system available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.

(f) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.

(g) An “existing City building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.

8-78 Renewable Energy Requirements.

(a) New Buildings. Applicants seeking permits pursuant to this chapter for a new building shall demonstrate that the new building will utilize renewable energy thermal energy systems. If an applicant utilizes a primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must certify prior to receiving a permit that the use of electrification, geothermal, or solar measures is not technically feasible, is economically unduly burdensome, is not permitted by applicable regulation, or is not feasible for other similar reasons demonstrated to the satisfaction of the Department of Permitting and Inspections. If an applicant utilizes a non-primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must provide the Department of Permitting and Inspection a written explanation of the reason for not using a thermal energy system that relies on electrification, geothermal, or solar measures.

(b) Large Existing Buildings. Applicants seeking permits to replace space conditioning systems or domestic water heating systems that are in large existing buildings shall demonstrate the new space conditioning or domestic water heating systems will utilize renewable energy. This subsection (b) shall also apply to existing City buildings, except that existing City buildings are not subject to the carbon pollution impact fee established in Section 8-79.

(c) Annual Certification. If an applicant utilizes renewable energy in a thermal energy system capable of also using fossil fuels, the applicant must certify prior to receiving a permit and annually thereafter that the renewable energy fully offsets the annual usage for the thermal energy system. This certification may include, but shall not be limited to, submitting a contract, invoice, or proof of a subscription to or

participation in a tariff program that demonstrates the applicant's purchased renewable energy fully covers the annual need of the thermal energy system. If the applicant fails to provide annual certification for any thermal energy system capable of also using fossil fuels, that thermal energy system shall be considered a fossil fuel thermal energy system that may only be utilized pursuant to subsection (d), subject to a carbon pollution impact fee established in Section 8-79 prorated to the remaining lifetime of the fossil fuel thermal energy system.

(d) Utilization of Fossil Fuel Thermal Energy Systems. An applicant covered by this Section may alternatively utilize a fossil fuel thermal energy system and the applicant's building shall be subject to the carbon pollution impact fee established in Section 8-79, but no permit shall be issued to an applicant utilizing a fossil fuel thermal energy system unless the applicant establishes that the cost of a renewable energy thermal energy system is unduly burdensome. To establish that the cost of a renewable energy thermal energy system is unduly burdensome, the applicant must demonstrate to the satisfaction of the Department of Permitting and Inspections that the twenty-five (25) year capital and operational cost of the least expensive renewable energy thermal energy system, including any available incentives, rebates, or tax credits, is more than the twenty-five (25) year capital and operational costs of the applicant's fossil fuel thermal energy system and the carbon pollution impact fee that will be assessed on the applicant's building.

(e) Supporting Incentives, Rebates, or Tax Credits. Nothing in this article prevents or prohibits applicants from utilizing any and all available local, state, or federal incentives, rebates, or tax credits that support implementation of renewable energy for their buildings, and applicants are encouraged to access available incentives, rebates, or tax credits.

8-79 Carbon Pollution Impact Fee.

(a) Assessment of Fee. Applicants utilizing a fossil fuel thermal energy system pursuant to Section 8-78(c) shall be assessed a carbon pollution impact fee on the greenhouse gas emissions from the applicant's building or buildings that are attributable to the applied-for fossil fuel thermal energy systems. In no event should an applicant pay a carbon pollution impact fee twice for the same ton of carbon, and the Department of Permitting and Inspections should ensure in application of the fee that it is not duplicative for applicants with multiple buildings or campuses.

(b) Amount of Fee. Effective January 1, 2024, the carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions attributable to a building's fossil fuel thermal energy systems over their lifetime, based on a net present value calculation (using a discount rate that is the lower of the rate used by either the Environmental Protection Agency or the State of Vermont in calculating the social cost of carbon) at the time the permit application is submitted. The emissions attributable to a building's fossil fuel thermal energy systems will be based on the expected lifetime of the system and its expected annual emissions. Applicants shall be required to submit this information during the permit process, and Department of Permitting and Inspections may work with Burlington Electric Department Energy Services staff to assess and verify applicant information for expected lifetime and emissions of a system in a building. On each subsequent January 1, the carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12

months preceding the previous September 1, but in no event shall the increase be greater than five percent. The carbon pollution impact fee shall be rounded off to the nearest dollar.

(c) Exceptions.

- (1) For large existing building applicants, the carbon pollution impact fee shall be capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system.
- (2) An applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.
- (3) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on renewable energy, the applicant may apply for a credit toward any carbon pollution impact fee equal to the carbon value of the renewable energy used for any thermal energy system permitted by the City of Burlington since January 1, 2024 and not regulated under this ordinance.

(c) Renewable Energy Fund. All carbon pollution impact fee proceeds, except those funds needed to administer this ordinance, shall be placed in a Renewable Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. Renewable Energy Fund proceeds shall be made available as follows:

- (i) Half of the proceeds paid into the Renewable Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the applicant shall demonstrate to the satisfaction of the Department of Permitting and Inspections that the proceeds will be used to meaningfully reduce greenhouse gas emissions, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (iii).
- (ii) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the Renewable Energy Fund by new construction applicants shall be available to provide financial assistance to help low-income Burlington residents with funding initiatives that reduce greenhouse gas emissions, including, but not limited to, the installation of renewable energy thermal energy systems, weatherization projects, or subsidizing utility costs associated with purchasing renewable energy rather than fossil fuel. This funding may be delivered either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office (“CEDO”), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions.

8-80 Effective Date and Reporting Requirement.

- (a) The provisions of this Article shall take effect on January 1, 2024.
- (b) The Department of Permitting and Inspections shall maintain records on applications submitted pursuant to this Article, including, but not limited to, information on applicant type, the size of an applicant's building(s), the thermal energy system(s) applied for, whether the thermal energy system(s) utilize fossil fuel or renewable energy, and information submitted in support of an applicant utilizing fossil fuel or renewable energy. The Department of Permitting and Inspections shall also maintain records on any carbon pollution impact fee proceeds paid into the Renewable Energy Fund and how these proceeds have been distributed. The records required under this section shall be reported to the City Council no later than January 1, 2026 and biannually thereafter, or otherwise upon request.

8-81 – 8-99. Reserved.

KS/Ordinances 2023/Thermal Energy Systems/BCO Ch. 8, Article V, Secs.8-76-8-80
10/30/2023

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Councilors Traverse,
Barlow
Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all
Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

In the Year Two Thousand Twenty-Three

An Ordinance in Relation to

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL ENERGY SYSTEMS

8-76 Purpose and Authority.

(a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.

(b) Authority. All provisions in this article relating to thermal energy systems are adopted pursuant to the authority and powers granted by section 48(66) of the City Charter ~~a majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter~~ and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City, and the majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023 to authorize assessment of a carbon impact fee on certain fossil fuel thermal energy systems. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the City and its inhabitants.

8-77 Definitions.

(a) A “thermal energy system” shall mean any space condition, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy.

(b) “Fossil fuel” shall include all fossil-based heating fuel, including coal, natural gas, kerosene, oil, and propane.

(c) ~~“CleanRenewable energy” shall mean:include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of 30 V.S.A. § 8127. Renewable energy measures that do not rely on electrification, geothermal or solar will be subject the applicable requirements of section 8-78(a).~~

~~(1) Electric-powered thermal equipment, including cold-climate air source heat pumps, ground source heat pumps, and all other heat pumps including district, thermal energy network, grid, microgrid, and building geothermal systems and systems that use waste heat from non-combustion sources; electric appliances providing thermal end uses; and heat pump hot water heaters (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3) or the Vermont Residential Building Energy Standards (RBES) Energy Code (Section 2.4b));~~

~~(2) Solar water or air heating systems, solar thermal assisted heat pumps, and solar district heating, or solar thermal systems connected to thermal energy networks; and~~

~~(4)(3) McNeil District Energy, if and only if the City approves proceeding with the project.~~

(d) Any ~~“cleanrenewable energy”~~ ~~fuel or~~ measure set forth in subsection (c) shall be considered excluded from the definition of ~~“cleanrenewable energy”~~ if the Vermont Public Utility Commission determines ~~ita renewablemeasure or fuel source~~ is not eligible for ~~cleanrenewable~~ heat credits under the requirements of a State of Vermont ~~CleanRenewable~~ Heat Standard or any similar State thermal energy policy.

(e) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:

(1) All residential buildings; and

(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no ~~cleanrenewable~~ energy thermal energy system available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.

(f) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.

(g) An “existing City building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.

8-78 ~~CleanRenewable~~ Energy Requirements.

(a) New Buildings. Applicants seeking permits pursuant to this chapter for a new building shall demonstrate that the new building will utilize ~~cleanrenewable~~ energy thermal energy systems. ~~If an~~

~~applicant utilizes a primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must certify prior to receiving a permit that the use of electrification, geothermal, or solar measures is not technically feasible, is economically unduly burdensome, is not permitted by applicable regulation, or is not feasible for other similar reasons demonstrated to the satisfaction of the Department of Permitting and Inspections. If an applicant utilizes a non-primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must provide the Department of Permitting and Inspection a written explanation of the reason for not using a thermal energy system that relies on electrification, geothermal, or solar measures.~~

(b) Large Existing Buildings. Applicants seeking permits to replace space conditioning systems or domestic water heating systems that are in large existing buildings shall demonstrate the new space conditioning or domestic water heating systems will utilize cleanrenewable energy. This subsection (b) shall also apply to existing City buildings, except that existing City buildings are not subject to the carbon pollution impact fee established in Section 8-79.

~~(c) — Annual Certification. If an applicant utilizes renewable energy in a thermal energy system capable of also using fossil fuels, the applicant must certify prior to receiving a permit and annually thereafter that the renewable energy fully offsets the annual usage for the thermal energy system. This certification may include, but shall not be limited to, submitting a contract, invoice, or proof of a subscription to or participation in a tariff program that demonstrates the applicant's purchased renewable energy fully covers the annual need of the thermal energy system. If the applicant fails to provide annual certification for any thermal energy system capable of also using fossil fuels, that thermal energy system shall be considered a fossil fuel thermal energy system that may only be utilized pursuant to subsection (d), subject to a carbon pollution impact fee established in Section 8-79 prorated to the remaining lifetime of the fossil fuel thermal energy system.~~

(d) Utilization of Fossil Fuel Thermal Energy Systems. An applicant covered by this Section may alternatively utilize a fossil fuel thermal energy system and the applicant's building shall be subject to the carbon pollution impact fee established in Section 8-79, but no permit shall be issued to an applicant utilizing a fossil fuel thermal energy system unless the applicant establishes that the cost of a cleanrenewable energy thermal energy system is unduly burdensome. To establish that the cost of a cleanrenewable energy thermal energy system is unduly burdensome, the applicant must demonstrate to the satisfaction of the Department of Permitting and Inspections that the twenty-five (25) year capital and operational cost of the least expensive cleanrenewable energy thermal energy system, including any available incentives, rebates, or tax credits, is more than the twenty-five (25) year capital and operational costs of the applicant's fossil fuel thermal energy system and the carbon pollution impact fee that will be assessed on the applicant's building.

(e) Supporting Incentives, Rebates, or Tax Credits. Nothing in this article prevents or prohibits applicants from utilizing any and all available local, state, or federal incentives, rebates, or tax credits that support implementation of cleanrenewable energy for their buildings, and applicants are encouraged to access available incentives, rebates, or tax credits.

8-79 Carbon Pollution Impact Fee.

(a) Assessment of Fee. Applicants utilizing a fossil fuel thermal energy system pursuant to Section 8-78(ed) shall be assessed a carbon pollution impact fee on the greenhouse gas emissions from the applicant's building or buildings that are attributable to the applied-for fossil fuel thermal energy systems. In no event should an applicant pay a carbon pollution impact fee twice for the same ton of carbon, and the Department of Permitting and Inspections should ensure in application of the fee that it is not duplicative for applicants with multiple buildings or campuses.

(b) Amount of Fee. Effective January 1, 2024, the carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions attributable to a building's fossil fuel thermal energy systems over their lifetime, based on a net present value calculation (using a discount rate that is the lower of the rate used by either the Environmental Protection Agency or the State of Vermont in calculating the social cost of carbon) at the time the permit application is submitted. The emissions attributable to a building's fossil fuel thermal energy systems will be based on the expected lifetime of the system and its expected annual emissions. Applicants shall be required to submit this information during the permit process, and Department of Permitting and Inspections may work with Burlington Electric Department Energy Services staff to assess and verify applicant information for expected lifetime and emissions of a system in a building. On each subsequent January 1, the carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, but in no event shall the increase be greater than five percent. The carbon pollution impact fee shall be rounded off to the nearest dollar.

(c) Exceptions.

- (1) For large existing building applicants, the carbon pollution impact fee shall be capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system.
- (2) An applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.
- (3) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on cleanrenewable energy, the applicant may apply for a credit toward any carbon pollution impact fee equal to the carbon value of the cleanrenewable energy used for any thermal energy system permitted by the City of Burlington since January 1, 2024 and not regulated under this ordinance.

(c) CleanRenewable Energy Fund. All carbon pollution impact fee proceeds, except those funds needed to administer this ordinance, shall be placed in a CleanRenewable Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. CleanRenewable Energy Fund proceeds shall be made available as follows:

(i) Half of the proceeds paid into the ~~Clean~~Renewable Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the applicant shall demonstrate to the satisfaction of the Department of Permitting and Inspections that the proceeds will be used to meaningfully reduce greenhouse gas emissions, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (iii).

(ii) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the ~~Clean~~Renewable Energy Fund by new construction applicants shall be available to provide financial assistance to help low-income Burlington residents with funding initiatives that reduce greenhouse gas emissions, including, but not limited to, the installation of ~~clean~~renewable energy thermal energy systems, weatherization projects, or subsidizing utility costs associated with purchasing renewable energy rather than fossil fuel. This funding may be delivered either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office (“CEDO”), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions.

8-80 Effective Date and Reporting Requirement.

(a) The provisions of this Article shall take effect on January 1, 2024.

(b) The Department of Permitting and Inspections shall maintain records on applications submitted pursuant to this Article, including, but not limited to, information on applicant type, the size of an applicant’s building(s), the thermal energy system(s) applied for, whether the thermal energy system(s) utilize fossil fuel or ~~clean~~renewable energy, and information submitted in support of an applicant utilizing fossil fuel or ~~clean~~renewable energy. The Department of Permitting and Inspections shall also maintain records on any carbon pollution impact fee proceeds paid into the ~~Clean~~Renewable Energy Fund and how these proceeds have been distributed. The records required under this section shall be reported to the City Council no later than January 1, 2026 and biannually thereafter, or otherwise upon request.

To: City Council

From: Councilor Ben Traverse, Ordinance Committee Chair

Date: November 20, 2023

Re: In Support of Carbon Pollution Impact Fee Ordinance

As one of the original sponsors of the carbon pollution impact fee ordinance and chairperson of the Ordinance Committee, I submit this memorandum in support of the draft ordinance now before the full City Council.

The draft ordinance was significantly strengthened through the committee process and now requires that new building applicants prioritize the use of clean electric, geothermal, or solar heat thermal energy systems. New building applicants may only use a combustible fuel, whether it be fossil or renewable, if they certify they are unable to use electric, geothermal, or solar heat. Based on testimony before the Ordinance Committee from the Burlington Electric Department, the Committee's understanding was that very few applicants will be in a position where they are unable to use electric, geothermal, or solar heat. In that rare instance, the ordinance is written to allow applicants the choice between using: (1) a fossil fuel and paying an associated carbon pollution impact fee;¹ or (2) a renewable combustible fuel that the State has determined will reduce greenhouse gas emissions as compared to its fossil alternative.² If the City Council removes renewable combustible fuels from the ordinance, applicants who are unable to use electric, geothermal, or solar heat will have no choice other than to use a fossil fuel.

BACKGROUND

On Town Meeting Day 2023, Burlington voters gave the City authority to implement a carbon pollution impact fee up to \$150 per ton of greenhouse gas emissions generated by fossil fuel thermal energy systems in new buildings and large existing buildings in excess of 50,000 square feet. During public comment, the Ordinance Committee heard from individuals who advocated for a carbon pollution impact fee higher than \$150, for the fee to apply to existing buildings smaller than 50,000 square feet, and for the fee to apply to thermal energy systems that use certain renewable combustible fuels (e.g., wood, RNG, hydrogen, and biodiesel). With voter support, the City Council may want to consider expansion of the carbon fee at a later date, but we are not currently authorized to take these steps.

The City's authority is limited to standing up a carbon fee for fossil fuel thermal energy systems and otherwise regulating the types of thermal energy systems that may be utilized by building applicants. Proposed amendments have been submitted to the City Council that would entirely prohibit the use of certain renewable combustible fuels in Burlington. Amendments substantively similar to those now proposed were considered and rejected by both TEUC and the Ordinance Committee.

COMMITTEE PROCESS

¹ The draft ordinance defines a "fossil fuel" as a fossil-based heating fuel, including coal, natural gas, kerosene, oil, and propane.

² See 30 V.S.A. § 8127

The committee process significantly strengthened the carbon pollution impact fee ordinance in a number of important ways. Some improvements were more administrative in nature and, among other steps, clarified how the carbon pollution impact fee will be calculated, prioritized how fee proceeds will be spent, and more carefully defined certain exceptions to the fee.

The three ways in which the ordinance was more substantively strengthened can be summarized as follows:

1. **Aligning Renewable Fuels to State Clean Heat Standard** – the renewable fuels that will be exempt from Burlington’s carbon pollution impact fee are now clearly aligned with Vermont’s “clean heat” standard. Applicable State statute provides that certain renewable combustible fuels (e.g., wood, RNG, hydrogen, and biodiesel) may be classified as “clean heat,” but only if a State technical advisory group confirms the fuel source is reducing greenhouse gas emissions as compared to its fossil alternative.
2. **Prioritization of Electric, Geothermal, and Solar Heat** – in response to public feedback concerned about the use of renewable combustible fuels, the Ordinance Committee amended the draft now before the Council to provide that new building applicants must prioritize the use of electric, geothermal, and solar heat thermal energy systems. New building applicants may only use a combustible fuel if they are able to certify they are unable to use electric, geothermal, or solar heat. In that instance, which the Ordinance Committee learned will be a rare occasion, a new building applicants will be able to choose between using: (1) a fossil fuel and paying the carbon pollution impact fee; or (2) a renewable combustible fuel which, as explained above, must be State-certified as “clean heat.” If the City Council removes these renewable combustible fuels from the ordinance, applicants that must use a gas-based system will have no choice other than to utilize fossil fuel.
3. **Recordkeeping** – based on testimony from the Burlington Electric Department, the Ordinance Committee understood that with this draft ordinance, the vast majority of applicants for both new and existing buildings will be utilizing electric thermal energy systems. To confirm this intended result, however, the Ordinance Committee added recordkeeping and reporting requirements to influence future policymaking.

CONCLUSION

The ordinance as written is strong and will significantly contribute towards Burlington’s net-zero goals by prioritizing the use of electric, geothermal, and solar heat thermal energy systems. In the rare instance new building applicants are unable to use one of these clean systems, they will have a choice between using a fossil fuel and paying a carbon pollution impact fee or using a renewable fuel that the State has certified as reducing greenhouse gas emissions. To ensure the intended impact of this ordinance is being met, new recordkeeping and reporting requirements will provide the City Council the information necessary to inform future policymaking.

Lori Olberg

Agenda Item 7.5.

From: Gene Bergman
Sent: Monday, November 20, 2023 2:28 PM
To: Lori Olberg; Karen Paul
Subject: Technical change to Carbon Fee Ordinance Amendments by CC Bergman

Karen and Lori,

I've been informed that there is an error in the markup depicting my amendments.

Because Section 8-78(c) is deleted, subsection (d) (line 103) should be changed to (c),

and the reference to Section 8-78(d) in section 8-79(a) should be changed to 8-78-(c) (Line 122).

Will this suffice as a writing related to those amendments so I can refer to them at the beginning of my remarks?

Gene

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Three

ORDINANCE 7.5.

Sponsor: Ordinance Committee

Public Hearing Dates: _____

An Ordinance in Relation to

THERMAL ENERGY SYSTEMS AND THE ASSESSMENT OF
A CARBON POLLUTION IMPACT FEE

First reading: 07/24/23

Referred to: TEUC; Ordinance

Rules suspended and placed in all
stages of passage: _____

Second reading: 11/20/23

Action: adopted

Date: 11/20/23

Signed by Mayor: 11/28/23

Published: 12/06/23

Effective: 12/27/23

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 8, Buildings and Building Constructions, Article V, Heating Systems, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE V. THERMAL HEATING SYSTEMS

8-76 Purpose and Authority.

(a) Purpose. It is in the public interest and in the interest of public health and safety to achieve a high degree of conservation of energy and, ~~where possible,~~ reduce emissions of greenhouse gases by requiring buildings to meet specified energy efficiency performance standards and maximum allowable heat loss standards.

(b) Authority. All provisions in this article relating to ~~heating~~thermal energy systems are adopted pursuant to the authority and powers granted by a majority of the legal voters of the City who voted at the annual City meeting on March 7, 2023, in accordance with section 48(66) of the City Charter and its provisions on the regulation of thermal energy systems in residential and commercial buildings, including the assessment of carbon impact or alternative compliance payments, for the purpose of reducing greenhouse gas emissions throughout the City. The provisions in this article are further adopted pursuant to the authority and powers granted by the Vermont Legislature in 24 V.S.A. § 3101 (Chapter 83. Building Inspectors and Regulation of Building; Bylaws and ordinances; penalties), as reasonably necessary to improve the health, safety, and welfare of the public from fuel leaks and explosions, and from air pollution, including that which is causing climate change and thereby threatens the city and its inhabitants.

8-77 Definitions.

~~(a) A "renewable primary heating system" shall mean a heating system that meets at least eighty-five (85) percent of the building's design heating load calculated per the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.1) and is fueled by:~~

~~(1) Electricity (with the exception of electric resistance units prohibited by the Vermont Commercial Building Energy Standards (CBES) Energy Code (Section C403.2.3); or~~

~~(2) Wood pellets or woodchips; or~~

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,

namely the _____ day of _____, 20____.

Adopted _____ Published _____ Effective _____
_____, City Clerk

Attest:

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

* * * * *
* * * * *

~~(3) Other renewable fuel used by conventional primary heating systems, including renewable gas, biodiesel, and renewable district heating, if the building owner provides a contract demonstrating that the fuel required by the conventional primary heating system is fully sourced from such other renewable fuels for the life of that conventional heating system.~~

~~“Renewable gas” shall mean methane produced by the organic material and sourced from landfills, wastewater treatment facilities, and farms as offered under a tariff or supply contract from a utility such as Vermont Gas Systems.~~

~~(b) A “nonprimary heating system” shall include back-up heating system, water heating system, or ventilation/air tempering system.~~

~~(a) A “thermal energy system” shall mean any space condition, domestic hot water, cooking, appliance, process heat, or other building system that relies on thermal energy.~~

~~(b) “Fossil fuel” shall include all fossil-based heating fuel, including coal, natural gas, kerosene, oil, and propane.~~

~~(c) “Renewable energy” shall include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of 30 V.S.A. § 8127. Renewable energy measures that do not rely on electrification, geothermal or solar will be subject the applicable requirements of section 8-78(a).~~

~~(d) Any “renewable energy” fuel or measure set forth in subsection (c) shall be considered excluded from the definition of “renewable energy” if the Vermont Public Utility Commission determines a renewable measure or fuel source is not eligible for renewable heat credits under the requirements of a State of Vermont Renewable Heat Standard or any similar State thermal energy policy.~~

~~(e) A “large existing building” shall mean a building with at least fifty thousand (50,000) feet in total floor area of enclosed conditioned space, including hotels, but excepting the following:~~

~~(1) All residential buildings; and~~

~~(2) Buildings listed, or eligible to be listed, on the National Historic Register, provided the applicant can demonstrate to the satisfaction of the Department of Permitting and Inspections that there is no renewable energy thermal energy system available to the building due to the historic nature of the building and any limitations imposed by the National Historic Register.~~

~~(f) A “new building” shall mean the new construction of any building, excepting all additions, alterations, renovations, or repairs to an existing building.~~

~~(g) An “existing City building” means all municipal buildings constructed prior to January 1, 2023 and owned by the City of Burlington, regardless of their size or square footage.~~

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

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Attest,

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Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

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Adopted _____ Published _____ Effective _____
_____, City Clerk

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on _____

* * * * *

78 **8-78 ~~Applicability~~ Renewable Energy Requirements.**

79
80 (a) New Buildings. Applicants seeking permits pursuant to this chapter for new buildings shall
81 demonstrate that the new building will utilize ~~a~~ renewable ~~energy thermal energy primary heating~~ systems.
82 ~~An applicant is permitted to install and utilize nonprimary heating systems in new buildings that use~~
83 ~~nonrenewable fuels. If an applicant utilizes a primary thermal energy system that relies on renewable energy~~
84 ~~other than electrification, geothermal, or solar measures, the applicant must certify prior to receiving a permit~~
85 ~~that the use of electrification, geothermal, or solar measures is not technically feasible, is economically~~
86 ~~unduly burdensome, is not permitted by applicable regulation, or is not feasible for other similar reasons~~
87 ~~demonstrated to the satisfaction of the Department of Permitting and Inspections. If an applicant utilizes a~~
88 ~~non-primary thermal energy system that relies on renewable energy other than electrification, geothermal, or~~
89 ~~solar measures, the applicant must provide the Department of Permitting and Inspection a written~~
90 ~~explanation of the reason for not using a thermal energy system that relies on electrification, geothermal, or~~
91 ~~solar measures.~~

92
93 (b) Large Existing Buildings. Applicants seeking permits to replace space conditioning systems or
94 domestic water heating systems that are in large existing buildings shall demonstrate the new space
95 conditioning or domestic water heating systems will utilize renewable energy. This subsection (b) shall also
96 apply to existing City buildings, except that existing City buildings are not subject to the carbon pollution
97 impact fee established in Section 8-79.

98
99 (c) Annual Certification. If an applicant utilizes renewable energy in a thermal energy system capable of
100 also using fossil fuels, the applicant must certify prior to receiving a permit and annually thereafter that the
101 renewable energy fully offsets the annual usage for the thermal energy system. This certification may
102 include, but shall not be limited to, submitting a contract, invoice, or proof of a subscription to or
103 participation in a tariff program that demonstrates the applicant's purchased renewable energy fully covers
104 the annual need of the thermal energy system. If the applicant fails to provide annual certification for any
105 thermal energy system capable of also using fossil fuels, that thermal energy system shall be considered a
106 fossil fuel thermal energy system that may only be utilized pursuant to subsection (d), subject to a carbon
107 pollution impact fee established in Section 8-79 prorated to the remaining lifetime of the fossil fuel thermal
108 energy system.

109
110 (d) Utilization of Fossil Fuel Thermal Energy Systems. An applicant covered by this Section may
111 alternatively utilize a fossil fuel thermal energy system and the applicant's building shall be subject to the
112 carbon pollution impact fee established in Section 8-79, but no permit shall be issued to an applicant utilizing
113 a fossil fuel thermal energy system unless the applicant establishes that the cost of a renewable energy
114 thermal energy system is unduly burdensome. To establish that the cost of a renewable energy thermal
115 energy system is unduly burdensome, the applicant must demonstrate to the satisfaction of the Department of
116 Permitting and Inspections that the twenty-five (25) year capital and operational cost of the least expensive
117 renewable energy thermal energy system, including any available incentives, rebates, or tax credits, is more
118 than the twenty-five (25) year capital and operational costs of the applicant's fossil fuel thermal energy
119 system and the carbon pollution impact fee that will be assessed on the applicant's building.

120
121 (e) Supporting Incentives, Rebates, or Tax Credits. Nothing in this article prevents or prohibits
122 applicants from utilizing any and all available local, state, or federal incentives, rebates, or tax credits that

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

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Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,

namely the _____ day of _____, 20____.

Adopted _____ Published _____ Effective _____

_____, City Clerk

Attest:

Distribution

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on _____

* * * * *

* * * * *

support implementation of renewable energy for their buildings, and applicants are encouraged to access available incentives, rebates, or tax credits.

8-79 ~~Waiver~~ Carbon Pollution Impact Fee.

(a) Assessment of Fee. Applicants utilizing a fossil fuel thermal energy system pursuant to Section 8-78(c) shall be assessed a carbon pollution impact fee on the greenhouse gas emissions from the applicant's building or buildings that are attributable to the applied-for fossil fuel thermal energy systems. In no event should an applicant pay a carbon pollution impact fee twice for the same ton of carbon, and the Department of Permitting and Inspections should ensure in application of the fee that it is not duplicative for applicants with multiple buildings or campuses.

(b) Amount of Fee. Effective January 1, 2024, the carbon pollution impact fee shall be equal to one hundred fifty dollars (\$150.00) per ton of greenhouse gas emissions attributable to a building's fossil fuel thermal energy systems over their lifetime, based on a net present value calculation (using a discount rate that is the lower of the rate used by either the Environmental Protection Agency or the State of Vermont in calculating the social cost of carbon) at the time the permit application is submitted. The emissions attributable to a building's fossil fuel thermal energy systems will be based on the expected lifetime of the system and its expected annual emissions. Applicants shall be required to submit this information during the permit process, and Department of Permitting and Inspections may work with Burlington Electric Department Energy Services staff to assess and verify applicant information for expected lifetime and emissions of a system in a building. On each subsequent January 1, the carbon pollution impact fee shall be increased by any percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, but in no event shall the increase be greater than five percent. The carbon pollution impact fee shall be rounded off to the nearest dollar.

(c) Exceptions.

(1) For large existing building applicants, the carbon pollution impact fee shall be capped at no more than 75 percent of the installed cost of the proposed space conditioning or domestic water heating system.

(2) An applicant building a new, residential multi-unit dwelling with four or more units shall not be subject to the alternative compliance carbon pollution impact fee as it applies to domestic water heating systems until January 1, 2026.

(3) If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on renewable energy, the applicant may apply for a credit toward any carbon pollution impact fee equal to the carbon value of the renewable energy used for any thermal energy system permitted by the City of Burlington since January 1, 2024 and not regulated under this ordinance.

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

_____, 20_____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20_____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20_____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20_____.

Attest,

_____, Clerk.

Approved _____, 20_____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,
namely the _____ day of _____, 20_____.

Adopted _____ Published _____ Effective _____
_____, City Clerk

Attest:

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

* * * * *

* * * * *

(d) Renewable Energy Fund. All carbon pollution impact fee proceeds, except those funds needed to administer this ordinance, shall be placed in a Renewable Energy Fund established and managed by the Department of Permitting and Inspections with technical support from the Burlington Electric Department. Renewable Energy Fund proceeds shall be made available as follows:

(1) Half of the proceeds paid into the Renewable Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the applicant shall demonstrate to the satisfaction of the Department of Permitting and Inspections that the proceeds will be used to meaningfully reduce greenhouse gas emissions, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (2).

(2) Any remaining proceeds collected from large existing building applicants and all proceeds paid into the Renewable Energy Fund by new construction applicants shall be available to provide financial assistance to help low-income Burlington residents with funding initiatives that reduce greenhouse gas emissions, including, but not limited to, the installation of renewable energy thermal energy systems, weatherization projects, or subsidizing utility costs associated with purchasing renewable energy rather than fossil fuel. This funding may be delivered either through direct payments to homeowners and renters who are income-qualified per the most recent income-qualification levels published by the Community and Economic Development Office ("CEDO"), or through payments to property owners of multi-family buildings where at least 25 percent of the tenants in the building are income-qualified, provided that the property owner must commit to not raising the rent of income-qualified tenants as a result of costs associated with the funded initiatives to reduce greenhouse gas emissions.

~~The department of permitting and inspections may grant a waiver to Section 8-78 on the grounds that utilizing a renewable primary heating system in a new building would be uneconomical. To be deemed uneconomical, the twenty-five (25) year capital and operational cost of the least expensive renewable primary heating system, including any available incentives from the Burlington electric department or other State or federal entities, must be more than the twenty-five (25) year capital and operational costs of a nonrenewable primary heating system, including the cost of externalities calculated by a building carbon price of one hundred dollars (\$100.00) per ton for the life of the nonrenewable primary heating system. The building carbon price of one hundred dollars (\$100.00) per ton shall be annually adjusted by the program administrator equivalent to one hundred (100) percent of the annual change in the Consumer Price Index For All Urban Consumers (CPI-U) in the Northeast Region, to go into effect January 1 of every ensuing year.~~

8-80 Effective Date and Reporting Requirement.

(a) The provisions of this Article shall take effect on January 1, 2024.

(b) The Department of Permitting and Inspections shall maintain records on applications submitted pursuant to this Article, including, but not limited to, information on applicant type, the size of an applicant's building(s), the thermal energy system(s) applied for, whether the thermal energy

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,

namely the _____ day of _____, 20____.

Adopted _____ Published _____ Effective _____

_____, City Clerk

Attest:

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

* * * * *

* * * * *

system(s) utilize fossil fuel or renewable energy, and information submitted in support of an applicant utilizing fossil fuel or renewable energy. The Department of Permitting and Inspections shall also maintain records on any carbon pollution impact fee proceeds paid into the Renewable Energy Fund and how these proceeds have been distributed. The records required under this section shall be reported to the City Council no later than January 1, 2026 and biannually thereafter, or otherwise upon request.

~~8-801~~ – 8-99. Reserved.

* Material underlined added.

** Material stricken out deleted.

KS/Ordinances 2023/Thermal Energy Systems/BCO Ch. 8, Article V, Secs.8-76-8-80
11/20/2023

ORIGINAL

AN ORDINANCE

IN RELATION TO

Thermal Energy Systems And The Assessment Of A
Carbon Pollution Impact Fee

Introduced by _____ Ordinance Committee
Debbi Holt

Read in City Council first time
July 24, 2023

Attest, _____, Clerk.
[Signature]

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest, _____, Clerk.
[Signature]

Read in City Council second time
November 20, 2023

Attest, _____, Clerk.
[Signature]

Passed in City Council at meeting held
November 20, 2023

Attest, _____, Clerk.
[Signature]
November 20, 2023
Approved _____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day of _____, 20____.

namely the 6th day of December, 2023.

Adopted 11/20/23 Published 12/06/23 Effective 12/27/23
_____, CAO Schad / _____, City Clerk /

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on

BED, Darren Springer
DPI, Bill Ward

Attest:

Lori Olberg
Licensing and Records Coordinator

* * * * *

* * * * *

Resolution Relating to

RESOLUTION SUPPORTING DISTRICT ENERGY AND
CONTINUED EFFICIENCY IMPROVEMENT AT MCNEIL
GENERATING STATION

RESOLUTION_____

Sponsor(s): Councilors Barlow, Dieng
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:

1 That WHEREAS, the City of Burlington (the “City”) and the Burlington Electric Department (“BED”) have
2 adopted a goal to reduce and eventually eliminate fossil fuel usage in heating and ground transportation (the
3 “Net Zero Energy Goal”), as set forth in the Net Zero Energy Roadmap, dated September 5, 2019; and
4 WHEREAS, the City and BED have identified and are undertaking capital improvements to implement
5 the City’s Net Zero Energy Goal, including technology system upgrades, electric grid updates to meet
6 increased electricity needs resulting from greater strategic electrification and to ensure the continued reliability
7 of BED’s current distribution system, generation plant upgrades and maintenance, and acquisition of and
8 investment in municipal electric vehicles and vehicle charging stations; and
9 WHEREAS, BED, as a municipal public utility, has as its mission the imperative to serve customers
10 with energy in a manner that is safe, reliable, affordable, sustainable and socially-responsible; and
11 WHEREAS, BED and the other joint owners of the McNeil Generating Station (the “McNeil Plant”)
12 have investigated the beneficial use of steam generated at the McNeil Plant to reduce fossil fuel use in the
13 City, and have engaged in discussions and planning over several years as to how to best capture and use the
14 steam heat; and
15 WHEREAS, the City and BED have engaged in discussions and feasibility work with Ever-Green
16 Energy, Inc. (“Ever-Green”) and the non-profit Burlington District Energy System (“Burlington District
17 Energy”, a Vermont nonprofit corporation, that is operated exclusively for charitable purposes within the
18 meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to examine methods and
19 options to implement a district heating project that utilizes the thermal energy from the McNeil Plant and a
20 supplementary electric boiler; and
21 WHEREAS, BED, Ever-Green Energy, Vermont Gas Systems, and the University of Vermont Medical
22 Center (“Medical Center”) presented on the proposed Burlington District Energy project at a work session at
23 the Council’s meeting on October 23rd, 2023, and the Medical Center indicated it was interested in moving
24 forward with purchasing the renewable steam from the Burlington District Energy project as a customer,

25 pending several items including completion of discussions on terms and pending City review and approval to
26 advance the project; and

27 WHEREAS, the Medical Center indicated that having access to steam from Burlington District Energy
28 would support campus energy needs and reliability and future growth and investment in the Burlington
29 campus; and

30 WHEREAS, Burlington District Energy will support waste heat capture and use at the McNeil Plant,
31 and improve overall efficiency at the Plant by approximately 10 percent; and

32 WHEREAS, it is estimated that the Burlington District Energy project will reduce natural gas
33 consumption by approximately 16 percent in the commercial sector in Burlington, avoiding approximately
34 13,000 tons of greenhouse gas emissions in that sector; and

35 WHEREAS, the Burlington Electric Light Commission voted unanimously at its meeting on October
36 25, 2023, to recommend the Burlington District Energy project and relevant term sheets to the City Council;
37 and

38 WHEREAS, the McNeil Joint Owners voted unanimously at their meeting on November 6, 2023 to
39 advance the District Energy term sheets to the City Council; and

40 WHEREAS, BED has indicated and committed that while wood chip usage at the McNeil Plant varies
41 annually and will continue to vary based on the plant's operational availability and the electric market pricing,
42 the implementation of and operation of the Burlington District Energy project will not require BED to utilize
43 additional incremental wood at McNeil to support provision of steam for the Burlington District Energy
44 project, and will not require BED to change the McNeil Plant dispatch and that such dispatch will continue to
45 be driven by electric market pricing; and

46 WHEREAS, the District Energy Term Sheet included in the Council materials for the November 20,
47 2023 meeting includes a provision that states "The McNeil Joint Owners agree, and the BDES accepts, that
48 there will not be additional incremental wood procurement necessary to serve district energy, and that McNeil
49 will continue to operate and be dispatched as it has been prior to district energy, based on electric market
50 pricing," which serves to further ensure no additional wood will be procured to serve district energy; and

51 WHEREAS, this Resolution includes a Resolved Clause to ensure that McNeil does not procure more
52 wood after adding district energy than it did before, and to effectuate that sets a ceiling that the Plant cannot
53 consume more wood by volume in any future calendar year than the highest usage over a 12 month calendar
54 year period in the last 15 years which is a new requirement that limits the Plant's annual consumption and
55 ensures no expansion of consumption beyond historical actual levels; and

56 WHEREAS, the only circumstances in which the McNeil Plant can consume more wood beyond the
57 above referenced limits in a calendar year, is if VELCO the statewide Vermont transmission utility, or ISO-
58 New England the regional grid operator, call on McNeil to operate in order to ensure reliable electricity in
59 Vermont or New England (as opposed to operations based on economics);

60 NOW, THEREFORE, BE IT RESOLVED that the City Council approves BED entering into a letter of
61 intent and subsequent contract to provide steam to Burlington District Energy from the McNeil Plant, and
62 provide for appropriate use of the McNeil Plant site by Burlington District Energy including the installation of
63 an electric boiler, based on the commercial terms presented to the Council in the term sheet provided at the
64 Council meeting on November 20, 2023, and provided any such letters of intent or contracts are further reviewed
65 and approved by the City Attorney; and

66 BE IT FURTHER RESOLVED that the City Council approves BED entering into a letter of intent and
67 subsequent contract to provide incentives to the Burlington District Energy project, based on the commercial
68 terms presented to the Council in the term sheet provided at the Council meeting on November 20, 2023, and
69 provided any such letters of intent or contracts are further reviewed and approved by the City Attorney; and

70 BE IT FURTHER RESOLVED that the City Council approves and authorizes the Mayor to execute
71 the Franchise Agreement as presented at the Council meeting on November 20th, 2023, between The City and
72 Burlington District Energy upon final review and approval of the City Attorney's Office; and

73 BE IT FURTHER RESOLVED that the Council approves and authorizes execution of the easement at
74 99 Intervale Road as presented to the Council at its meeting on November 20th, 2023, upon final review and
75 approval of the City Attorney's Office; and

76 BE IT FURTHER RESOLVED that BED is committed to and will earnestly and immediately pursue
77 the installation of all possible efficiency enhancements at McNeil, including but not limited to the installation
78 of a wood chip drying system, with the first step being to investigate the viability of installing said wood chip
79 drying system, and pursuant to this efficiency commitment will issue a Request for Information (RFI) by
80 March 1, 2024, to commercial vendors to seek information and demonstrations related to installing a wood
81 chip drying system and other efficiency improvements at McNeil in conjunction with the McNeil Joint
82 Owners, and report back to the Council on the results of the RFI and next steps including issuing an Request
83 for Proposals (RFP) with the McNeil Joint Owners and if appropriate, following the RFP, including funds for
84 investment in the wood chip dryer and other efficiency improvements at McNeil in the next BED budget
85 proposal in which it is practicable; and

BE IT FURTHER RESOLVED that BED will present in its FY2025 budget a proposal procuring a third-party review of sustainable forestry practices, including but not limited to an accounting (to the extent possible) of the number of whole trees versus limbs/ends/residues, and where whole trees whether they are low-value roundwood or diseased or damaged trees or other, and quantitative and qualitative assessment of the afforestation/deforestation outcomes in the specific areas from which the wood is harvested and the market factors that may affect such outcomes, in order to assess the nature of the current wood chip procurement and forestry management processes and offer BED ideas for further improvement where possible; and

BE IT FURTHER RESOLVED that, acknowledging wood consumption volumes will vary annually based in part on electric market pricing, to the extent legally permissible the McNeil Generating Station shall not, unless required to for reliability purposes by ISO-New England or VELCO, consume more wood by volume in any future calendar year than the largest calendar year volume consumed by the McNeil Plant in the last fifteen years from the date of this Resolution, and that per the District Energy term sheet present at the Council's meeting on November 20th, 2023 there will not be additional incremental wood procurement to serve district energy; and

BE IT FURTHER RESOLVED that The Burlington City Council respectfully requests the General Manager of the Burlington Electric Department to do the following:

- Study the potential timeframes of plans to transition away from the need for conventional wood chip combustion as a significant power source for the City of Burlington, including but not limited to the possibilities of repowering the McNeil plant with different fuels that would reduce greenhouse emissions and for this study to be completed and presented to the Burlington City Council no later than the first City Council meeting of November 2024; and
- Generate and implement a plan in collaboration with McNeil joint owners to reduce the greenhouse gas emissions from the McNeil plant stack by at least 25% in the next 5 years and 50% in the next 10 years to the greatest extent practicable while continuing to reliably operate the Plant for the benefit of ratepayers, and with regular review and reporting of progress to the Transportation Energy and Utilities Committee (TEUC); and
- Identify opportunities for utilizing the McNeil site for additional energy needs including energy storage and/or thermal energy provision and/or expansion of innovative partnerships such as the UVM solar research center newly located at the McNeil Plant; and
- Participate in the TEUC meetings and convene community and stakeholder meetings as needed to monitor progress on implementing ideas for transitioning away from conventional wood chip

combustion as soon as practicable at the McNeil Generating Station, or improving efficiency at the Plant, and to consider additional ideas from the public while reporting periodically to the full Council on progress and outcomes; and

BE IT FURTHER RESOLVED that in light of the global climate crisis that the city of Burlington has declared an existential crisis requiring dramatic and quick action, the City Council tasks its Transportation, Energy and Utilities Committee (TEUC) to work collaboratively with the Burlington Electric Light Commission, BED, the International Brotherhood of Electrical Workers (IBEW) Local 300, interested environmental organizations, foresters and forestry organizations, community members and residents, and Burlington ratepayers generally to plan for the future of the McNeil Generating Station, including:

- Commissioning an analysis under contract with BED from a competent independent third party with appropriate experience analyzing emissions reduction and renewable energy technologies (and in consultation with the McNeil Joint Owners) to analyze the impacts (both negative and positive) of the current wood chip operation at McNeil and the potential means to substantially reduce or eliminate emissions of stack carbon dioxide and other greenhouse gases and other emissions into the atmosphere. Such analysis shall take into consideration providing for the reliable and cost-effective electric and thermal power needed in the city now and in the foreseeable future as well as the impact of any potential changes at McNeil on ISO-New England reliance on fossil fuels. Such analysis shall include carbon accounting, timeframes, and an assessment of the comparative practicality and cost over the immediate, medium and long-term to Burlington electric and heating customers of such alternatives and the prospective impact on electric rates. The analysis shall also include but not be limited to assessing (1) the possibilities of repowering the McNeil site with different fuels that would significantly reduce greenhouse emissions at the stack as a bridge measure until truly low carbon sources of electricity such as wind, solar and storage technologies can provide reliable electric generation capacity within the affordability needs of ratepayers with particularity to low and moderate-income ratepayers, (2) the utilization of technologies that would significantly reduce greenhouse emissions in the future, including more efficient combustion, (3) the utilization of the McNeil site for additional energy needs including energy storage and/or thermal energy provision, (4) the expansion of innovative partnerships such as the UVM solar research center newly located at the McNeil Plant, and (5) the scale and types of alternative renewable energy technologies and energy storage that would be needed if McNeil was not in service and

Burlington desired to have its community provided with the lowest-carbon emissions renewable power generation that is both reliable and affordable particularly for low and moderate-income ratepayers. The request for proposals for the study and the contract entered into for the study shall be reviewed and approved by the Burlington Electric Light Commission, TEUC and City Council after taking public comment. BED shall make every practicable effort to submit the request for proposals for this analysis to the Burlington Electric Light Commission, TEUC and City Council for approval within the first three (3) months of Fiscal Year 2025 provided the analysis is approved as part of BED's FY25 budget, and shall report to the TEUC on its progress within six (6) months of the start of FY25; and

- Under the auspices of the TEUC and BED, holding meetings or convenings as needed, including with community groups and stakeholders mentioned above, to monitor progress on the above analysis and the other plans and actions related to the reduction of stack carbon dioxide, other greenhouse gases, and other emissions emitted into the atmosphere at the McNeil Generating Station. Such meetings shall also include review of actions and plans on or improving efficiency at the Plant, and additional ideas from the public. TEUC and BED shall report periodically to the full Council on progress and outcomes, with the first report on these meetings and the other actions stated above to be made no later than one year from the effective date of this resolution and annually thereafter; and

BE IT FURTHER RESOLVED that BED will work with the University of Vermont Medical Center to support continued energy efficiency and electrification efforts at its Burlington campus, and that the Council authorizes BED to discuss and negotiate a Memorandum of Understanding memorializing these efforts with the Medical Center to be presented at a subsequent Council meeting, to include:

- providing technical support and all appropriate incentives for cost-effective, constructable, efficiency measures and technologies including but not limited to electrification technologies, thermal networked systems, and geothermal or ground-source heat pumps systems; and
- assisting the Medical Center where practicable in reducing its energy costs and reducing its reliance on fossil fuels, carbon-intensive fuels, and conventional technologies, while supporting the Medical Center's need for reliable and affordable energy; and

BED will provide a progress report made to the TEUC within one year of the effective date of this Resolution; and

178 BE IT FURTHER RESOLVED that BED and the City will work in cooperation with Burlington
179 District Energy and other partners to further advance the Burlington District Energy as it moves to permitting
180 and any necessary regulatory reviews, and financing and construction as so permitted under the law.
181
182 JP/DS/Resolutions 2023/*Resolution Supporting District Energy and Continued Efficiency Improvement at McNeil Generating Station*
183 November 20, 2023

UTILITY EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, the **CITY OF BURLINGTON** (hereinafter called “Grantor”), a municipality located in the County of Chittenden and State of Vermont, for and in consideration of the sum of One Dollar and other good and valuable consideration paid by **BURLINGTON DISTRICT ENERGY, INC.** (hereinafter called the “Grantee”), a Vermont nonprofit corporation duly authorized and existing according to law with a principal place of business in Jeffersonville, in the County of Lamoille and State of Vermont, the receipt whereof is hereby acknowledged, does hereby GIVE, GRANT, BARGAIN, SELL and CONVEY unto the said Grantee, its successors and assigns, the perpetual and exclusive right and easement to erect, construct, maintain, reconstruct, relocate (within the Easement Area, as defined below), operate and remove heating lines providing thermal energy and related infrastructure and to do such acts reasonably necessary therewith, under, over and upon a parcel of land owned by the Grantor in the **City of Burlington**, County of Chittenden and State of Vermont described as follows:

Being a portion only of the lands and premises known as Parcel ID 040-1-001-000 and conveyed to the Grantor, the City of Burlington, by (i) Warranty Deed of Lorenzo W. Howe and Evelyn T. Howe, dated June 29, 1977 and recorded at Book 246, Page 12 of the City of Burlington land records; and (ii) Quit Claim Deed of City of Burlington, Vermont, a municipal corporation acting by and through its Electric Light Department, Vermont Public Power Supply Authority, Central Vermont Public Service Corporation and Green Mountain Power Corporation dated June 24, 2009 and recorded at Book 1086, Page 433 of the City of Burlington land records.

The easement area is depicted within a hashed area and labelled “Easement” on the attached map entitled “Exhibit, 99 Intervale Road” prepared by LHB (the “Map”), and shall be twelve feet wide, centered on the depicted “STEAM” line. Said easement area is hereinafter referred to as the Easement Area. Upon completion of installation of the pipeline contemplated hereby, the Grantee shall obtain an as-built survey of the Easement Area acceptable to the Grantor in its reasonable discretion, and Grantee and Grantor shall amend this Utility Easement to replace the Map with such as-built survey.

Together with the right, within said Easement Area, to cut down and trim any and all trees, underbrush and vegetation or parts thereof growing within or tree limbs or vegetation overhanging the limits of said Easement Area and to remove all structures and obstructions which are now found within the limits of said Easement Area; also by planting, trimming and cutting, to control the location, size and quality of the trees and other vegetation within said Easement Area.

Together, also, with the right at all times to cross and recross Grantor’s lands and premises by convenient and reasonable approaches to gain access to the above-described Easement Area on foot and with motor vehicles, construction and maintenance equipment for the purpose of constructing,

operating, inspecting and repairing any and all structures or fixtures of every kind and nature which the Grantee, its successors, assigns and licensees may erect, construct, maintain and operate within the Easement Area as well as for the purpose of cutting down and trimming any and all trees, underbrush and vegetation within said Easement Area. This right of access may be confined to routes designated by Grantor if such designated routes are practicable and acceptable to the Grantee, its successors, assigns and licensees, provided, however, that this right of access must be exercised in a careful manner and the Grantee, its successors, assigns and licensees, shall reimburse the Grantor for all physical damage to the lands, buildings, structures, installations and crops thereon and for all monetary losses occasioned by the loss of use of same in the exercising of this right of access.

All work performed by the Grantee within the Easement Area shall be performed at the Grantee's sole cost and expense and shall be carried out in a good and workmanlike manner. The Grantee shall use best efforts to ensure that all work done within the Easement Area is conducted to ensure the safety of those within or near the Easement Area. The Grantee shall obtain all required permits and governmental approvals for the installation of the pipelines and related equipment and infrastructure within the Easement Area and for any work performed within the Easement Area. The Grantee shall mark on the surface of the Easement Area the location of any underground equipment or infrastructure installed by the Grantee within the Easement Area. Promptly following completion of the installation of the facilities contemplated hereby, and promptly following any subsequent work performed by the Grantee within the Easement Area as permitted hereunder, the Grantee shall, at its own cost and expense, restore the Easement Area substantially to the condition that it was in prior to the commencement of such work or better. The Grantee shall not erect or locate any structure or fixture on or above the surface of the Easement Area except that the Grantee shall be permitted to locate two manhole covers (on the surface) and the two above-ground vent pipes within the Easement Area. The purpose of the vent pipes will be to provide naturally ventilated outside air to an underground vault to be installed within the Easement Area for the purpose of connecting to future building(s) on the Grantor's property. No buildings or structures shall be located within five feet of the vent pipes. Furthermore, the Grantee shall maintain any installations within the Easement Area in good condition and repair at its sole cost and expense, and shall not permit any liens arising out of its work within the Easement Area or its use and enjoyment of its rights hereunder to attach to the Easement Area.

The Grantee shall indemnify and hold the Grantor harmless from any cost, liability, damages, expense, claim or action, including reasonable attorneys' fees, arising from the Grantee's use of the Easement Area or the exercise of the Grantee's easement rights thereunder, except to the extent that any claim or action results from the intentional, reckless, or negligent acts or omissions of the Grantor, the Grantor's agents, licensees, or invitees. The Grantee shall carry a general liability insurance policy containing liability limits of no less than \$1 million per occurrence and \$2 million in the aggregate, which policy shall name the Grantor as an additional insured. The Grantee shall provide the Grantor with evidence of such insurance coverage prior to commencing work within the Easement Area.

The Grantor hereby reserves the right to use the Easement Area for any purposes that do not

unreasonably interfere with the Grantee's use and enjoyment of the rights granted hereby. The Grantor for itself, its successors and assigns, hereby covenants and agrees to and with the Grantee, its successors, assigns and licensees, that they will not erect or maintain any building or other structure, or permit the erection or maintenance of any building or other structure, of any kind or nature upon the above-described Easement Area. A driveway, drive lane, right-of-way, path, curbing, sidewalk and/or similar infrastructure shall not be deemed to be a "building or other structure" for purposes of this Easement, and shall be deemed an authorized use of the surface of the Easement Area by the Grantor hereunder, provided that the Grantor shall coordinate with the Grantee as to the design and installation of any such infrastructure within the Easement Area (including without limitation as to depth) to ensure that the Grantee's infrastructure within the Easement Area is not adversely affected.

In the event that the Grantor determines that the location of the Easement Area materially interferes with or prevents its use and enjoyment of the Property, the Grantor may, in consultation relocate the Easement Area at the Grantor's sole cost and expense. The location of the relocated Easement Area shall be subject to the Grantee's prior written consent, which shall not be unreasonably withheld or delayed. The Grantee shall not be required to incur any out-of-pocket expense in connection with the relocation of its equipment and infrastructure in connection with this paragraph, but shall, subject to the Grantor's obligation to directly pay for, or alternatively to reimburse the Grantee, for such expenses, be responsible for obtaining any necessary permits or approvals for such relocation and for relocating such equipment and infrastructure. The Grantee shall not be required to relocate any equipment and infrastructure until all governmental permits and approvals required therefor have been obtained and all appeals period run without appeal.

No delay of Grantee in the use or enjoyment of any right or easement hereby granted or in constructing or installing any of the facilities in the Easement Area shall result in the loss, limitation, or abandonment of any of the right, title, interest, easement, or estate granted hereby. In the event the Grantee abandons its pipeline project, then Grantee shall execute and record a notice of termination in the land records and this Utility Easement shall terminate.

The Grantee, its successors, assigns and licensees shall have the right to assign to others or license in whole or in part, any or all of the rights, privileges and easements hereinbefore set forth.

The Grantee, by accepting the easement and rights granted herein, agrees to permit the Grantor, and its successors and assigns, to connect to the Grantee's pipeline(s) within the Easement Area at such location(s) as the Grantee may determine for purposes of serving building(s) that may be constructed on the land burdened by the Easement Area. The Grantor's use and enjoyment of any thermal energy provided by said pipeline(s) shall be subject to the terms and conditions of a definitive agreement to be entered into by the Grantor and the Grantee, which shall be consistent with industry standards.

In the event that the Grantee fails to perform any of its obligations hereunder and fails to cure within thirty (30) days of receipt of written notice from the Grantor of such failure or, if curing within thirty (30) days is not reasonably practicable, such additional period of time as may be

reasonable necessary to cure, then Grantor may perform such obligations and the Grantee shall reimburse the Grantor for its actual costs incurred in doing so.

The rights conveyed to the Grantee hereby are subject to the following:

- 1) All legally enforceable easements, rights of way, covenants, permits, declarations, and other restrictions of record to the extent not otherwise extinguished by the Vermont Marketable Record Title Act (27 V.S.A. §§ 601-604); and
- 2) rights of the public and others legally entitled thereto in any portion of the property lying within the boundaries of a public road, way, street, or trail to the extent not otherwise extinguished by the Vermont Marketable Record Title Act (27 V.S.A. §§ 601-604).

TO HAVE AND TO HOLD the above granted rights and easements, with all privileges and appurtenances thereunto belonging, unto the said Grantee, its successors and assigns forever, to it and their own proper use, benefit and behoof. Grantor covenants with the Grantee that at and until the ensealing of these presents the Grantor is well seized of said premises as a good indefeasible estate in fee simple, and has good right to sell and convey the rights and easements aforesaid in the manner and form above written, and that the same are free from all encumbrances whatsoever, except as aforesaid, and furthermore, the Grantor agrees to warrant and defend the same to the Grantee and its successors and assigns forever against all claims and demands whatsoever.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

DRAFT

IN WITNESS WHEREOF, the City of Burlington has caused this deed to be executed by [REDACTED], its [REDACTED] and Duly Authorized Agent this ____ day of _____, 2023.

CITY OF BURLINGTON

By: _____
[REDACTED], [REDACTED] and Duly

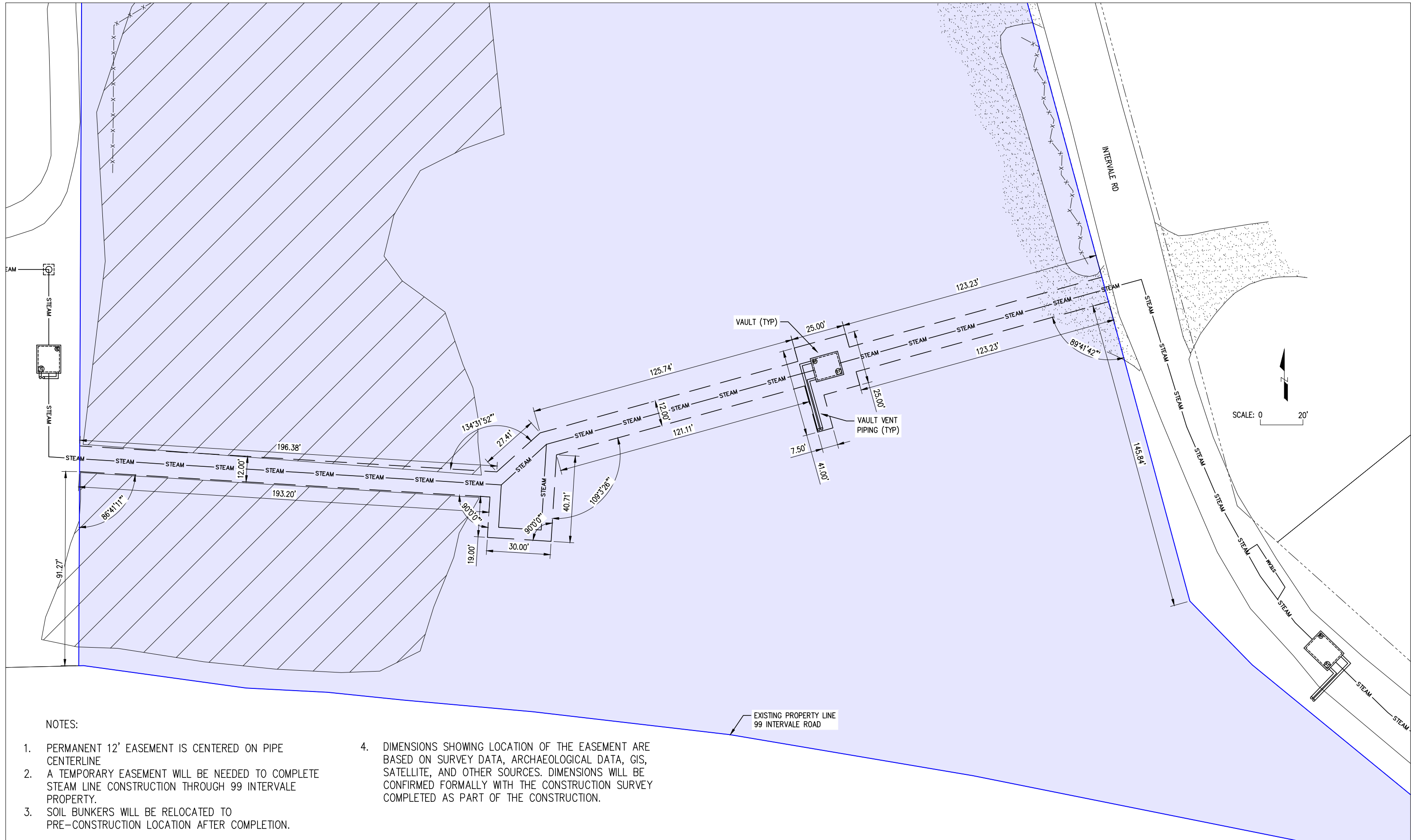
Authorized Agent

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At the City of Burlington, in said county, this ____ day of _____, 2023, personally appeared [REDACTED], who executed the foregoing instrument for and on behalf of said City of Burlington and, as its [REDACTED] and Duly Authorized Agent, acknowledged the same to be his free act and deed and the free act and deed of the City of Burlington.

Before me,

Notary Public
Printed Name:
My Commission Expires:
Commission Number: _____



STEAM SYSTEM AGREEMENT
WITH BURLINGTON DISTRICT ENERGY

Burlington District Energy System
17G West Tatro Drive, Jeffersonville, Vermont 05464

This Agreement is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter “City”) and Burlington District Energy, Inc. DBA Burlington District Energy System, a Vermont non-profit corporation with its principal offices at 17G West Tatro Drive, Jeffersonville, Vermont 05464 (hereinafter “BDES”). The City and BDES may be referred to hereinafter individually as a “Party” and jointly as the “Parties”.

WHEREAS, BDES seeks to construct, maintain, repair, replace and use an underground pipe/line/conduit consisting of a steel steam pipe, a condensate drainpipe, and a conduit pipe for fiber and electrical communications (“Conduit”) upon and across City rights of way for the benefit of an energy-efficient steam system (“Steam System”) to initially serve University of Vermont (“UVM”) Medical Center located on the south side of Colchester Ave; and

WHEREAS, the occupation of the City’s right of ways requires approval of the Burlington City Council; and

WHEREAS, authority to enter into this Agreement exists in the City Charter and in Burlington City Ordinance 27-Article IV “Street Franchise Fees”, and the required approvals, clearance, and coordination have been accomplished from and within each Party.

W I T N E S S E T H:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and BDES enter into the following Agreement:

1. EFFECTIVE DATE AND TERM

- A. Effective Date.** This Agreement shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Agreement before the Effective Date and shall have no obligation for any performance before the Effective Date or after the expiration or termination of this Agreement.
- B. Term.** This Agreement shall commence on the Effective Date and expire 30 years from the date of execution.
- C. Termination.** This Agreement may be terminated as set forth in this **Section 1.C.** Upon termination, Licensee shall remove—at its own expense—all objects, materials, and other obstructions placed on the Premises. If Licensee refuses to promptly remove such obstructions, the City may remove all such obstructions and the Licensee shall be liable for all expenses of such removal.
- i. Discontinued Use.** The City shall have the exclusive right to immediately terminate this Agreement should Licensee or a subsequent owner discontinue use of the premise.
- ii. Termination for Convenience.** At any time prior to completion of services specified under this Agreement, the City may terminate the Agreement for any reason by submitting written notice via certified or registered mail to the Licensee, not less than fifteen (15) days prior to the termination date, of its intention to do so. The Licensee shall make no claim against the City by reason of such termination.
- iii. Breach.** The City shall have the exclusive right to terminate this Agreement if Licensee is in breach of this Agreement and fails to cure said breach within [] days. The City shall provide 7 days written notice in advance of the termination date.

- iv. **Renewal** Agreement shall be renewable for another 30-year term after term length has expired, at the discretion of the City and pursuant to all necessary City approvals.

2. **CONDUIT PLACEMENT**

- A. BDES may construct, maintain, repair, replace and use an underground Conduit for the benefit of an energy-efficient Steam System to initially serve UVM Medical Center located on the south side of Colchester Avenue, and future prospective customers in the area, subject to the terms and conditions set forth in this Agreement.
- B. Such initial occupation of the right of way is to be at a depth as depicted and shown on the Plan entitled “Burlington District Steam System Plan and Profile, prepared by Evergreen Energy, dated November 22, 2022 (“Plan”) and adopted by reference into this Agreement and placed on file in the Department of Public Works (“DPW”).
- C. The initial conduit will run upon and across the City’s right of way which begins at the McNeil Generating Station at 111 Intervale Road and proceeds south along Intervale Road, across the New England Central Railroad tracks and Riverside Avenue, down North Prospect Street to the intersection of North Street. At North Street, the Conduit continues eastward to Mansfield Avenue and turns south onto Colchester Avenue where it then proceeds east until it terminates at the UVM Medical Center, as depicted and shown on the Plan.. Such occupation of the right of way shall be approximately five (5) feet in width. BDES may use and maintain the occupied portion of the street, sidewalk and greenbelt existing in the City’s right-of-way. The initial Conduit must be maintained and placed exactly as described in the Plan, with future potential Conduits subject to DPW approval.
- D. Any and all construction, maintenance, repair, or replacement hereunder shall be subject to and performed pursuant to and in compliance with all applicable governmental requirements, approvals and permits required for such work. Any applicable fees required for such work shall be in addition to the fee set forth in Section 7 of this Agreement. This agreement does not in any way obligate any department or office of the City to approve any permit required for the work contemplated in this Agreement. The City shall act in good faith and utilize reasonable engineering standards in making its permitting decisions.
- E. The right to construct, maintain, repair, replace and use the Conduit is offered and accepted “AS IS, WHERE AS” and “WITH ALL FAULTS”, and neither the City nor its agents, employees or other representatives make any guarantee,

representation or warranty, express or implied (and the City shall not have any liability whatsoever) as to the value, uses, habitability, condition, design, operation, financial condition or prospects, or fitness for a particular purpose or use of the right of way or the City's land adjacent thereto, or any part thereof, or any other guarantee, representation or warranty whatsoever, express or implied, with respect to the right of way or any part thereof or the City's land adjacent thereto, or information supplied to BDES with respect thereto. Further, the City shall have no liability for any latent, hidden, or patent defect as to the right of way or the City's land adjacent thereto.

- F. City shall be invited to attend any and all construction meetings occurring in reference to the placement of the Conduit and any related utility relocations, resurfacing of streetscapes, and testing of material.

3. RELOCATION

- A. The Parties acknowledge and agree that the use, repair, improvement and maintenance of the City's right of way, including sidewalks, street, and combined sewer/storm water and storm water system have the highest priority of any and all uses of, within, on, or about the right of way. This Agreement conveys no property interest or vested right in the public streets or rights of way and the Parties acknowledge and agree that the City reserves the right to use the public streets for its own governmental purposes and the rights given by this Agreement cannot interfere with the use, repair, improvement and maintenance of the right of way or the public conveniences in traveling on or using such right of way. This Agreement does not diminish or negate any of BDES's existing rights as a property owner under common law or statute, or any of the City's existing rights as a municipality under common law or statute.
- B. The Parties acknowledge and agree that the City Engineer or his/her designee may at his or her sole discretion at a future date determine in good faith that it is necessary to relocate utilities, including BDES's Conduit, within and/or upon the City right of way for the proper maintenance and improvement of this right of way, including the maintenance and improvement of the street, sidewalks, and storm water and/or combined sewer/storm water system located upon and within the right of way.
- C. In the event of such a determination and upon reasonable written notice of no less than six (6) calendar months, BDES shall relocate the Conduit at its sole expense and pursuant to and in compliance with all applicable governmental requirements,

approvals and permits required for such work, which permits and approvals shall not be unreasonably denied or delayed.

- D. If BDES has reason to believe that the decision of the City Engineer is made in bad faith, BDES has the right, as a property owner, to seek legal and/or equitable relief, including temporary and permanent injunctive relief.

4. MAINTENANCE & PERFORMANCE OF WORK

- A. Except during construction, maintenance, replacement, repair or relocation, BDES shall maintain the Conduit and the land needed to support it in a manner that does not impair the public rights of way, including the protection of utilities, pedestrians and vehicles traveling upon the public right-of-ways within and adjacent to the property occupied by the Conduit.
- B. BDES may enter onto the City's right of way to bore under, excavate, support, fill and otherwise take such actions as may be necessary or appropriate as required from time to time to ensure the structural integrity of the Steam System pursuant to and in compliance with all applicable governmental requirements, approvals and permits required for such work.
- C. BDES shall maintain the Conduit and the land needed to support it in a manner that protects the right of way and all utilities, existing or future, located within the right of way or adjacent to the rights-of-ways. BDES agrees that any and all expenses assumed by a utility to repair damages caused to the utility by the construction, use, maintenance, repair or relocation of the Conduit allowed by this Agreement shall be reimbursed by BDES. Utilities currently located in the right of way are depicted in the Plan and are incorporated herein by reference. Prior to the commencement of any future work by BDES on the right of way pursuant to this Agreement, a then current drawing(s) of utilities located in and adjacent to the relevant portions of the right of way shall be prepared by BDES and submitted to the City.
- D. BDES shall institute and properly maintain a traffic control plan for all types of vehicles and for pedestrians such that said vehicles and pedestrians are protected from hazards and dangers emanating from the Premises and the associated construction site and related construction activities. BDES shall erect proper signage to redirect pedestrians safely from the Premises. BDES shall submit a traffic control plan for pedestrians, including a plan for signage, to DPW's excavation inspector detailing the activities it shall take to control such pedestrian traffic. BDES shall take all additional reasonable activities requested by DPW to control such pedestrian traffic. BDES shall submit a traffic control plan for

vehicles, including a plan for signage, to DPW's excavation inspector detailing the activities it shall take to control such vehicular traffic. BDES shall take all additional reasonable activities requested by DPW to control such vehicular traffic or pedestrian traffic to provide collaboration or cooperation with adjacent projects. DPW reserves the right to request modifications and alterations to the vehicular or pedestrian traffic control to ensure public safety throughout the duration of the project, with all costs borne by BDES to implement those changes.

- E.** In the exercise of its rights under this Agreement, BDES will perform all work in the right of way in a good and workmanlike manner, in conformance to the requirements of any and all permits and permit requirements required for such activity by the City. BDES shall perform all work so as to cause no unnecessary damage or disturbance to the City's lands or the utilities located therein or the public's rights in the right of way. In each and every instance, BDES shall restore each portion of the right of way disturbed by BDES's entry to the same and as good a state and condition as they were immediately prior to BDES's entry unless otherwise required by a permit or permit condition issued by the City concerning said work.
- F.** BDES agrees to respond and repair unforeseen or undo damage or failure of the steam system. BDES agrees to respond to and complete all repairs to the steam system in a timely manner, and agrees to manage and negate any hazardous conditions that may occur from undo damage to the steam system. BDES shall take all reasonable precautions to protect the public from potential hazards resulting and emanating from the Conduit due to activities related to the uses for which this Conduit is permitted.
- G.** All pipe insulation consisting of Gilsulate 500xr insulation products shall be contained to trench limits using non-woven geotextile fabric to fully encapsulate the Gilsulate insulation material.
- H.** BDES shall be responsible for the maintenance and associated repair of the street, sidewalk, and greenbelt on the Conduit location until final pavement, concrete, and topsoil resurfacing occurs. If BDES fails to complete the planned public improvements for these areas, BDES shall be responsible for all costs to restore these areas to a condition satisfactory to DPW.

5. RIGHT OF PROTECTION

- A. Upon reasonable notice to the City, BDES shall have the right to enter upon the City right of way from time to time for the purposes of the protection of the Conduit, including but not limited to conducting inspections, surveys, preparing appraisals, conducting soils tests or engineering studies, and obtaining other information about the right of way.
- B. BDES's entry onto the right of way for the purposes set forth herein and its activities on the right of way as permitted herein shall occur at the sole risk of BDES. BDES shall indemnify, hold the City harmless and defend the City from and against any and all claims, liens, damages, losses and causes of action which may be asserted by BDES or BDES's employees and agents or any third party as a result of any such entry, including reasonable attorney's fees. BDES's entry onto or testing of the right of way shall be conducted in a manner that minimizes any disturbance to the land and to the use and enjoyment of the right of way by the City or the public. Subsequent to completing said inspections, surveys and tests, BDES shall, at its sole expense, return the right of way as nearly as is practicable to the same and as good a state and condition as they were immediately prior to BDES's entry unless otherwise required by a permit or permit condition issued by the City concerning said work.
- C. BDES shall be required to register as an active utility through Vermont Dig Safe, and shall participate in locating and marking the Conduit when a Dig Safe ticket is required. Conduit shall be marked with utility locating tape a minimum of twelve inches (12") above Conduit. Conduit shall be installed with locating tracer wire to be easily located and marked for above ground identification.
- D. BDES shall provide post construction As-Build drawings to the City, depicting in detail the final location and depth of Conduit that is the subject of this agreement, within six (6) months of completion of construction.
- E. BDES shall take all reasonable precautions to protect the public from potential hazards resulting and emanating from the Premises due to activities related to the uses for which this encumbrance is permitted.

6. PERMITS

- A. BDES is subject to any and all applicable permits, applicable permit fees, and permit conditions required for the above stated activity by the City, including but not limited to applicable permits for land use, excavation, obstructions, storm water and building construction. Prior to the commencement of work, BDES must pay all

permit fees and obtain all requisite governmental approvals and permits necessary to construct, maintain and use the Conduit and the improvements benefiting from the Conduit described herein. All work done and improvements made in connection with the Conduit granted herein shall be completed in accordance with the governmental approvals and permits issued to BDES and shall be made at BDES's sole cost and expense. BDES shall restore the City right-of-ways, if disturbed, following any disturbance in accordance with all governmental regulations, permits and approvals, and such restoration shall be made at BDES's sole cost and expense.

7. FEES

- A.** In further consideration of the undertakings of BDES set forth herein, the City agrees to waive excavation permit fees for the portion of excavation occurring in the street, sidewalk and greenbelt of this Agreement, pursuant to Burlington City Ordinance Chapter 27-30, and to accept full width pavement restoration consisting of a full width curb-to-curb two-inch (2") mill/fill paving of the entire Conduit location as depicted and shown on the Plan.
- B.** An Administrative and Inspection fee under the excavation permit in Burlington City Ordinance Chapter 27-30 will be applicable per square foot of disturbance in the City right of way. An Administrative and Inspection fee for the current year will be applied.
- C.** BDES shall pay an annual fee to the City to defray the municipal costs attributable to BDES's construction in and occupation of the City's right of way, as provided by this Agreement, in the amount of two and one-half percent (2.5%) of annual gross revenue. This fee shall be paid to the Burlington City Clerk-Treasurer's Office. This fee shall be in addition to any other applicable City fees, including but not limited to land use, excavation, obstruction, storm water, building permit or other permit fees associated with permits that BDES must obtain for the activities associated with this Agreement.

8. PAYMENT FOR FAILURE TO PERFORM

Except as otherwise provided in this section, if BDES fails to perform its obligations hereunder as and when called for, then, after thirty (30) days written notice by the City, BDES shall make payment to the City of reasonable compensation for the failure to perform. Upon failure to timely cure by BDES, City also shall have the right, in its sole discretion, to recover all amounts expended by the City in furtherance of the purposes

and terms of this Agreement, and to pursue any further legal or equitable remedies provided by law, including specific performance, damages, and attorneys' fees. In the event of a dispute between the Parties under this Agreement, the prevailing party shall be entitled to collect all costs of suit, including reasonable attorneys' fees.

BDES shall not have the right to an additional 30 days written notice for the failure to relocate or obtain the permits required in Sections 2.D and 6 hereof.

9. INSURANCE

BDES shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than one million dollars (\$1,000,000) each occurrence and three million dollars (\$3,000,000) general aggregate. The City shall be named as an additional insured on such insurance policy.

Prior to execution of this Agreement, BDES shall furnish the City with a certificate of insurance which shall include the provision that the City is named as an additional insured and shall give the City 30 days written notification prior to cancellation of such insurance. The certificate shall be attached to this Agreement.

It is the responsibility of BDES to ensure that a current certificate of insurance is on file with the City at all times.

10. INDEMNIFICATION

BDES agrees to indemnify, defend and hold the City harmless and free from any and all liability, demands, claims, causes of action, suits, actions, costs and expenses (including attorneys' fees and disbursements), losses, injuries, death, or damages, judgments or executions, of whatever kind or nature, including reasonable attorneys' fees, arising out of BDES's use of the right of way pursuant to this Agreement. This includes any claims arising out of any indemnity and third party claims. BDES agrees to make no claim against the City or any of its officers, employees, agents or representatives for any loss or damage caused by the City's use or maintenance of its right-of-way, unless caused by the gross negligence or an intentional act of a City employee, contractor or agent.

11. REVOCATION

This Agreement shall be immediately revoked without notice in the event BDES discontinues the use of the Conduit. Upon revocation, BDES must remove at its own expense the Conduit and any appurtenances thereto. If BDES refuses to promptly remove the Conduit and any appurtenances thereto, they may be removed by the City and BDES shall be liable for all reasonable expenses of such removal.

12. NUISANCES PROHIBITED

BDES shall not, during the effectiveness of this Agreement, maintain the Conduit in a manner which creates a nuisance or violation of any applicable City ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed, whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement. Such prohibition of nuisances or violations of law shall include permitting the creation of a nuisance or violation of law.

13. ASSIGNMENT OF RIGHTS

BDES shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the City. Any unauthorized action in violation of this Section shall be void, and shall, after sixty (60) days written notice to BDES, terminate BDES's rights pursuant to this Agreement.

14. LIMITATION OF RIGHTS

BDES acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement, and by entering into this Agreement, neither BDES nor the City shall be deemed to have waived or relinquished any of its common law or statutory rights as a property owner. If BDES alleges that it has or will be irreparably harmed by a bad faith action of the City under this Agreement, nothing contained herein shall prohibit BDES from pursuing any legal or equitable remedies provided by law, including specific performance, damages and attorney's fees.

DATED at Burlington, Vermont, this _____ day of _____, 2023.

CITY OF BURLINGTON

Witness

By: _____
Miro Weinberger, Mayor
Duly Authorized Agent

BURLINGTON DISTRICT ENERGY, INC.

Witness

By: _____
Duly Authorized Agent

DRAFT

Resolution Relating to

SUPPORTING MCNEIL GENERATING STATION
DISTRICT ENERGY PROJECT WITH VERMONT
NONPROFIT BURLINGTON DISTRICT ENERGY, INC.

RESOLUTION 7.06

Sponsor(s): Bd. of Finance

Introduced: 06/06/22

Referred to:

Action: adopted

Date: 06/06/22

Signed by Mayor: 06/09/22

CITY OF BURLINGTON

In the year Two Thousand Twenty-Two

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

1 That WHEREAS, the City of Burlington (the “City”) and the Burlington Electric Department (“BED”) have
2 adopted a goal to reduce and eventually eliminate fossil fuel usage in heating and ground transportation (the
3 “Net Zero Energy Goal”), as set forth in that Net Zero Energy Roadmap, dated September 5, 2019; and

4 WHEREAS, the City and BED have identified and are undertaking capital improvements to implement
5 the City’s Net Zero Energy Goal, including technology system upgrades, electric grid updates to meet
6 increased electricity needs resulting from greater strategic electrification and to ensure the continued reliability
7 of BED’s current distribution system, generation plant upgrades and maintenance, and acquisition of and
8 investment in municipal electric vehicles and vehicle charging stations; and

9 WHEREAS, BED, as a municipal public utility, provides customers with high quality, efficient and
10 reliable electric power services in a manner that is inclusive of the environmental and community interests;
11 and

12 WHEREAS, BED and the other joint owners of the McNeil Generating Station (the “McNeil Plant”)
13 have investigated the use of steam generated at the McNeil Plant and have engaged in discussions and
14 planning over several years as to how to best capture and use the steam heat, recognizing that the costs of such
15 a system can require significant capital investment; and

16 WHEREAS, the City and BED have engaged in discussions with Ever-Green Energy, Inc. (“Ever-
17 Green”) as to methods and options to implement a district heating project that utilizes the thermal energy from
18 the McNeil Plant; and

19 WHEREAS, Ever-Green Energy has formed Burlington District Energy, Inc. (the “Burlington District
20 Energy”) as a Vermont nonprofit corporation, to be operated exclusively for charitable purposes within the
21 meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to assist BED in providing
22 thermal energy to BED customers, with the expectation that the Burlington District Energy will design,
23 construct, and operate a new district energy thermal energy system at the McNeil Plant to serve the University

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

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Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

* * * * *

of Vermont Medical Center, the Intervale Center, and such other customers as the system may efficiently and economically allow; and

WHEREAS Burlington District Energy is not yet recognized under Internal Revenue Code 501(c)(3), and intends to submit its materials for recognition, understanding the process may take several months to a year to complete; and

WHEREAS, the public purpose of the Burlington District Energy is the provision of essential public utilities services, furthering the environmental goals of reduction of the use of fossil fuels, and the planning and development of a centralized thermal district energy system that will further assist the City and BED in meeting its Net Zero Energy goals; and

WHEREAS, the City and BED has indicated support for this project numerous times, including via the commitments to the feasibility work completed in Phases 1, 2, and 3 of the district energy project, as it is expected that these improvements will benefit the City and the general public, and support the City's Net Zero Energy 2030 goal and further reduce the use of fossil fuels for heating;

NOW THEREFORE, BE IT RESOLVED that the City Council hereby acknowledges its support for the proposed district heating project and the application of Burlington District Energy for recognition as a 501(c)(3) tax exempt organization with the Internal Revenue Service;

BE IT FURTHER RESOLVED, that the City Council hereby determines that engaging Burlington District Energy to build and operate the thermal energy district heating system at the McNeil Plant will relieve the City of a portion of its burden to meet the sustainability, fuel conservation, and renewable energy requirements and goals for the City and BED;

BE IT FURTHER RESOLVED, that the City supports the formation of Burlington District Energy and its development of an environmentally sustainable, cost-efficient district energy system at the McNeil Plant; and

BE IT FURTHER RESOLVED, that the Council hereby authorizes BED's General Manager or their designee to serve on the Board of Directors of Burlington District Energy; and

BE IT FURTHER RESOLVED, that the City will continue to work in cooperation with Burlington District Energy to complete any remaining feasibility work with support from BED's Thermal Energy Process Fuels funds which are dedicated to this purpose; and

BE IT FURTHER RESOLVED that BED and the City will work in cooperation with Burlington District Energy and other partners to further advance the project and bring necessary final approvals before the

* * * * *

DISTRIBUTION:

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RESOLUTION RELATING TO

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Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

* * * * *

54 City Council relating to one or more definitive agreements with BED, the McNeil Plant Joint owners, and
55 Burlington District Energy and other partners, as necessary to govern the development and operation of a
56 thermal energy district heating system consistent with the foregoing resolutions.

57

58 TM/TD/Resolutions 2022/SUPPORTING MCNEIL GENERATING STATION DISTRICT ENERGY PROJECT WITH VERMONT
59 NONPROFIT BURLINGTON DISTRICT ENERGY, INC.
60 6/2/2022

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

BED General Manager Springer

* * *

ORIGINAL

RESOLUTION RELATING TO

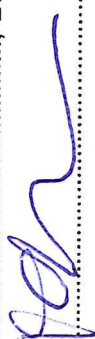
Supporting McNeil Generating Station District Energy Project With Vermont Nonprofit

Burlington District Energy, Inc.

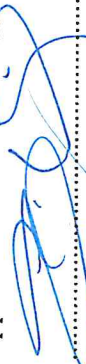
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Adopted by the City Council

June 6, 2022

 Clerk

Approved June 9, 2022

 Mayor

Attest:

Lori Olberg

Licensing, Voting and Records Coordinator

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* * * * *



To: City Council

From: James Gibbons, Director of Policy & Planning
Emily Stebbins-Wheelock, CFO and Manager of Strategy and Innovation
Darren Springer, General Manager

Date: October 23, 2023

Re: Strategic electrification (Tier 3) program credits for District Energy

This memo describes economics of the Burlington Electric Department (BED)'s potential \$665,000 annual Tier 3 program incentive for the proposed District Energy System (DES).

Background

In 2015, the Vermont legislature passed the Vermont Renewable Energy Standard (RES), which sets forth three requirements that began in 2017. Under "Tier 3" of the Vermont RES, Vermont distribution utilities offer programs designed to encourage customers to reduce fossil fuel use and emissions, particularly for heating and transportation. Each utility has a Tier 3 obligation that is based on a percentage of its retail sales; this percentage increases annually. Utilities may meet their Tier 3 obligation either through program activity, by retiring renewable energy credits from small, new, Vermont-based generators, or paying an alternative compliance payment (ACP). Paying the ACP would send customer dollars out of Burlington to a state fund. Utilities pursuing custom projects, such as this DES proposal, may seek prior approval by the Vermont Public Utility Commission (PUC), including the approved number of Tier 3 program "credits" or megawatt-hour-equivalents (MWhe) allowed for each program measure and the anticipated costs to deliver each program.

Because the proposed DES would reduce commercial sector natural gas use in Burlington, and hence fossil fuel emissions, the opportunity exists for BED to implement a custom Tier 3 program that would provide an incentive to the DES, and generate Tier 3 program credits for BED that would count toward BED's Tier 3 compliance obligation. BED would submit this incentive design to the PUC for prior approval as noted above.

Analysis/Assumptions

In evaluating the economics of offering a Tier 3 incentive in support of the DES, BED considered several factors:

1. The cost of BED's existing "prescriptive" Tier 3 programs¹ compared to the cost of the DES proposal, both in terms of expense and in cash outlays.

¹ "Prescriptive" programs are those with defined incentives associated with a defined fossil fuel reduction/MWhe, such as rebates for electric vehicles and heat pumps. "Custom" programs are those where the incentive amount and the MWhe savings are uniquely determined based on the details of each project, such as a geothermal heat pump for a large commercial building.

2. The fact that all of BED's existing Tier 3 programs result in increased electric sales/revenue, as well as electric utility costs to serve load. If incremental revenues exceed incremental costs, those "excess" revenues can help offset a portion of the cash obligation for incentive. DES, by contrast, is not expected to materially affect BED's retail revenues or costs.
3. The impact of potential load control rates on retail revenues and costs to serve new heating and transportation (i.e. EV) loads.
4. The reasonableness of current statewide estimates for incremental electric sales from heat pumps, which BED believes are too high based on its program experience to-date.
5. The significant variability and uncertainty associated with the level (number of credits generated) and the costs of future prescriptive Tier 3 program activity based on BED's experience to-date.
6. The approach of adding DES Tier 3 credits to existing Tier 3 program activity.

In evaluating the proposed DES Tier 3 incentive considering the above factors, certain assumptions were made. Changes in these assumptions will affect the results of the financial assessment.

1. The Vermont RES and its existing Tier 3 requirements will continue unchanged for the NPV evaluation period.
2. That the implementation of the Clean Heat Standard does not reduce the number of Tier 3 credits BED can claim and that the 225,000 MMBTU annually used to derive the 25,440 current estimate of Tier 3 credits is accurate.
3. No custom Tier 3 programs are assumed due to the unpredictability of their timing, scale, and cost. These programs can, however, be significantly cost-effective on a per-credit basis.
4. BED will continue its present prescriptive Tier 3 programs to provide broad customer access to strategic electrification.
5. Prescriptive Tier 3 program activity is held constant at FY 2024 budgeted levels.
6. The cost of BED's prescriptive Tier 3 program activity is increased annually by an inflation factor of 2.25%.
7. Net Present Value (NPV) of the net cost per Tier 3 credit over time is the best metric for evaluating the cost-effectiveness of the DES Tier 3 proposal compared to other alternatives for Tier 3 compliance. In this context, the net cost per credit is the cost of acquiring the credit less any expected retail revenues from the measure in question.
8. Retail electric rates for heat pumps will need to be discounted to support broad adoption and make thermal electrification cost-competitive with natural gas. Retail rates for EVs will continue to be discounted in recognition of the restrictions on charging under BED's present EV Tariff. Not all customers who adopt the measures will elect to be on the rates.
9. Annual DES Tier 3 program incentive of \$665,000, held flat (no inflation factor) for the 20-year period.
10. No impact of DES on BED's electric sales or economic benefit to McNeil of the DES proposal has been included, (i.e, no net revenue is assumed from the electric boiler to be installed as part of the DES).
11. No participation by the other Joint Owners of McNeil in the DES Tier 3 program is assumed. Participation by the other Joint Owners of McNeil would reduce BED's incentive investment and Tier 3 credit bank.

12. Discount rate of 4.76%, consistent with the assumptions in BED's 2023 Integrated Resource Plan and the current interest rate environment.
13. Any increases in underlying utility costs to serve will be offset by corresponding increases in electric rates.

Conclusions

Price of Tier 3 Credits

The proposed DES program is estimated to have a gross NPV cost of \$15.76/credit in current dollars. This compares favorably with the NPV of the assumed average gross cost of BED's existing Tier 3 programs of \$35.02/credit using the above assumptions. A DES Tier 3 program benefits in this comparison from a level \$/credit contribution structure over the twenty-year period, whereas the cost of other Tier 3 program activities is assumed to increase over time to keep up with inflation, address new technologies, and encourage greater adoption as noted above.

This "gap" between the cheaper gross program cost of the DES proposal and the gross cost of existing programs is somewhat closed, however, by the anticipated net electric revenues resulting from the existing programs that will not result at the same level from DES. Subtracting the NPV of incremental electric revenue (\$15.97/credit) from the NPV gross cost (\$35.02/credit) of prescriptive programs yields a net NPV cost for prescriptive programs of \$19.05/credit, compared with the estimated DES net NPV cost of \$15.76/credit.

This analysis shows that at the above assumptions, the proposed DES program appears to be more cost-effective on a per-credit basis compared to existing prescriptive Tier 3 program offerings. The DES per-credit NPV costs would be materially affected if the number of credits generated was altered (see assumption #2).

Volume of Tier 3 Credits

Based on the above assumptions, without a DES Tier 3 program, BED's prescriptive Tier 3 programs are expected to generate sufficient credits each year to meet BED's Tier 3 annual compliance requirements through 2025. In addition, excess credits from programs in these years will be "banked" for use in future periods. Beginning in 2026, however, BED projects that it will need to begin to use some banked credits along with credits from current-year program activity to meet its Tier 3 obligation, as the compliance obligation rises without a corresponding increase in program activity. Beginning in 2032, BED projects that it will have drawn its Tier 3 credit bank down to zero and will not have sufficient credits to meet its annual obligation. At this point, BED would begin to be exposed to ACPs, at a projected cost of \$88.06/credit in 2032, which would be paid into a state fund.

The proposed DES Tier 3 program is projected to generate 25,441 credits per year. This is a significant number of credits (more than BED's total Tier 3 requirement through 2025). With the additional credits from the DES program, BED projects that it will have excess credits relative to its compliance needs throughout the 20-year period evaluated, resulting in banking of excess credits in all years, and a cumulative bank at the end of the 20-year period of more than 250,000 Tier 3 credits. To support attainment of Burlington's Net Zero Energy goal, BED would be purposefully exceeding its Tier 3 compliance requirements, but at a per-credit cost (gross and net) that is projected to be lower than that of current prescriptive programs. BED has assumed it would need to exceed the Tier 3 requirements in

support of City climate goals given that, while Tier 3 is ambitious, the Net Zero Energy Roadmap trajectory is even more ambitious in its emissions reduction goals.

Overall NPV Savings and Costs

Considering the total 20-year NPV cost of meeting BED's Tier 3 obligations, the financial modeling BED has conducted shows that the DES Tier 3 incentive proposal would reduce BED's Tier 3 compliance expense by \$10.6 million at a NPV cash cost of \$7.2 million compared to existing prescriptive Tier 3 programs. The DES Tier 3 proposal represents a significant Tier 3 investment over a 20-year period, but it does not appear unreasonable economically based on the above assumptions. BED intends to continue its strong electrification incentives alongside any incentive investment in DES and would plan accordingly for future Tier 3 program plans and budgets.

Commercial Terms for the Burlington Electric Department to Provide Thermal Energy to the Burlington District Energy System and for the McNeil Joint Owners to Permit Certain Uses of the McNeil Property and Equipment Installation, Interconnection and Operation of Certain Equipment

1. Term & Termination

The Burlington Electric Department ("BED") will commit to provide thermal energy from its 50% ownership share of the McNeil generating facility, up to the lesser of 35 MMBTU per hour or the MMBTU output of port 5, and the McNeil Joint Owners will permit certain uses of the property and installation, interconnection and operation of equipment for the provision of district energy services at the site and to the plant (as shown in the final site plan), for a period of 20 (twenty) years upon commencement of operations of the District Energy System pursuant to the following terms and conditions.

A. Termination by the Burlington District Energy System ("BDES")

The BDES may terminate this Agreement by providing BED not less than 2 years written notice of the intent to terminate provided that any obligations pursuant to Sections 1(D) and 1(E) have been fully satisfied.

B. Termination by BED during Term of this Agreement

- a. BED may terminate this Agreement at any time during the Term by providing at least 42 months' written notice to the DES if McNeil faces any event, including but not limited to action/decision taken by the McNeil Joint Owners at a duly held meeting of the McNeil Joint Owners, that results in the plant no longer being available for energy production for the remaining term of this Agreement.*
- b. In the event of a Termination pursuant to this Section, if McNeil returns to operation, BED will resume the obligation to supply thermal energy from its share of McNeil for the remainder of the Term.*
- c. If a new renewable generating facility is commissioned at the McNeil property subsequent to such termination, and such generating facility has the potential to provide thermal energy to the DES, BED agrees to negotiate in good faith toward a successor to this agreement based on the provision of thermal energy from BED's entitlement to such new generating facility.*

C. BDES Rights/Obligations in the Event of Termination by BED or Subsequent Providers

In the event of a termination by BED pursuant to this section, the DES shall have the following rights/obligations:

- 1. Continued use of the premises as described in Section 2 (Use of Premises)***
- 2. The Parties agree to negotiate in good faith any other associated arrangements such that the District Energy System may continue to operate for the remainder of the Term following a termination by B.***
- 3. As an alternative to #1 and #2 above, the Parties may negotiate an agreement for the DES to purchase the property shown on the final site plan required for operation of district and designated in the final site plan and/or easements.***

D. BDES Rights/Obligations in the Event of Termination by BDES

In the event of a termination by the BDES, and as a condition of such termination being effective and binding, the BDES shall reach terms for the continued use of the Property and execute a final agreement covering such terms with the McNeil Joint Owners that will take effect concurrent with such termination. Alternatively, the DES may elect to remove all of its installations on the McNeil property and return any impacted portions of the property to their pre-DES state within six months of termination.

E. McNeil Joint Owner Rights in the Event of Termination by DES

In the event of a termination by the BDES, the McNeil Joint Owners shall have the right to require a performance bond sufficient to cover the cost of removal of the BDES equipment and remediation of the site to its pre-existing condition.

2. Use of Premises Permitted by the McNeil Joint Owners

The BDES may install and operate the equipment for the DES, including an electric boiler, located in a to-be-built structure, on the portion of the McNeil property to be designated in a final site plan and/or easement. The McNeil Joint Owners likewise permit the installation of certain DES equipment required to interconnect steam port 5 and the rest of the DES equipment as well as the equipment to permit waste heat recovery from the McNeil exhaust within the McNeil structure as needed, and in the to-be-built structure. The use of the designated portion of the property shown in the final site plan shall be at an annual charge to the DES of \$1,000 per year for years 1-5 of the contract, and for years 6 and subsequent years of the contract shall be \$5,000 per year and for years 7+ will be escalated annually at the rate of inflation using the NE Urban – All Products CPI, payable to the McNeil Joint Owners.

Provided that the electric boiler is connected to BED's distribution system, BED will develop a tariff for serving that electric boiler based on the wholesale costs associated with serving such load, as well as a reasonable contribution to BEDs overall cost of operation.

The McNeil Joint Owners shall grant a right of way/easement to the BDES from the designated location of the to be built structure to the point on the McNeil property where the BDES piping exits the McNeil premises.

The McNeil Joint Owners and the BDES agree to negotiate in good faith any other associated arrangements as may be required to permit the BDES to begin operations.

3. Price for Steam Energy, Waste Heat and Use of Site

The per MMBTU pricing for Steam Energy withdrawn from the generator and delivered from BED's share of McNeil output, to the DES at the Point of Interconnection (Port 5 of the turbine), shall be a function of the cost of wood fuel supply for the McNeil Station as follows:

The sum of the price being paid by McNeil for Wood Chips in \$/ton <plus> variable costs associated with fuel including transportation and non-wood fuel costs <plus> variable O&M associated with fuel consumption will totaled and then be multiplied by a conversion factor of 0.16048, and that total then multiplied by 110% to arrive at the contract price per MMBTU of Steam Energy to BDES at the point of interconnection.

As an example: [(\$40/ton <plus> \$11.80/ton <plus> \$3.65/ton) <times> 0.16048] <times> 110% = \$9.79 per MMBTU of Steam Energy.

The Steam Energy pricing may vary monthly based on the higher of i) the rolling average of the costs per ton for McNeil Wood Chips for the twelve preceding months, ii) the price per ton being offered to McNeil Wood Chip suppliers for the current month.

BED shall, annually beginning on June 30, 2025, provide the DES with budgeted pricing for the next year of this agreement (for example, on June 30, 2025 BED will provide DES budgeted pricing for the 12-month period ending June 30, 2026). The budget shall include the price per ton of Wood Chips, along with the assumed other variable costs of steam production for the same period required to complete the formula above and the resulting estimated price per MMBTU of all Steam Energy provided by McNeil. The estimated price per MMBTU of Steam Energy shall be calculated using the cost of Wood Chip fuel converted to a variable cost of production of thermal energy, in either case for the period for which pricing is being provided as shown above.

The price for thermal energy extracted from waste heat shall be \$1,000 per year for years 1-5 of this Contract, and for years 6 and subsequent years of this Contract shall be \$5,000 per year

and for years 7+ will be escalated annually at the rate of inflation using the NE Urban – All Products CPI.

Payment for Steam Energy from steam extraction shall be owed to BED, and for the thermal energy recovered from waste heat shall be owed to the McNeil Joint Owners.

4. Delivery/Damages

Steam energy shall generally be made available to the DES at turbine port 5 at any time that McNeil is operating at or above 46.0 MW net electrical output for electricity production prior to the diversion of steam from port 5 for the DES (unless technical reasons prevent such delivery). Waste heat energy will be available at any time that the exhaust temperatures permit its use by the DES. BED shall not be obligated for any damages for failure to deliver steam or waste heat thermal energy at any time. BED shall use commercially reasonable efforts to overcome technical reasons preventing any delivery of thermal energy if such technical difficulty is associated with equipment owned by the McNeil Joint Owners.

5. Operational Scheduling

The operation of McNeil, in terms of dispatch periods, and hence the availability of steam and thermal energy, shall be at the sole discretion of the McNeil Joint Owners based on the economics of producing electrical energy. Operation shall generally be based on a combination of ISO-NE and REC market factors (particularly price) and the need to maintain a viable wood supply. The specific output level of McNeil's operation shall likewise be at the sole discretion of the McNeil Joint Owners, provided that the level of operation selected does not prevent the delivery of thermal energy to the DES during a period where the plant is operating and producing electricity at or above 46.0 MW net electrical output for electricity production prior to the diversion of steam from port 5 for the DES.

Annually, within two weeks of July 1 of each year, the McNeil Joint Owners will provide an estimate of the McNeil operations (in the form of a planned capacity factor for the following November to March heating season). McNeil shall make commercially reasonable efforts to ensure that steam and thermal energy shall be available for that heating season for a total number of hours not less than the capacity factor estimate times the number of hours in the heating season, absent an extended plant outage that resulted in McNeil altering the wood deliveries under its contracts with suppliers or an event constituting an event of Force Majeure.

The McNeil Joint Owners agree, and the BDES accepts, that there will not be additional incremental wood procurement necessary to serve district energy, and that McNeil will continue to operate and be dispatched as it has been prior to district energy, based on electric market pricing.

6. Volume of Thermal Energy Available

Not more than the lesser of 35 MMBTU or the MMBTU output of turbine port 5 per hour of thermal energy will be delivered to the DES during any period where McNeil is online and producing at least 46.0 MW of net electrical output for electricity production prior to the diversion of steam from Port 5 for the DES. THE DES may, as needed, request any amount of thermal energy within this range of available thermal energy. Availability of steam and thermal energy during times when the plant is starting up, or cooling down, or otherwise not online for energy production at a net electrical output of at least 46.0 MW of net electrical output for electricity production prior to the diversion of steam from port 5 for the DES, shall be at the discretion of the McNeil Joint Owners.

7. Costs associated with DES equipment located at McNeil

All costs associated with any equipment installed at the McNeil site to permit the provision of steam energy from steam port 5 on the McNeil Turbine as well as from thermal energy from flue gas waste heat to the DES will be borne by the DES, including, but not limited to, costs of electricity consumed by DES equipment, other operating or maintenance costs (including maintenance to the balance of the McNeil plant caused by equipment of the DES), and taxes/insurance costs. Proof of insurance must be provided by the DES, and maintained during the Term of this Agreement in the types and amounts specified by BED and the McNeil Joint Owners as long as such amounts are commercially reasonable.

8. Renewability / Attributes / Environmental Credits

Any Vermont Renewable Energy Standard (RES) value associated with the operation of the DES, shall be apportioned between BED and the BDES/its customers pursuant to the term sheet for Tier 3 contributions.

Term Sheet

Contributor: Burlington Electric Department (“BED”)

Recipient: Burlington District Energy System (“BDES”)

Product: Vermont Renewable Energy Standard Tier 3/Energy Innovation (“Tier 3”) Credits created by the replacement of natural gas consumption with thermal energy produced by the Burlington District Energy System (“BDES”)

Structure: Firm contribution subject to conditions precedent.

Term: Twenty years beginning upon commercial operation of the DES continuing as long Conditions shown below remain in effect.

Condition(s):

- (1) BDES produces at least 12,720 T3 credits for BED, or provides equivalent benefit to BED under any VT RES successor or other governmental program.
- (2) BED can claim the T3 credits associated with this contribution on an annual basis.
- (3) Hospital continues to consume thermal energy from the BDES, displacing natural gas

Contribution: During the term, and commencing with the receipt of T3 credits, BED will contribute \$665,000 annually to Recipient to assist with the incremental costs associated with converting from the use of natural gas to DES thermal energy.

Delivery: Tier 3 credits associated with the project will be created by Contributor submitting the BDES activity for the year as a portion of its preliminary RES report on prior year’s activities in March, and its final RES compliance report on prior year’s activities in August of each calendar year.

Tier 3 Credits/Environmental Attributes/Claims: Tier 3 credits created by Contributor shall include all attributes necessary to qualify as such under 30 § V.S.A. 8005. Recipient will make no claims that are contrary to the use of Tier 3 credits created by Contributor for their intended purpose as a compliance mechanism under Vermont’s RES. Recipient may retain any attribute that does not interfere with the use and recognition of T3 credits created by Contributor.

Conditional Integration: The transaction contemplated by this term sheet is dependent upon the acceptance of corresponding terms governing the operation of the DES and the purchase and sale of Steam and Environmental attributes between and BDES and its customer(s).

Board of Finance and City Council Submission Checklist

Department: BED Submitter: Darren Springer

Title/Subject: GM

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	11/20/2023
☐	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	10/25/2023	Click or tap here to enter text.
Mayor's Office informed and approved memo	Yes	11/15/2023	Click or tap here to enter text.
Board/Commission, if required	Yes	10/25/2023	Commission voted to approve 5-0
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Yes	11/17/2023	Jared Pellerin
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	11/17/2023	Jared Pellerin
CAO has reviewed budget, financing, and memo	Yes	11/15/2023	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	Memo
Contract Attached, if applicable?	Yes	Two Term Sheets
Additional Materials, if necessary	Choose an item.	Franchise Agreement and Easement
Draft Resolution or Motion?	Yes	
If for submission to Council, are sponsors identified?	Yes	Sponsors Councilor Barlow, Dieng

Resolution Relating to

RESOLUTION SUPPORTING DISTRICT ENERGY AND
CONTINUED EFFICIENCY IMPROVEMENT AT MCNEIL
GENERATING STATION

RESOLUTION 7.6.

Sponsor(s): Councilors Barlow, Dieng

Introduced: 11/20/23

Referred to:

Action: adopted

Date: 11/20/23

Signed by Mayor: 11/28/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three

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

1 That WHEREAS, the City of Burlington (the “City”) and the Burlington Electric Department (“BED”) have
2 adopted a goal to reduce and eventually eliminate fossil fuel usage in heating and ground transportation (the
3 “Net Zero Energy Goal”), as set forth in the Net Zero Energy Roadmap, dated September 5, 2019; and

4 WHEREAS, the City and BED have identified and are undertaking capital improvements to implement
5 the City’s Net Zero Energy Goal, including technology system upgrades, electric grid updates to meet
6 increased electricity needs resulting from greater strategic electrification and to ensure the continued reliability
7 of BED’s current distribution system, generation plant upgrades and maintenance, and acquisition of and
8 investment in municipal electric vehicles and vehicle charging stations; and

9 WHEREAS, BED, as a municipal public utility, has as its mission the imperative to serve customers
10 with energy in a manner that is safe, reliable, affordable, sustainable and socially-responsible; and

11 WHEREAS, BED and the other joint owners of the McNeil Generating Station (the “McNeil Plant”)
12 have investigated the beneficial use of steam generated at the McNeil Plant to reduce fossil fuel use in the
13 City, and have engaged in discussions and planning over several years as to how to best capture and use the
14 steam heat; and

15 WHEREAS, the City and BED have engaged in discussions and feasibility work with Ever-Green
16 Energy, Inc. (“Ever-Green”) and the non-profit Burlington District Energy System (“Burlington District
17 Energy”, a Vermont nonprofit corporation, that is operated exclusively for charitable purposes within the
18 meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to examine methods and
19 options to implement a district heating project that utilizes the thermal energy from the McNeil Plant and a
20 supplementary electric boiler; and

21 WHEREAS, BED, Ever-Green Energy, Vermont Gas Systems, and the University of Vermont Medical
22 Center (“Medical Center”) presented on the proposed Burlington District Energy project at a work session at
23 the Council’s meeting on October 23rd, 2023, and the Medical Center indicated it was interested in moving
24 forward with purchasing the renewable steam from the Burlington District Energy project as a customer,

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pending several items including completion of discussions on terms and pending City review and approval to advance the project; and

WHEREAS, the Medical Center indicated that having access to steam from Burlington District Energy would support campus energy needs and reliability and future growth and investment in the Burlington campus; and

WHEREAS, Burlington District Energy will support waste heat capture and use at the McNeil Plant, and improve overall efficiency at the Plant by approximately 10 percent; and

WHEREAS, it is estimated that the Burlington District Energy project will reduce natural gas consumption by approximately 16 percent in the commercial sector in Burlington, avoiding approximately 13,000 tons of greenhouse gas emissions in that sector; and

WHEREAS, the Burlington Electric Light Commission voted unanimously at its meeting on October 25, 2023, to recommend the Burlington District Energy project and relevant term sheets to the City Council; and

WHEREAS, the McNeil Joint Owners voted unanimously at their meeting on November 6, 2023 to advance the District Energy term sheets to the City Council; and

WHEREAS, BED has indicated and committed that while wood chip usage at the McNeil Plant varies annually and will continue to vary based on the plant's operational availability and the electric market pricing, the implementation of and operation of the Burlington District Energy project will not require BED to utilize additional incremental wood at McNeil to support provision of steam for the Burlington District Energy project, and will not require BED to change the McNeil Plant dispatch and that such dispatch will continue to be driven by electric market pricing; and

WHEREAS, the District Energy Term Sheet included in the Council materials for the November 20, 2023 meeting includes a provision that states "The McNeil Joint Owners agree, and the BDES accepts, that there will not be additional incremental wood procurement necessary to serve district energy, and that McNeil will continue to operate and be dispatched as it has been prior to district energy, based on electric market pricing," which serves to further ensure no additional wood will be procured to serve district energy; and

WHEREAS, this Resolution includes a Resolved Clause to ensure that McNeil does not procure more wood after adding district energy than it did before, and to effectuate that sets a ceiling that the Plant cannot consume more wood by volume in any future calendar year than the highest usage over a 12 month calendar year period in the last 15 years which is a new requirement that limits the Plant's annual consumption and ensures no expansion of consumption beyond historical actual levels; and

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WHEREAS, the only circumstances in which the McNeil Plant can consume more wood beyond the above referenced limits in a calendar year, is if VELCO the statewide Vermont transmission utility, or ISO-New England the regional grid operator, call on McNeil to operate in order to ensure reliable electricity in Vermont or New England (as opposed to operations based on economics);

NOW, THEREFORE, BE IT RESOLVED that the City Council approves BED entering into a letter of intent and subsequent contract to provide steam to Burlington District Energy from the McNeil Plant, and provide for appropriate use of the McNeil Plant site by Burlington District Energy including the installation of an electric boiler, based on the commercial terms presented to the Council in the term sheet provided at the Council meeting on November 20, 2023, and provided any such letters of intent or contracts are further reviewed and approved by the City Attorney; and

BE IT FURTHER RESOLVED that the City Council approves BED entering into a letter of intent and subsequent contract to provide incentives to the Burlington District Energy project, based on the commercial terms presented to the Council in the term sheet provided at the Council meeting on November 20, 2023, and provided any such letters of intent or contracts are further reviewed and approved by the City Attorney; and

BE IT FURTHER RESOLVED that the City Council approves and authorizes the Mayor to execute the Franchise Agreement as presented at the Council meeting on November 20th, 2023, between The City and Burlington District Energy upon final review and approval of the City Attorney's Office; and

BE IT FURTHER RESOLVED that the Council approves and authorizes execution of the easement at 99 Intervale Road as presented to the Council at its meeting on November 20th, 2023, upon final review and approval of the City Attorney's Office; and

BE IT FURTHER RESOLVED that BED is committed to and will earnestly and immediately pursue the installation of all possible efficiency enhancements at McNeil, including but not limited to the installation of a wood chip drying system, with the first step being to investigate the viability of installing said wood chip drying system, and pursuant to this efficiency commitment will issue a Request for Information (RFI) by March 1, 2024, to commercial vendors to seek information and demonstrations related to installing a wood chip drying system and other efficiency improvements at McNeil in conjunction with the McNeil Joint Owners, and report back to the Council on the results of the RFI and next steps including issuing an Request for Proposals (RFP) with the McNeil Joint Owners and if appropriate, following the RFP, including funds for investment in the wood chip dryer and other efficiency improvements at McNeil in the next BED budget proposal in which it is practicable; and

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BE IT FURTHER RESOLVED that BED will present in its FY2025 budget a proposal procuring a third-party review of sustainable forestry practices, including but not limited to an accounting (to the extent possible) of the number of whole trees versus limbs/ends/residues, and where whole trees whether they are low-value roundwood or diseased or damaged trees or other, and quantitative and qualitative assessment of the afforestation/deforestation outcomes in the specific areas from which the wood is harvested and the market factors that may affect such outcomes, in order to assess the nature of the current wood chip procurement and forestry management processes and offer BED ideas for further improvement where possible; and

BE IT FURTHER RESOLVED that, acknowledging wood consumption volumes will vary annually based in part on electric market pricing, to the extent legally permissible the McNeil Generating Station shall not, unless required to for reliability purposes by ISO-New England or VELCO, consume more wood by volume in any future calendar year than the largest calendar year volume consumed by the McNeil Plant in the last fifteen years from the date of this Resolution, and that per the District Energy term sheet present at the Council's meeting on November 20th, 2023 there will not be additional incremental wood procurement to serve district energy; and

BE IT FURTHER RESOLVED that The Burlington City Council respectfully requests the General Manager of the Burlington Electric Department to do the following:

- Study the potential timeframes of plans to transition away from the need for conventional wood chip combustion as a significant power source for the City of Burlington, including but not limited to the possibilities of repowering the McNeil plant with different fuels that would reduce greenhouse emissions and for this study to be completed and presented to the Burlington City Council no later than the first City Council meeting of November 2024; and
- Generate and implement a plan in collaboration with McNeil joint owners to reduce the greenhouse gas emissions from the McNeil plant stack by at least 25% in the next 5 years and 50% in the next 10 years to the greatest extent practicable while continuing to reliably operate the Plant for the benefit of ratepayers, and with regular review and reporting of progress to the Transportation Energy and Utilities Committee (TEUC); and
- Identify opportunities for utilizing the McNeil site for additional energy needs including energy storage and/or thermal energy provision and/or expansion of innovative partnerships such as the UVM solar research center newly located at the McNeil Plant; and
- Participate in the TEUC meetings and convene community and stakeholder meetings as needed to monitor progress on implementing ideas for transitioning away from conventional wood chip

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combustion as soon as practicable at the McNeil Generating Station, or improving efficiency at the Plant, and to consider additional ideas from the public while reporting periodically to the full Council on progress and outcomes; and

BE IT FURTHER RESOLVED that in light of the global climate crisis that the city of Burlington has declared an existential crisis requiring dramatic and quick action, the City Council tasks its Transportation, Energy and Utilities Committee (TEUC) to work collaboratively with the Burlington Electric Light Commission, BED, the International Brotherhood of Electrical Workers (IBEW) Local 300, interested environmental organizations, foresters and forestry organizations, community members and residents, and Burlington ratepayers generally to plan for the future of the McNeil Generating Station, including:

- Commissioning an analysis under contract with BED from a competent independent third party with appropriate experience analyzing emissions reduction and renewable energy technologies (and in consultation with the McNeil Joint Owners) to analyze the impacts (both negative and positive) of the current wood chip operation at McNeil and the potential means to substantially reduce or eliminate emissions of stack carbon dioxide and other greenhouse gases and other emissions into the atmosphere. Such analysis shall take into consideration providing for the reliable and cost-effective electric and thermal power needed in the city now and in the foreseeable future as well as the impact of any potential changes at McNeil on ISO-New England reliance on fossil fuels. Such analysis shall include carbon accounting, timeframes, and an assessment of the comparative practicality and cost over the immediate, medium and long-term to Burlington electric and heating customers of such alternatives and the prospective impact on electric rates. The analysis shall also include but not be limited to assessing (1) the possibilities of repowering the McNeil site with different fuels that would significantly reduce greenhouse emissions at the stack as a bridge measure until truly low carbon sources of electricity such as wind, solar and storage technologies can provide reliable electric generation capacity within the affordability needs of ratepayers with particularity to low and moderate-income ratepayers, (2) the utilization of technologies that would significantly reduce greenhouse emissions in the future, including more efficient combustion, (3) the utilization of the McNeil site for additional energy needs including energy storage and/or thermal energy provision, (4) the expansion of innovative partnerships such as the UVM solar research center newly located at the McNeil Plant, and (5) the scale and types of alternative renewable energy technologies and energy storage that would be needed if McNeil was not in service and

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Burlington desired to have its community provided with the lowest-carbon emissions renewable power generation that is both reliable and affordable particularly for low and moderate-income ratepayers. The request for proposals for the study and the contract entered into for the study shall be reviewed and approved by the Burlington Electric Light Commission, TEUC and City Council after taking public comment. BED shall make every practicable effort to submit the request for proposals for this analysis to the Burlington Electric Light Commission, TEUC and City Council for approval within the first three (3) months of Fiscal Year 2025 provided the analysis is approved as part of BED's FY25 budget, and shall report to the TEUC on its progress within six (6) months of the start of FY25; and

- Under the auspices of the TEUC and BED, holding meetings or convenings as needed, including with community groups and stakeholders mentioned above, to monitor progress on the above analysis and the other plans and actions related to the reduction of stack carbon dioxide, other greenhouse gases, and other emissions emitted into the atmosphere at the McNeil Generating Station. Such meetings shall also include review of actions and plans on or improving efficiency at the Plant, and additional ideas from the public. TEUC and BED shall report periodically to the full Council on progress and outcomes, with the first report on these meetings and the other actions stated above to be made no later than one year from the effective date of this resolution and annually thereafter; and

BE IT FURTHER RESOLVED that BED will work with the University of Vermont Medical Center to support continued energy efficiency and electrification efforts at its Burlington campus, and that the Council authorizes BED to discuss and negotiate a Memorandum of Understanding memorializing these efforts with the Medical Center to be presented at a subsequent Council meeting, to include:

- providing technical support and all appropriate incentives for cost-effective, constructable, efficiency measures and technologies including but not limited to electrification technologies, thermal networked systems, and geothermal or ground-source heat pumps systems; and
 - assisting the Medical Center where practicable in reducing its energy costs and reducing its reliance on fossil fuels, carbon-intensive fuels, and conventional technologies, while supporting the Medical Center's need for reliable and affordable energy; and
- BED will provide a progress report made to the TEUC within one year of the effective date of this Resolution; and

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Attest:

178 BE IT FURTHER RESOLVED that BED and the City will work in cooperation with Burlington
179 District Energy and other partners to further advance the Burlington District Energy as it moves to permitting
180 and any necessary regulatory reviews, and financing and construction as so permitted under the law.
181
182 JP/DS/Resolutions 2023/*Resolution Supporting District Energy and Continued Efficiency Improvement at McNeil Generating Station*
183 November 20, 2023

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BED, Darren Springer

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RESOLUTION RELATING TO

Resolution Suppoorting District Energy And Continued Efficiency Improvement
At McNeil Generating Station

Adopted by the City Council

November 20, 2023

Clerk

Approved November 23, 2023

Mayor

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Attest:
Lori Olberg
Licensing and Records Coordinator