

CITY OF BURLINGTON REQUEST FOR PROPOSALS

Community Boathouse Conditions Assessment Study

Issued: Tuesday, March 19th, 2024; **Revised:** Friday, April 5th, 2024

(additions underlined; ~~retractions strikethrough~~)

Optional Site Visit: Thursday, March 28th, 2024 @11am (meet at the Boathouse)

Questions Due: Tuesday, April 2nd, 2024 @NOON

Answers to be posted: Thursday, April 4th, 2024

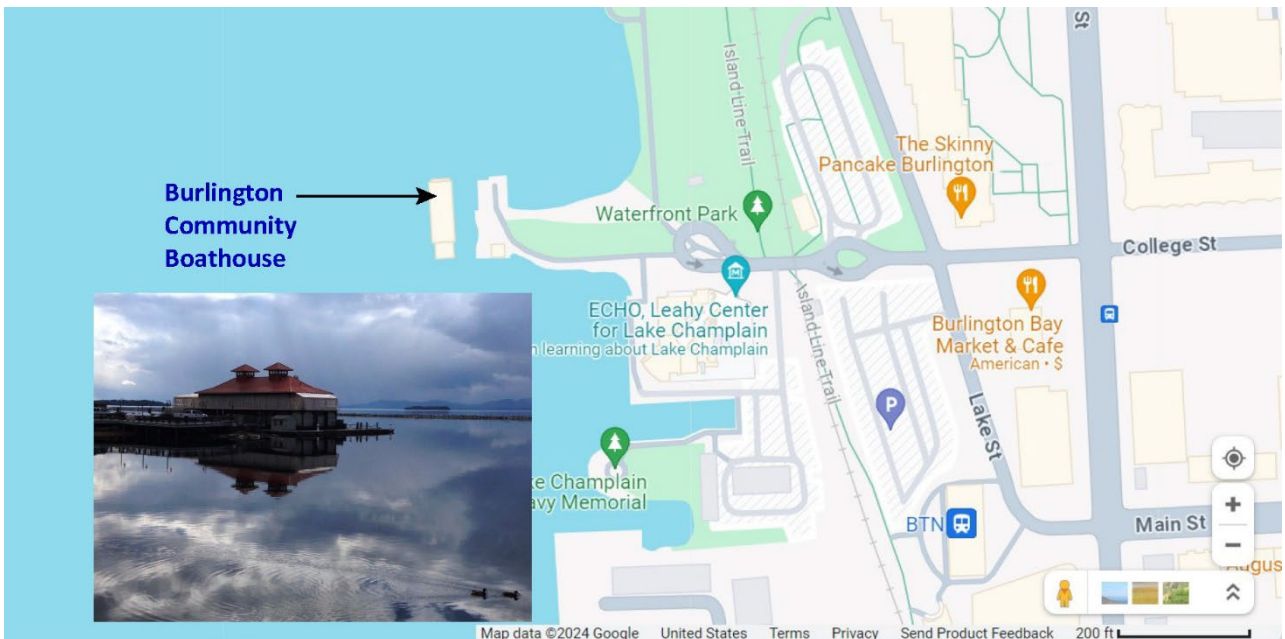
Proposals Due: Tuesday, April 16th, 2024 @NOON

I. PROJECT BACKGROUND

Burlington Community Boathouse, 0 College Street, Burlington, VT 05401

Burlington Parks, Recreation & Waterfront (BPRW) is requesting proposals from qualified interdisciplinary teams of landscape architects, environmental planners, environmental engineers, and other relevant disciplines to complete a Conditions Assessment for the Community Boathouse Facility. Questions concerning this RFP must be made via email per the schedule outlined below. Responses to all submitted questions will be posted at:

<http://www.burlingtonvt.gov/RFP>.



The Community Boathouse (“Boathouse”) Marina is a floating facility located in Burlington

Harbor (44.4769649470737, -73.22261327444336). The base is a floating steel work barge, brought to Burlington in 1987 after serving a full career in-water as a work barge. A wood frame facility was constructed in 1987-1988 on top of the floating metal barge, to serve as a public Marina and gathering place. The Boathouse opened to the public in the summer of 1988.

Currently, the floating facility is still located in the original location and is home to the City's Marina operations, as well as a restaurant and upstairs multi-functional space. Floating docks are anchored around the southern, western and northern sides of the Boathouse to serve recreational boaters, with fixed ramps to access the Boathouse by land on the eastern side and from the floating docks on the western side. This facility importantly allows for public access from the land of Waterfront Park to the water's edge of Lake Champlain.

The Boathouse facility is aged and showing wear due to weather, time and heavy use. The last major renovations to the boathouse were completed in 2012, which included bathroom renovations, epoxy floor treatment and a front office redesign. An analysis of the boathouse hull completed in 2013 indicated several deficiencies and needed repairs which were not completed.

II. SCOPE OF WORK

Full coordination between the consultant and City staff, particularly the Project Manager, is key to the project and is required throughout the project process.

While the following outline serves to illustrate a general process and structure for creating the Conditions Assessment, we are open to and interested in hearing any approaches that would be beneficial to the process and outcome. The list and order of activities outlined below may be amended and finalized at the project kick-off which would be attended by the City Project Team and would serve to solidify project objectives, formalize project schedules, milestones and deadlines and establish points of contact with City Staff. A minimum of an additional 3 meetings with the City Project team is anticipated. BPRW will provide meeting space/ virtual conferencing option. Consultant will draft meeting agenda with BPRW input, facilitate meetings and distribute minutes as part of the deliverables.

The scope of work includes, but is not limited to:

Task 1: Site Inventory & Analysis

Conduct a site inventory and an analysis documenting historical and existing land/water uses and limitations. The inventory and analysis will include:

- A base map of existing infrastructure and amenities locations in the harbor and adjacent land, including but not limited to: existing promenade, existing approach

docks, existing boathouse and any pertinent amenities and all existing infrastructure and how they all fit in with the surroundings;

- Impacts to development, including site developments both on land and in water, limitations due to Public Trust Lands, Notice to Land Records, any existing permits, grants or restrictive agreements;
- Any limitations based on Federal, State and local permitting;
- An understanding of engineered lifespan of in-water equipment.

Task 2: Conditions Assessment Plan Development

Based on the information received in Task 1, develop possible future plans for the Boathouse Facility.

- Perform a Conditions Assessment on the current Boathouse facility to determine feasibility of lifespan. Taking a similar approach to the 2013, this should be inclusive of the metal barge conditions, wood frame and all corresponding ramps and point of contact to the floating facility.
- Based on the Conditions Assessment, consultant team to develop an opinion of cost for any and all necessary repairs to ensure safety and resilience of existing structure and make recommendations of rehabilitation or replacement to project team.
- Based off of this assessment:
 - Create three conceptual plans for the site and facility, informed by the facility conditions and any permitting constraints. For example:
 - Plan 1: Provide estimates for stabilizing and renovating the current floating Facility in its current location;
 - Plan 2: Provide estimates on replacing the floating facility with a similar, floating or raised on pilings facility with new materials and structure in the same location;
 - Plan 3: Recommend the best land relocation for a new Facility with direct access to the docking systems. This plan can be 100% on land, hybrid or on pilings/decking, but not floating.
- Perform a basic analysis of potential costs and economic impacts for each alternative plan.
- This could include additional revenue from increased slip rentals, increased property tax revenues from development, and increased revenue from potential lease space within the facility.
- ~~Integrate feedback into a final plan and project report, complete with high level real-world cost estimates and design sketches;~~

Task 3: Deliverables of the Conditions Assessment Study

Final project report documenting project process and key deliverables both original, editable format, GIS for any plans and in .pdf format; including:

- Executive Summary,
- Site plan of existing conditions, summary of site analysis,
- ~~Synthesis of findings of public process including, but not limited to: user surveys, public design charette and feedback on concepts,~~
- Economic development strategies that balance services both in the park and within the marina and revenue,
- Site plan of future conditions including proposed amenities ~~and~~
- Brief synopsis of study relaying key information of the assessment for public communication (raw file and .pdf).
- ~~Phasing plan and estimated cost breakdown of proposed amenities.~~

Final project report draft to be reviewed by City Team for feedback and revisions prior to final report and project completion.

City Project Team includes, but is not limited to: Parks Planning Team, Waterfront Team, Grounds and Maintenance Team, Department Director, Department of Public Works and City Planning at key intervals during the project.

III. RESPONSE FORMAT

Questions concerning this Request for Proposals (RFP) must be made via email. Responses to all submitted questions will be posted at: <http://www.burlingtonvt.gov/RFP> by the noted date. Any revisions, addendums, and answers to questions received by the question deadline will be sent to Consultants who attended the pre-bid meeting.

Responses to this RFP must be not more than 20 pages in length (10 double-sided or 20 single-sided pages), received per the schedule outlined on Page 1 to be considered.

Proposals must be submitted electronically as a .pdf. Applicants will receive a confirmation email once their proposal is received. Please ensure that the document is easily printable in an 8.5x11 format.

Responses must include the following:

- 1) Qualifications Details consisting of:
 - a) Cover letter including statement of understanding & approach to this project;
 - b) Proposed Project Team Members: A description of the team composition, areas of expertise, and role of each member and sub-consultant on the team. Clearly indicate the applicant's designated project manager as well as sub-

consultants who will be assigned to the work for the length of the project and their respective expertise in such work;

- c) Specific Project Experience: Descriptions detailing completed, similar or relevant project experience that the applicant has executed. Links to similar or relevant projects are encouraged;
- d) List of References: Provide a minimum of three client references with which the applicant has provided similar planning and design services within the last five years.

Include the name, telephone number and email address of the contact person and a description of the role and services provided to that contact.

2) Technical Proposal consisting of:

- a) A description of the approach to be taken toward completion of the project, an explanation of any variances to the proposed scope of work as outlines in the RFP, and any insights into the project gained as a result of developing the proposal;
- b) A scope of work that includes steps to be taken, including any products or deliverables;
- c) A summary of estimated labor hours by task that clearly identifies the project team members and the number of hours performed by each sub-consultant by task;
- d) A proposed schedule that indicates project milestones, including deliverables, and overall time for completion;
- e) Any other information deemed necessary to address the requests of this RFP.

3) Cost Proposal consisting of: composite schedule by task of direct labor hours;

- a) An itemized schedule of all expenses, including both labor and direct expenses. If the use of sub-consultants is proposed, a separate schedule of hours and expenses must be provided for each sub-consultant)

IV. CONSULTANT SELECTION

Proposals will be reviewed and evaluated by City staff based on the information provided. Proposals will be rated according to the following criteria (Total of 100 points possible).

1. **Experience & Qualifications:** Qualifications and experience of staff identified to work on this project (including sub-consultants) and the role and time that each member will perform on the project. (15 pts)
2. **Project Understanding & Knowledge of Area:** Demonstrated understanding of the parameters of this project, its limitations and potential. (15 pts)
3. **Ability to Meet Schedule:** Identify strategies to be applied to complete the plan and deliverables within the identified timeline. (15 pts)
4. **Ability to Meet Budget/Value:** Outline how the project will be managed as related to proposed and anticipated additional costs. Estimate of resource allocations to each component of the project and availability of qualified staff. (25 pts)
5. **Depth of Skills:** Depth or relevant technical experience in undertaking this type of project. (10 pts)
6. **Demonstration of Innovative Approaches:** How were similar projects approached, challenges addressed, and objectives achieved. (10 pts)
7. **Quality, Clarity & Completeness of Submittal Package** (10 pts)

No proposal will be considered accepted until all necessary City authorizations, including those required by Board of Finance and City Council if necessary, have been received and an agreement is executed by both parties.

V. SUBMISSIONS

Proposals and questions shall be submitted via e-mail to:

Jon Adams-Kollitz

Parks Project Manager

Burlington Parks, Recreation & Waterfront

802-233-1168

jadamskollitz@burlingtonvt.gov

Additional submission requirements are as follows:

1. Responses to this RFP must be received per the schedule outlined on Page 1 to be considered.
2. Applicants are solely responsible for ensuring that proposals arrive on time.
3. Each applicant MUST provide their submittal electronically as a PDF.
4. Faxed proposals WILL NOT be accepted.
5. Late replies WILL NOT be considered.

Communications

It is important that all respondents are given clear and consistent information. Therefore, all respondents are required to submit any questions related to this project or RFP process via email. Responses to all submitted questions will be posted with this RFP at the City website at: <http://www.burlingtonvt.gov/RFP>. Questions concerning this RFP must be received via email per the schedule outlined on page 1. Inquiries received after this date will not be considered or answered.

Respondents should not communicate with any City department or employee during the submission process except as described above. In addition, no communications should be initiated by a respondent to any City Official or persons involved in evaluating or considering the statement of qualifications. Communication with any parties for any purpose other than those expressly described herein may cause an individual firm, or team to be disqualified from participating.

Other terms

The City reserves the right to request clarification of information submitted and to request additional information of one or more respondents. All materials submitted in response to this RFP will become the property of the City upon delivery. This solicitation in no way obligates the City of Burlington to award a contract.

It will be necessary for responding parties to comply fully with the terms and conditions outlined in this document if they are to be considered. A letter attesting that the respondent has read, understands, and followed all procedures is a part of this RFP and must be included as part of the final submittal (Exhibit A).

VI. EXHIBITS

- A. Exhibit A: Understanding of RFP Procedures, Terms and Conditions
- B. Exhibit B: Additional Project Information, including:
 - i. 2013 Conditions Assessment of the Steel Barge
- C. Exhibit C: Map of Project Location and Photos
- D. Exhibit D: Draft Contract
- E. Exhibit E: Burlington Standard Contract Conditions
- F. Exhibit F: Burlington Livable Wage Ordinance Certification
- G. Exhibit G: Burlington Outsourcing Ordinance Certification
- H. Exhibit H: Burlington Union Deterrence Ordinance Certification

Bid documents include this main body of the request for proposals and all exhibits.

VII. CONTRACTING

The consultant must qualify as an independent contractor and, prior to being awarded a contract, must apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1101, PH: 802-828-2363, Toll-free: 800-439-8683; Vermont Relay Service – 711; web site: <https://www.sec.state.vt.us/>. The contract will not be executed until the consultant is registered with the Secretary of State's Office.

Prior to beginning any work, the consultant shall obtain Insurance Coverage in accordance with the Burlington Contract Conditions (Exhibit E in this RFP). The certificate of insurance coverage shall be documented on forms acceptable to the City.

VIII. AGREEMENT REQUIREMENTS

The selected consultant will be required to execute a contract with the City on the terms and conditions required by the City, including but not limited to those in the Burlington Contract Conditions (Exhibit E) and the attached Draft Agreement. No proposal will be considered accepted until all necessary City authorizations—including those required by Board of Finance and City Council if necessary—have been received and an agreement is executed by both parties.

IX. LIMITATIONS OF LIABILITY

The City assumes no responsibility or liability for the response to this Request for Proposals.

X. COSTS ASSOCIATED WITH PROPOSAL

Any costs incurred by any person or entity in preparing, submitting, or presenting a proposal are the sole responsibility of that person or entity, including any requests for additional information or interviews. The City will not reimburse any person or entity for any costs incurred prior to the issuance of the contract.

XI. INDEMNIFICATION

Any party responding to this Request for Proposals is acting in an independent capacity and not as an officer or employee of the City. Any party responding to this Request for Proposals will be required to indemnify, defend, and hold harmless the City, its officers, and employees from all liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the responding party's acts and/or omissions in or related to the response.

XII. REJECTION OF PROPOSALS

The City reserves the right to reject any or all proposals, to negotiate with one or more parties, or to award the contract to the proposal the City deems will meet its best interests, even if that proposal is not the lowest bid. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals. This Request for Proposals in no way obligates the City to award a contract.

XIII. OWNERSHIP OF DOCUMENTS

Any materials submitted to the City in response to this Request for Proposals shall become the

property of the City unless another arrangement is made by written agreement between the City and the responding party. The responding party may retain copies of the original documents.

XIV. DUTY TO INFORM CITY OF BID DOCUMENT ERRORS

If a bidder knows, suspects, or has reasonable cause to believe, that an error or omission exists in any bid documents, including but not limited to unit prices and rate calculations, the bidder shall immediately give the City written notice thereof. Consultant shall not cause or permit any work to be conducted that may related to the error or omission without first receiving written acknowledgment from the City that City representatives understand the possible error or omission and have approved the requested modifications to the bid or contract documents or that the consultant may proceed without any modification being made to the bid or contract documents.

XV. PUBLIC RECORDS

Any and all records submitted to the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act. The determination of how those records must be handled is solely within the purview of City. All records the responding party considers to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, or that the responding party otherwise seeks to have the City consider as exempt must be identified clearly and specifically at the time of submission. It is not sufficient to merely state generally that a proposal is proprietary, contains a trade secret, or is otherwise exempt. Particular records, pages, and sections which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

Exhibit A: Understanding of RFP Procedures, Terms and Conditions

This page to be returned with qualifications submission

I acknowledge that I have read and understand all procedures and requirements of the above reference RFP and have complied fully with the general terms and conditions outlined in the RFP.

Consultant/Team:

Representative's Printed Name:

Representative's Signature:

Date:

Exhibit B: Additional Project Information, including:

- i. 2013 Conditions Assessment of the Steel Barge**

JOSEPH W. LOMBARDI

Marine Surveyor & Consultant

OCEAN TECHNICAL SERVICES, LLC.

10 Dalton Avenue, Gloucester, MA 01930 Office (978)-526-1894 Fax (866)-381-2687

PRIVILEGED & CONFIDENTIAL

Vessel Survey Report No. 2481

Surveyed at: Waterfront Park, Burlington, VT.

Date of Survey: 14 February 2013

Vessel surveyed: 30' x 120' Double Rake Flat Steel Barge

Survey commissioned by: Jen Francis, LEED BD+C

Parks Planner

Department of Parks & Recreation

City of Burlington 802.865.7248 jsfrancis@burlingtonvt.gov

Purpose of survey: Condition Assessment

DISCUSSION

'STANDARDS & RECOMMENDED PRACTICES FOR SMALL CRAFT' (ABYC), 'PLEASURE AND COMMERCIAL MOTOR CRAFT # 302' (NFPA) and the 'FEDERAL REQUIREMENT FOR RECREATIONAL CRAFT 33 & 46 CFR' are utilized in compiling this report; individual reference to subchapters of the above is not made within the body of this report.



VESSEL DATA

LOA: 120' 00"
Beam: 30' 00"
Height: 7' 00"
Displacement: Unknown

No other supporting documentation provided at time of survey.

HULL & DECK

This vessel was in the water, held to shore by wooden pilings and the pair of passenger ramps. She appears to float on her designed lines and presents an acceptable commercial appearance. This vessel was designed as a double raked flat steel deck barge for cargo carrying purposes. She has been modified by the Parks Department to provide two levels of shops, offices and commercial space for waterfront functions.

This report covers the steel deck barge, and omits the structure from maindeck and above.

The barge has a pair of 25'L x 30W rakes (open across the rakes) with a mid-body comprising four main compartments, each 35'L x 15'W. Previously, there was a watertight centerline bulkhead from one end of the barge to the other and a centerline athwartships watertight bulkhead across the mid-section of the body of the barge. The watertight bulkheads have been cut into for access over the years for piping and ventilation trunks leaving the barge susceptible to progressive flooding should any one of the six (6) compartments start taking on water. Additionally, there are three non-watertight hatches providing access to bilge spaces from the maindeck.

BARGE SCANTLINGS

SIDE SHELL, DECK & BOTTOM PLATING: 5/16" (.313")

FORWARD/AFT RAKE LONGITUDINAL FRAMES: 1/4" X 3" X 5" ANGLE STOCK ON 26" CENTERS

FORWARD/AFT RAKE DIAGONALS: 1/4" X 3" X 3" ANGLE STOCK ON 80" CENTERS

FORWARD/AFT RAKE DECK LONGITUDINAL FRAMING: 1/4" X 3" X 5" ANGLE STOCK ON 26" CENTERS

FORWARD/AFT RAKE VERTICAL STANCHIONS: 1/4" X 5" X 5" ANGLE STOCK ON VARIOUS CENTERS

MAIN BODY BULKHEAD PLATING: 5/16" (.313")

BULKHEAD VERTICAL FRAMING: 1/4" X 3" X 5" ANGLE STOCK ON 26" CENTERS

MAIN BODY LONGITUDINAL BOTTOM FRAMING: 1/4" X 3" X 5" ANGLE STOCK ON 28" CENTERS

MAIN BODY VERTICAL STANCHIONS: 5/16" X 4" X 4" ANGLE STOCK

BOTTOM & TOP TRANSVERSE CHANNEL STOCK: 1/4" X 2 1/2" X 8" ON 70" CENTERS

CONDITIONS FOUND

FORWARD RAKE

Condition of forward rake (south end) is good with minimal plate loss observed. With the exception of the low bilge area of the rake (moderately scaled) the side shell plating, deck and framing are in excellent material condition. All steel in this compartment coated with a preservative mastic (composition unknown).



Forward rake of barge looking to port.



Forward rake, showing rust/scale at bulkhead.

UT of side shell plating, .313" as plated

PORT .290 .289 .305 .300 .288

STBD .302 .289 .291 .276 .277

CONDITIONS FOUND

FORWARD RAKE

BOTTOM PLATING, FORWARD TO AFT, PORT TO STARBOARD

.300 .289 .278 .302 .291 .290 .276 .288 .285 .267
.307 .293 .289 .300 .298 .268 .271 .279 .299 .284
.288 .276 .301 .305 .287 .276 .289 .300 .283 .279

No repairs required in this tank at this time.

AFT RAKE

Condition of aft rake (north end) is good with minimal plate loss observed. With the exception of the low bilge area of the rake (moderately scaled) the side shell plating, deck and framing are in excellent material condition. All steel in this compartment coated with a preservative mastic (composition unknown).



Looking to starboard across aft rake at bulkhead.



Overhead piping within the aft rake, notice good material condition of longitudinal frames.

CONDITIONS FOUND

AFT RAKE

UT of side shell plating, .313" as plated

PORT .286 .292 .287 .267 .299

STBD .277 .292 .272 .289 .307

BOTTOM PLATING, FORWARD BULKHEAD TO AFT, PORT TO STARBOARD

.305 .292 .283 .279 .304 .298 .309 .280 .291 .310
.282 .303 .293 .275 .305 .283 .304 .304 .311 .285
.309 .310 .282 .303 .293 .275 .283 .291 .300 .279

No repairs required in this tank at this time.

MAIN BODY OF BARGE

The central main section is comprised of four (4) main tanks sized 15' W x 35' L intersected by a center-line longitudinal and mid-length transverse 5/16" steel bulkheads. These are perforated with large cut-outs to facilitate piping, furnace and hot water heaters, forced hot air ventilation ducts and supplemental plastic water ballast tankage (in Bay #3) hence they are not watertight.

TANK #1 PORT SIDE FORWARD

Side shell plating, deck plating and scantlings all appear to be in excellent condition. Plating is not compressed and frames are not standing proud on the topsides indicating a barge with good shape and light use throughout her career.

Bottom plating has moderate rust and scale. Bottom shell plating in vicinity of centerline bulkhead is heavily corroded and should be replaced within 3 – 5 years. Bottom shell plating (26"W x 35' L x 5/16") outboard at the intersection of the vertical outside plating is heavily corroded and should be replaced within 3 – 5 years; replace 5/16" x 3" x 3" bottom intersection angle at juncture of side shell to bottom plating.

All steel in this compartment coated with a preservative mastic (composition unknown).

Replace bottom shell plating from centerline bulkhead out 4' 05" x 35'.

Replace bottom shell plating from juncture of vertical side shell to bottom plating in 26" x 35' for length of compartment.

Replace bottom 1' x 35' of centerline bulkhead where it intersects bottom shell plating.

CONDITIONS FOUND



Tank #1, port side forward looking aft to Tanks #3 behind bulkhead. Notice rust/scale in bilges



Tank #1, looking aft to hot water heaters.

CONDITIONS FOUND

Side shell plating (.313"), bow to stern, at wind/waterline on 4' centers

.288 .279 .300 .302 .295 .290 .280 .277 .288 .300 .267 .299

Bottom shell plating, bow to stern, port to starboard on various centers in each bay

.300 .280 .279 .290 .300 .303 .305
.291 .294 .283 .288 .279 .280 .289
.300 .311 .305 .291 .283 .300 .312
.287 .290 .278 .281 .291 .299 .300
.288 .291 .299 .302 .307 .300 .289
.285 .280 .310 .282 .303 .293 .275
.283 .291 .300 .279 .288 .279 .300

TANK #2 PORT SIDE AFT

Side shell plating, deck plating and scantlings all appear to be in excellent condition. Plating is not compressed and frames are not standing proud on the topsides indicating a barge with good shape and light use throughout her career.

Bottom plating has moderate rust and scale. Bottom shell plating in vicinity of centerline bulkhead is heavily corroded (with minor standing water from leakage) and should be replaced within 3 – 5 years. Bottom shell plating (26"W x 35' L x 5/16") outboard at the intersection of the vertical outside plating is heavily corroded and should be replaced within 3 – 5 years; replace 5/16" x 3" x 3" bottom intersection angle at juncture of side shell to bottom plating.

All steel in this compartment coated with a preservative mastic (composition unknown).

Replace bottom shell plating from centerline bulkhead out 4' 05" x 35'.

Replace bottom shell plating from juncture of vertical side shell to bottom plating in 26" x 35' for length of compartment.

Replace bottom 1' x 35' of centerline bulkhead where it intersects bottom shell plating.



Tank #2, looking forward; outboard plating is to the left.

CONDITIONS FOUND



Tank #2. Wasted bottom plating against centerline longitudinal bulkhead showing standing water.



**Centerline vertical longitudinal bulkhead intersection bottom shell plating.
Notice wastage of weldments and heavy corrosion.**

CONDITIONS FOUND

Side shell plating (.313"), bow to stern, at wind/waterline on 4' centers

.279 .283 .267 .292 .295 .269 .287 .271 .282 .290 .297 .255

Bottom shell plating, bow to stern, port to starboard on various centers in each bay

.300 .290 .281 .301 .380 .275 .277
.300 .305 .290 .281 .311 .273 .300
.300 .297 .312 .295 .280 .291 .281
.296 .299 .300 .288 .291 .299 .302
.307 .238 .240 .239 .243 .242 .235
.233 .312 .287 .290 .278 .300 .301
.278 .298 .309 .280 .291 .310 .282

Tank

Replace bottom shell plating from centerline bulkhead out 4' 05" x 35'.

Replace bottom shell plating from juncture of vertical side shell to bottom plating in 26" x 35' for length of compartment.

Replace bottom 1' x 35' of centerline bulkhead where it intersects bottom shell plating.

TANK #3 STARBOARD SIDE FORWARD

This tank has plastic ballast water tanks to maintain an even keel due to loading on the port quarter; a proper inclining experiment should be conducted to ensure proper loading and safety and stability of the barge.

Side shell plating, deck plating and scantlings all appear to be in excellent condition. Plating is not compressed and frames are not standing proud on the topsides indicating a barge with good shape and light use throughout her career.

Bottom plating has moderate rust and scale. Inboard longitudinal has moderate rust and scale. Centerline bulkhead has 5/16" plating and no standing water. In good repair. No standing water.

All steel in this compartment coated with a preservative mastic (composition unknown).

Conduct a proper inclining experiment to determine stability to ensure proper loading/safety and stability of the barge.



Tank #3. Looking aft with ballast tankage outboard.

CONDITIONS FOUND



Tank #3, looking at base of aft inboard corner of tank.

Side shell plating (.313"), bow to stern, at wind/waterline on 4' centers

_.302 .303 .285 .269 .300 .301 .278 .288

Bottom shell plating, bow to stern, port to starboard on various centers in each bay

.288 .291 .299 .302 .307 .300 .302
.307 .300 .289 .285 .288 .272 .301
.277 .278 .270 .298 .302 .303 .285
.269 .300 .301 .278 .288 .291 .283
.288 .300 .296 .302 .295 .290 .280
.277 .288 .300 .289 .278 .302 .291
.290 .276 .288 .285 .307 .293 .289

Replace bottom shell plating from centerline bulkhead out 26' x 35'.

CONDITIONS FOUND

TANK #4 STARBOARD SIDE AFT

Side shell plating, deck plating and scantlings all appear to be in excellent condition. Plating is not compressed and frames are not standing proud on the topsides indicating a barge with good shape and light use throughout her career.

Bottom plating has moderate rust and scale. Bottom shell plating in vicinity of centerline bulkhead is heavily corroded (with minor standing water from leakage) and should be replaced within 3 – 5 years. Bottom shell plating (26"W x 35' L x 5/16") outboard at the intersection of the vertical outside plating is heavily corroded and should be replaced within 3 – 5 years; replace 5/16" x 3" x 3" bottom intersection angle at juncture of side shell to bottom plating.

All steel in this compartment coated with a preservative mastic (composition unknown).

Tank #4. Replace bottom shell plating from centerline bulkhead out 4' 05" x 35'.

Side shell plating (.313"), bow to stern, at wind/waterline on 4' centers

.288 .276 .295 .269 .280 .293 .291 .256

Bottom shell plating, bow to stern, port to starboard on various centers in each bay

.300 .298 .268 .271 .279 .299 .288
.276 .301 .305 .287 .276 .289 .300
.283 .243 .242 .235 .233 .312 .287
.290 .278 .300 .301 .278 .298 .309
.280 .291 .310 .289 .285 .288 .272
.301 .277 .278 .270 .278 .281 .254
.266 .281 .290 .301 .300 .281 .273

RECOMMENDATIONS

GENERAL

Conduct a proper inclining experiment to determine stability to ensure proper loading/safety and stability of the barge.

Conduct dive assessment in spring to determine degree of pitting of bottom and side shell plating and percentage of intact paint system.

Consider installation of an impressed cathodic system to negate the effects of galvanic potential attacking the shell plating within this marina setting.

Consider installation of steel plating on all bulkheads to renew the watertight integrity of the barge. Install new bolted hatches for each tank from maindeck and install tank ladders.

TANK #1

Replace bottom shell plating from centerline bulkhead out 4' 05" x 35'.

Replace bottom shell plating from juncture of vertical side shell to bottom plating in 26" x 35' for length of compartment.

Replace bottom 1' x 35' of centerline bulkhead where it intersects bottom shell plating.

RECOMMENDATIONS (cont.)

TANK #2

Replace bottom shell plating from centerline bulkhead out 4' 05" x 35'.

Replace bottom shell plating from juncture of vertical side shell to bottom plating in 26" x 35' for length of compartment.

Replace bottom 1' x 35' of centerline bulkhead where it intersects bottom shell plating.

TANK #3

No discrepancies found.

TANK #4

Replace bottom shell plating from centerline bulkhead out 26" x 35'.

REPAIR COSTS ANALYSIS

1.) Tow to/from shipyard at Shelburne & haul-out/launch @ shipyard	\$ 150,000.00
2.) Perform tank cleaning for 'Safe for Entry/Safe for Hot Work	200,000.00
3.) Cut out and weld approx. 500 sq. ft of wasted plating and replace with new 5/16" A-36 plating 450 x \$ 400.00/sq. ft.	180,000.00
4.) Paint disturbed interior plating ; hydroblast exterior & paint	80,000.00
TOTAL	\$ 610,000.00
15% CONTINGENCY	91,500.00
TOTAL PROJECTED PROJECT COST	\$ 701,500.00

COMMENTS

This craft has been lightly used over the years and is very clean for her age. She does require some new shell plating, particularly in Tank #2 and Tank #4. The preparation of a Stability Plan, installation of a high water bilge alarm system, and provision for adequate on-site dewatering system needs to be addressed.

The vessel would benefit from a progressive maintenance plan by the City. Very simple barge and well organized systems. Do pay attention to the 'GENERAL' section within the Recommendations as they are as important as new steel/paint.



Joseph Lombardi
Marine Surveyor

NOTE: This yacht or workboat survey is issued by the undersigned who has exercised reasonable care in conducting a visual inspection of the accessible areas in connection with a marine survey of the subject vessel. All details and particulars in this report are believed to be true, but are not guaranteed accurate. All judgments, conclusions, and recommendations are expressions of opinion of the undersigned based upon his skill, training, and experience after a routine examination of the vessel and after discussions with owners or others familiar with the vessel. No part of this report is issued as an expressed or implied warranty of the condition of the vessel, of the value of the vessel or of the cost of any repairs. Unless specifically stated otherwise in this report, the undersigned has not removed fasteners, has not removed fixed structures or equipment, and has not disassembled hull or machinery for inspection or testing; therefore this report does not cover latent defects not readily discovered without such removal or disassembly. Unless specifically stated otherwise in this report, the undersigned has not operated the engines, machinery, equipment, or appurtenances. The undersigned has conducted his survey and issued this report for the sole use of the specified requesting party for an agreed fee based upon the intended use of the report and the legal liability of the undersigned; accordingly, others are not to use this report and not to rely upon the contents of this report without payment to the undersigned of an additional agreed fee based upon reevaluation of the same factors; further, the undersigned shall have no liability for consequential damages, no liability for personal injury damages, no liability for property loss damages, and no liability for punitive damages, all of which shall be deemed to have been knowingly and voluntarily waived upon use of this report; further, in no event shall the legal liability of the undersigned for this report ever exceed the fee paid by the requesting party for issuance of this report, regardless of the number of claims or suits and regardless of whether under theory of tort, contract, warranty, products, outrage, or otherwise.

Exhibit C: Map of Project Location and Photos



Exhibit D: Draft Contract

CITY OF BURLINGTON
DRAFT CONSULTANT CONTRACT

This Consultant Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and [REDACTED] (“Consultant”), a Vermont corporation located at [REDACTED].

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

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

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

2. RECITALS

- A. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. **Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. **Purpose.** The City seeks to employ the Consultant to [REDACTED].

3. EFFECTIVE DATE & TERM

- A. **Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Consultant for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.

B. Term. This Contract and the Parties' respective performance shall commence on the Effective Date and expire on [] or upon the satisfaction of the City, unless sooner terminated as provided herein.

4. SCOPE OF WORK

The Consultant shall perform the services listed in Attachments A (Request for Proposals) and B (Consultant's Response to Request for Proposals).

5. PAYMENT FOR SERVICES

A. Amount. The City shall pay the Consultant for completion of the Work in accordance with Attachment B (Consultant's Response to Request for Proposals) [or as follows:].

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

B. Payment Schedule. The City shall pay the Consultant in the manner and at such times as set forth in the Contract Documents [or as follows:]. The City seeks to make payment within thirty days of receipt of an invoice and any backup documentation requested under subsection D (Invoice) below.

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

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

[Name, address, phone, email]

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

6. SECTION & ATTACHMENT HEADINGS

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

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

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

The following documents constitute the Contract Documents:

Attachment A: Request for Proposals dated [REDACTED]

Attachment B: Consultant's Response to Request for Proposals dated [REDACTED]

Attachment C: Burlington Standard Contract Conditions for Consultants

Attachment D: Burlington Livable Wage Ordinance Certification

Attachment E: Burlington Outsourcing Ordinance Certification

Attachment F: Burlington Union Deterrence Ordinance Certification

Attachment G: Consultant's Certificate of Insurance

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

8. [Reserved]

— Signatures follow on the next page —

SIGNATURE

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

<p style="text-align: center;">Consultant [Name of Consultant]</p> <p>By: _____</p> <p>Date: _____</p>
--

<p style="text-align: center;">City of Burlington [Department]</p> <p>By: _____ [Name] [Title]</p> <p>Date: _____</p>

Attachment A:
Request for Proposals dated [REDACTED]

DRAFT

Attachment B:
Consultant's Response to Request for Proposals dated []

DRAFT

Attachment C:
Burlington Standard Contract Conditions For Consultants

DRAFT

**Attachment D:
Burlington Livable Wage Ordinance Certification**

DRAFT

**Attachment E:
Burlington Outsourcing Ordinance Certification**

DRAFT

Attachment F:
Burlington Union Deterrence Ordinance Certification

DRAFT

**Attachment G:
Consultant's Certificate of Insurance**

DRAFT

Exhibit E: Burlington Standard Contract Conditions

**ATTACHMENT E:
BURLINGTON STANDARD CONTRACT CONDITIONS
FOR CONSULTANTS**

1. DEFINITIONS:

- A. The “Contract” shall mean the Contract between Consultant and the City to which these conditions apply and includes this Attachment C.
- B. The “Consultant” shall mean _____.
- C. The “City” shall mean the City of Burlington, Vermont or any of its departments.
- D. The “Effective Date” shall mean the date on which the Contract becomes effective according to its terms, or if no effective date is stated, the date that all parties to it have signed.
- E. The “Parties” shall mean the parties to this Contract.
- F. The “Work” shall mean the services being provided by the Consultant, as provided in the Contract.

2. REGISTRATION: The Consultant agrees to be registered with the Vermont Secretary of State’s office as a business entity doing business in the State of Vermont at all times this Contract is effective. This registration must be complete prior to Contract execution.

3. INSURANCE: Prior to beginning any work, the Consultant shall obtain the following insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). The certificate of insurance coverage shall be documented on forms acceptable to the City. Compliance with minimum limits and coverage, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the City, must be received prior to the Effective Date of the Contract. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the City. If this Contract extends to more than one year, evidence of continuing coverage must be submitted to the City on an annual basis. Copies of any insurance policies may be required. Each policy (with the exception of professional liability and worker’s compensation) shall name the City as an additional insured for the possible liabilities resulting from the Consultant’s actions or omissions. The liability insurance furnished by the Consultant is primary and non-contributory for all the additional insured.

The Consultant is responsible to verify and confirm in writing to the City that: (i) all sub-consultants must comply with the same insurance requirements as the Consultant; (ii) all coverage shall include adequate protection for activities involving hazardous materials; and (iii) all work activities related to the Contract shall meet minimum coverage and limits.

No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Consultant for the Consultant’s operations. These are solely minimums that have been developed and must be met to protect the interests of the City.

- A. General Liability And Property Damage: With respect to all operations performed by the Consultant, sub-consultants, agents or workers, it is the Consultant’s responsibility to

ensure that general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors'/Consultants' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses

Coverage limits shall not be less than:

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

B. Workers' Compensation: With respect to all operations performed, the Consultant shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all sub-consultants carry the same workers' compensation insurance for all work performed by them under this Contract. Minimum limits for Employer's Liability:

1. Bodily Injury by Accident: \$500,000 each accident
2. Bodily Injury by Disease: \$500,000 policy limit,
\$500,000 each employee

C. Professional Liability Insurance:

1. General: The Consultant shall carry appropriate professional liability insurance covering errors and omissions made during their performance of contractual duties with the following minimum limits:
 - (a) \$3,000,000 - Annual Aggregate
 - (b) \$2,000,000 - Per Occurrence
2. Deductibles: The Consultant is responsible for any and all deductibles.
3. Coverage: Prior to performing any work, the Consultant shall provide evidence of professional liability insurance coverage defined under this section. In addition, the Consultant shall maintain continuous professional liability coverage for the period of the Contract and for a period of five years following substantial completion of construction.

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

E. Valuable Papers And Records Insurance: The Consultant shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the City or developed by the Consultant, sub-consultant, worker, or agent, in the event of loss, impairment, or destruction. Such coverage shall remain in force until the final plans as well as all related materials have been delivered by the consultant to, and accepted by, the City. Unless otherwise provided, Valuable Papers and Records Insurance shall provide coverage on an “individual occurrence” basis with limits in the amount of one hundred and fifty thousand dollars (\$150,000) when the insured items are in the Consultant’s possession, and in the amount of forty thousand dollars (\$40,000) regardless of the physical location of the insured items.

F. Umbrella Liability:

1. \$1,000,000 Each Event Limit
2. \$1,000,000 General Aggregate Limit

4. **CONFLICT OF INTEREST:** The Consultant shall disclose in writing to the City any actual or potential conflicts of interest or any appearance of a conflict of interest by the Consultant, its employees or agents, or its subconsultants, if any.
5. **PLANS, RECORDS, AND AVAILABLE DATA:** The City agrees to make available, at no charge, for the Consultant’s use all available data related to the Contract including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plats, or any other pertinent public records.
6. **PERSONNEL REQUIREMENTS AND CONDITIONS:** The Consultant shall employ only qualified personnel with appropriate and valid licensure, to the extent a license is required for the work performed. The City shall have the right to approve or disapprove key personnel assigned to administer activities related to the Contract.

Except with the approval of the City, during the life of the Contract, the Consultant shall not employ:

1. Any City employees who are directly involved with the awarding, administration, monitoring, or performance of the Contract or any project(s) that are the subjects of the Contract.
2. Any person so involved within one (1) year of termination of employment with the

City.

The Consultant warrants that no company or person has been employed or retained, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that no company or person has been paid or has a contract with the Consultant to be paid, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this warranty, the City shall have the right to annul the Contract, without liability to the City, and to regain all costs incurred by the City in the performance of the Contract.

The City reserves the right to require removal of any person employed by a Consultant, from work related to the Contract, for misconduct, incompetence, or negligence as determined by the City, in the due and proper performance of Consultant's duties, or for neglecting or refusing to comply with the requirements of the Contract.

7. **PERFORMANCE:** Consultant warrants that performance of Work will conform to the requirements of this Contract. Consultant shall use that degree of ordinary care and reasonable diligence that an experienced and qualified provider of similar services would use acting in like circumstances and experience in such matters and in accordance with the standards, practices and procedures established by Consultant for its own business.
8. **DESIGN STANDARDS:** Unless otherwise specifically provided for in the Contract, or directed in writing, Consultant services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data shall be in conformance with applicable City, state, and federal specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted prior to or during the duration of this Contract. In case of any conflict with the guidelines referenced, the Consultant is responsible to identify and follow any course of direction provided by the City.
9. **RESPONSIBILITY FOR SUPERVISION:** The Consultant shall assume primary responsibility for general supervision of Consultant employees and their sub-consultants for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Contract. The Consultant shall be responsible to the City for all acts or omissions of its subconsultants and any other person performing work under this Contract.
10. **UTILITIES:** Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Consultant will counsel with the City, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Consultant shall inform the City, in writing, of any such contacts and the results thereof.
11. **INSPECTION OF WORK:** The City shall, at all times, have access to the Consultant's work

for the purposes of inspection, accounting, and auditing, and the Consultant shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Consultant 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 Consultant pursuant to the Contract, as well as any preparatory work, work-in-progress, or completed work at a field site, where applicable.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the City.

- 12. REVIEWS AND ACCEPTANCES:** All preliminary and detailed designs, plans, specifications, estimates or other documents prepared by the Consultant, shall be subject to review and endorsement by the City.

Approval for any inspections or sequences of progress of work shall be documented by letters, memoranda or other appropriate written means.

A frequency for formal reviews shall be set forth in the Contract. Informal reviews, conducted by the City will be performed as deemed necessary. The Consultant shall respond to all official comments regardless of their source. The Consultant shall supply the City with written copies of all correspondence relating to formal and informal reviews.

No acceptance shall relieve a Consultant of their professional obligation to correct any defects or errors in their work at their own expense.

- 13. PUBLIC RELATIONS:** Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Consultant will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Consultant shall conduct themselves with propriety. The Consultant agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the City, in accordance with 19 V.S.A. § 35 and §.503, to accomplish the work under the Contract. The Consultant agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Consultant, the City shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Consultant is acting as an agent of the City.

- 14. ACKNOWLEDGEMENTS:** Acknowledgment of the City's support must be included in any and all publications, renderings and project publicity, including audio/visual materials developed under this Contract.

15. APPEARANCES:

- A. Hearings and Conferences:** The Consultant shall provide services required by the City and necessary for furtherance of any work covered under the Contract. These services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify,

explain and defend its contractual services covered under the Contract.

The Consultant shall perform any liaison that the City deems necessary for the furtherance of the work and participate in conferences with the City, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Contract.

The Consultant further agrees to participate in meetings with the City and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Contract.

The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract.

- B. Appearance as Witness:** If and when required by the City, the Consultant, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related contract, on behalf of the City. The Consultant shall be equitably paid, to the extent permitted by law, for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract.

16. PAYMENT PROCEDURES: The City shall pay, or cause to be paid, to the Consultant or the Consultant's legal representative payments in accordance with the Contract. All payments will be made in reliance upon the accuracy of all representations made by the Consultant, whether in invoices, progress reports, emails, or other proof of work. When applicable, for the type of payment specified in the Contract, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Contract number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Contract, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont's labor contract, and need not be receipted. All other expenses are subject to approval by the City and must be accompanied with documentation to substantiate their charges.

No approval given or payment made under the Contract, shall be conclusive evidence of the performance of the Contract, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The City agrees to pay the Consultant and the Consultant agrees to accept, as full compensation, for performance of all services rendered and expenses incurred, the fee specified in the Contract.

Upon completion of all services covered under the Contract and payment of the agreed upon fee, the Contract with its mutual obligations shall end.

- 17. DUTY TO INFORM CITY OF CONTRACT DOCUMENT ERRORS:** If Consultant knows, or has reasonable cause to believe, that a clearly identifiable error or omission exists in the Contract Documents, including but not limited to unit prices and rate calculations, Consultant shall immediately give the City written notice thereof. Consultant shall not cause or permit any Work to be conducted which may relate to the error or omission without first receiving written notice by the City that City representatives understand the possible error or omission and have approved of modifications to the Contract Documents or that Consultant may proceed without any modification being made to Contract Documents.
- 18. NON-APPROPRIATION:** The obligations of the City under this Contract are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Contract shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. The decision whether or not to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Consultant as soon as practicable of any non-appropriation, and Contract Consultant shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.
- 19. CHANGES AND AMENDMENTS:** No changes or amendments to the Work of the Contract shall be effective unless documented in writing and signed by authorized representatives of the City and the Consultant.
- 20. EXTENSION OF TIME:** The Consultant agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Consultant for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Contract. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the City may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Consultant and without the fault or negligence of the Consultant.
- 21. PUBLIC HEALTH EMERGENCY:**
- A. Compliance with Mandates and Guidance:** The Consultant is advised that public health emergencies—meaning public health emergencies, as declared by the City, the State of Vermont, or the Federal Government—may introduce significant uncertainty into the project. The Consultant must comply with all local, state, federal orders, directives, regulations, guidance, advisories during a public health emergency. Consultant shall adhere to the below provisions and consider public health emergencies as it develops project schedules and advances the Work.
 - B. Creation of Public Health Emergency Plan:** For any work performed on-site at a City location, the Consultant shall create a public health emergency plan acceptable to the City.

The Consultant shall be responsible for following this plan and ensuring that the project or site is stable and in a safe and maintainable condition.

- a. Public Health Emergency Plan: The Public Health Emergency Plan will contain:
 - i. Measures to manage risk and mitigate potential impacts to the health and safety of the public, the City and Consultant's workers;
 - ii. Explicit reference to any health and safety performance standards and mandates provided by the City, the State of Vermont, the Federal government, or other relevant governmental entities;
 - iii. A schedule for possible updates to the plan as standards and mandates change; and
 - iv. Means to adjust the schedule and sequence of work should the emergency change in nature or duration.
- b. Review and Acceptance of Plan:
 - i. Consultant must provide the plan to the City by the Effective Date of this Contract or by one (1) week prior to the commencement of on-site activities, whichever is later.
 - ii. The City shall have sole discretion to require changes to the plan.
 - iii. The City may revisit the plan at any time to verify compliance with obligations that arise under a state of emergency.

C. Enforcement & Stoppage of Work: Consultant fails to comply with either 1) the approved public health emergency plan, or 2) any local, state, federal orders, directives, regulations, guidance, or advisories during a public health emergency, the City may stop Work under the Contract until such failure is corrected. Such failure to comply shall constitute a breach of the Contract.

Upon stoppage of work, the City may allow Work to resume, at a time determined by the City, under this Contract if such failure to comply is adequately corrected. The City shall have sole discretion in determining if Consultant has adequately corrected its failure to comply with the above.

If Consultant's breach of Contract has not been cured within seven (7) days after notice to stop Work from the City, then City may terminate this Contract, at its discretion.

D. City Liability Relating to Potential Delays: If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays related to a public health emergency will be excusable, but will not be compensable.

22. FORCE MAJEURE: Neither Party to this Contract shall be liable to the other for any failure or delay of performance of any obligation under this Contract to the extent the failure or delay is caused by acts of God, public health emergencies, epidemics, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other

circumstances for which it is not responsible or which is not under its control (“Force Majeure”). To assert Force Majeure, the nonperforming party must prove that a) it made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, b) diligently pursued performance of its obligations, c) substantially fulfilled all obligations that could be fulfilled, and d) timely notified the other part of the likelihood or actual occurrence of a Force Majeure event. If any such causes for delay are of such magnitude as to prevent the complete performance of the Contract within two (2) years of the originally scheduled completion date, either Party may by written notice request to amend or terminate the Contract. The suspension of any obligations under this section shall not cause the term of this Contract to be extended and shall not affect any rights accrued under this Contract prior to the occurrence of the Force Majeure. The Party giving notice of the Force Majeure shall also give notice of its cessation.

23. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The City may, in writing, and without invalidating the Contract, require changes resulting from revision or abandonment of work already performed by the Consultant or changes in the scope of work.

The value of such changes, to the extent not reflected in other payments to the Consultant, shall be incorporated in an amendment and be determined by mutual agreement. Any adjustments of this nature shall be executed under the appropriate fee established in the Contract, based on the adjusted quantity of work.

No changes for which additional fee payment is claimed shall be made unless pursuant to a written order from the City, and no claim for payment shall be valid unless so ordered.

The Consultant agrees to maintain complete and accurate records, in a form satisfactory to the City for all time devoted directly to same by Consultant employees. The City reserves the right to audit the records of the Consultant related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Contract. When changes are so ordered, no additional work shall be performed by the Consultant until a Contract amendment has been fully executed, unless written notice to proceed is issued by the City. Any claim for extension of time that may be necessitated as a result of extra work or additional services and changes shall be given consideration and evaluated insofar as it directly relates to the change.

24. FAILURE TO COMPLY WITH TIME SCHEDULE: If the City is dissatisfied because of slow progress or incompetence in the performance of the Work in accordance with the schedule for completion of the various aspects of construction, the City shall give the Consultant written notice in which the City shall specify in detail the cause of dissatisfaction. Should the Consultant fail or refuse to remedy the matters complained of within five days after the written notice is received by the Consultant, the City shall have the right to take control of the Work and either make good the deficiencies of the Consultant itself or direct the activities of the Consultant in doing so, employing such additional help as the City deems advisable. In such events, the City shall be entitled to collect from the Consultant any expenses in completing the Work. In addition, the City may withhold from the amount payable to the Consultant an amount approximately equal to any interest lost or charges incurred by the City for each calendar day that the Consultant is in default after the time of completion stipulated in the Contract Documents.

- 25. RETURN OF MATERIALS:** Consultant agrees that at the expiration or termination of this Contract, it shall return to City all materials provided to it during its engagement on behalf of City.
- 26. ACCEPTANCE OF FINAL PAYMENT; RELEASE:** Consultant's acceptance of the final payment shall be a release in full of all claims against the City or its agents arising out of or by reason of the Work. Any payment, however, final or otherwise, shall not release the Consultant or their sureties from any obligations under the Contract Documents or any performance or payment bond.
- 27. OWNERSHIP OF THE WORK:** The Consultant agrees that the ownership of all studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM and other material prepared or collected by the Consultant, hereafter referred to as "instruments of professional service", shall become the property of the City as they are prepared and/or developed during execution of the Contract. The Consultant agrees to allow the City access to all "instruments of professional service" at any time. The Consultant shall not copyright any material originating under the Contract without prior written approval of the City. No publications or publicity of the work, in part or in total, shall be made without the express written agreement of the City, except that Consultant may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
- 28. PROPRIETARY RIGHTS:** The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed by the Consultants under the Contract, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. The Consultant, however, agrees to and does hereby grant to the City an irrevocable, nonexclusive, non-transferable, and royalty-free license to the manufacture, use, and disposition of any discovery or invention that may be developed as a part of the Work under the Contract.
- 29. PUBLIC RECORDS:** The Consultant understands that any and all records related to and acquired by the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act and that the determination of how those records must be handled is solely within the purview of City. The Consultant shall identify all records that it considers to be trade secrets as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act and shall also identify all other records it considers to be exempt under the Act. It is not sufficient to merely state generally that the record is proprietary or a trade secret or is otherwise exempt. Particular records, pages or section which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.
- 30. RECORDS RETENTION AND ACCESS:** The Consultant agrees to retain, in its files, and to produce to the City—within the time periods requested—all books, documents, Electronic Data Media (EDM), accounting records, and other records produced or acquired by the

Consultant in the performance of this Contract which are related to the City, at any time during this Contract and for a period of at least three (3) years after its completion or termination. In addition, if any audit, claim, or litigation is commenced before the expiration of that three (3) year period, the records shall be retained until all related audits, claims, or litigation are resolved. The Consultant further agrees that the City shall have access to all the above information for the purpose of review and audit during the Contract period and anytime within the aforementioned retention period. Copies of all of the above referenced information shall be provided to the City, if requested, in the format in which the records were obtained, created, or maintained, such that their original use and purpose can be achieved. Consultant, sub-consultants, or their representatives performing work related to the Contract, are responsible to ensure that all data and information created or stored on EDM is secure and can be duplicated and used if the EDM mechanism is subjected to power outage, obsolescence, or damage.

31. CONTRACT DISPUTES: In the event of a dispute between the parties to this Contract each party will continue to perform its obligations unless the Contract is terminated in accordance with these terms.

32. SETTLEMENTS OF MISUNDERSTANDINGS: To avoid misunderstandings and litigation, it is mutually agreed by all Parties that the [Head of Department] shall act as referee on all questions arising under the terms of the Contract and that the decision of the [Head of Department] in such cases shall be binding upon both Parties.

33. CITY'S OPTION TO TERMINATE: The Contract may be terminated in accordance with the following provisions, which are not exclusive:

A. Termination for Convenience: At any time prior to completion of services specified under the Contract, the City may terminate the Contract for any reason by submitting written notice via certified or registered mail to the Consultant, not less than fifteen (15) days prior to the termination date, of its intention to do so. If the termination is for the City's convenience, payment to the Consultant will be made promptly for the amount of any fees earned to the date of the notice of termination and costs of materials obtained in preparation for Work but not yet installed or delivered, less any payments previously made. However, if a notice of termination is given to a Consultant prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Consultant will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the City's approval. The Consultant shall make no claim for additional compensation against the City by reason of such termination.

B. Termination for Cause:

- i. Breach: Consultant shall be in default if Consultant fails in any manner to fully perform and carry out each and all conditions of this Contract, including, but not limited to, Consultant's failure to begin or to prosecute the Work in a timely manner

or to make progress as to endanger performance of this Contract; failure to supply a sufficient number of properly skilled employees or a sufficient quantity of materials of proper quality; failure to perform the Work unsatisfactorily as determined by the City; failure to neglect or refuse to remove materials; or in the event of a breach of warranty with respect to any materials, workmanship, or performance guaranty. Consultant will not be in default for any excusable delays as provided in Sections 19-21.

The City may give Consultant written notice of such default. If Consultant does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by the City, then the City may terminate this contract for cause.

- ii. Proceedings for Relief of Debtors: If a federal or state proceeding for relief of debtors is undertaken by or against Consultant, or if Consultant makes an assignment for the benefit of creditors, then the City may immediately terminate this contract.
- iii. Dishonest Conduct: If Consultant engages in any dishonest conduct related to the performance or administration of this Contract then the City may immediately terminate this contract.
- iv. Cover: In the event the City terminates this contract as provided in this section, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Consultant shall be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services, interest, or other charges the City incurs to cover.
- v. Rights and Remedies Not Exclusive: The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

34. GENERAL COMPLIANCE WITH LAWS: The Consultant and any subconsultant approved under this Contract shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance, the Non-Outsourcing Ordinance, and the Union-Deterrence Ordinance and shall provide the required certifications attesting to compliance with these ordinances (see attached ordinances and certifications).

Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties. If, for any reason, a provision in the Contract is unenforceable or invalid, that provision shall be deemed severed from the Contract, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Contract.

35. CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY: During performance

of the Contract, the Consultant will not discriminate against any employee or applicant for employment because of 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. Consultant, and any subconsultants, shall comply with any Federal, State, or local law, statute, regulation, Executive Order, or rule that applies to it or the services to be provided under this contract concerning equal employment, fair employment practices, affirmative action, or prohibitions on discrimination or harassment in employment.

36. CHILD SUPPORT PAYMENTS: By signing the Contract, the Consultant certifies, as of the date of signing the Contract, that the Consultant (a) is not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Consultant is a sole proprietorship, the Consultant's statement applies only to the proprietor. If the Consultant is a partnership, the Consultant's statement applies to all general partners with a permanent residence in Vermont. If the Consultant is a corporation, this provision does not apply.

37. TAX REQUIREMENTS: By signing the Contract, the Consultant certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, that the Consultant is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Contract.

38. INDEMNIFICATION:

A. Indemnification by Consultant: Except for the active negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns and successors in interest, consultant undertakes and agrees to defend, indemnify and hold harmless the City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by Consultant or its subconsultants of any tier.

B. Notice of Claims & City's Right to Participate: If the City, its officers, 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 Consultant in writing that a claim to which the indemnification provision may apply has been filed. Consultant 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.

C. City's Rights and Remedies: Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States and the State of Vermont.

D. No Indemnification by City: Under no conditions shall the City be obligated to indemnify the Consultant 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 the Consultant or any third party.

39. NO GIFTS OR GRATUITIES: The Consultant shall not make any payment or gift or donation of substantial value to any elected official, officer, employee, or agent of the City during the term of this Contract.

40. ASSIGNMENT: Consultant shall not sublet or assign this Work, or any part of it, without the written consent of the City. If any subconsultant is approved, Consultant shall be responsible and liable for all acts or omissions of that subconsultant for any Work performed. If any subconsultant is approved, Consultant shall be responsible to ensure that the subconsultant is paid as agreed and that no lien is placed on any City property.

41. TRANSFERS, SUBLETTING, ETC: The Consultant shall not assign, sublet, or transfer any interest in the work, covered by this Contract, without prior written consent of the City, and further, if any sub-consultant participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the City. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Consultant of responsibility for the performance of that portion of the work so transferred. The form of the sub-consultant's contract shall be as developed by the Consultant and approved by the City. The Consultant shall ensure that insurance coverage exists for any operations to be performed by any sub-consultant as specified in the insurance requirements section of this Contract.

The services of the Consultant, to be performed under the Contract, shall not be transferred without written authorization of the City. Any authorized sub-contracts shall contain all of the same provisions contained in and attached to the original Contract with the City.

42. CONTINUING OBLIGATIONS: The Consultant agrees that if because of death, disability, or other occurrences, it becomes impossible to effectively perform its services in compliance with the Contract, neither the Consultant nor its surviving members shall be relieved of their obligations to complete the Contract unless the City agrees to terminate the Contract because it determines that the Consultant is unable to satisfactorily execute the Contract.

43. INTERPRETATION & IMPLEMENTATION: Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties.

44. ARM'S LENGTH: This Contract has been negotiated at arm's length, and any ambiguity in any of its terms or provisions shall be interpreted in accordance with the intent of the Parties and not against or in favor of either the City or Consultant.

45. RELATIONSHIP: The Consultant is an independent consultant and shall act in an independent capacity and not as officers or employees of the City. To that end, the Consultant shall determine the method, details, and means of performing the work, but will comply with all legal requirements in doing so. The Consultant shall provide its own tools, materials, or equipment. The Parties agree that neither the Consultant nor its principal(s) or employees are entitled to any employee benefits from the City. Consultant understands and agrees that it and its principal(s) or employees have no right to claim any benefits under the Burlington Employee Retirement System, the City's worker's compensation benefits, health insurance, dental insurance, life insurance, or any other employee benefit plan offered by the City. The Consultant agrees to execute any certifications or other documents and provide any certificates of insurance required by the City and understands that this Contract is conditioned on its doing so, if requested.

The Consultant understands and agrees that it is responsible for the payment of all taxes on the above sums and that the City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

46. CHOICE OF LAW: Vermont law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by operation of this provision shall not invalidate the remainder of this Contract to the extent capable of execution.

47. JURISDICTION: All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.

48. BINDING EFFECT AND CONTINUITY: This Contract shall be binding upon and shall inure to the benefit of the Parties, their' respective heirs, successors, representatives, and assigns. If a dispute arises between the Parties, each Party will continue to perform its obligations under this Contract during the resolution of the dispute, until the Contract is terminated in accordance with its terms.

49. SEVERABILITY: The invalidity or unenforceability of any provision of this Contract, shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

50. ENTIRE CONTRACT & AGREEMENT: This Contract constitutes the entire Contract, agreement, and understanding of the Parties with respect to the subject matter of this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

51. APPENDICES: The City may attach to these conditions appendices containing various forms

and typical sample sheets for guidance and assistance to the Consultant in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the City as occasions may require. It is the responsibility of the Consultant to ensure that they have the latest versions applicable to the Contract.

52. NO THIRD PARTY BENEFICIARIES: This Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract 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 Contract are incidental to this Contract, and do not create any rights for such third parties.

53. WAIVER: A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit F: Burlington Livable Wage Ordinance Certification

Certification of Agreement to Comply with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor"), in connection with a contract for _____ services to be provided to the City of Burlington ("the City"), hereby certify, under oath, that the Contractor (and any of its subcontractors or subgrantees under this contract) shall comply with the City's Livable Wage Ordinance ("LWO"), B.C.O. 21-80 et seq., and that:

- (1) The Contractor shall pay all "covered employees" as defined by the LWO (including covered employees of subcontractors or subgrantees) a livable wage (as determined, or adjusted, annually by the City's chief administrative officer), and shall provide required paid time off for the term of the contract (*or the duration of the contracted project*);
 - (a) Full-time employees are entitled to 12 days of paid time off per year; and
 - (b) Part-time employees are entitled to 12 days of paid time off per year on a prorated basis;
 - (c) For a covered employer that provides employer assisted health care, the livable wage shall be at least \$16.98 per hour; and
 - (d) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least \$18.09 per hour.
- (2) The Contractor shall post a notice regarding the applicability of the LWO in the workplace or in other locations where covered employees normally work, and where such notice can be readily seen;
- (3) Upon request of the City's chief administrative officer, the Contractor, for itself and, as applicable, for any of its subcontractors or subgrantees, shall provide payroll records, health insurance enrollment records, and other relevant documentation, as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of the City's request;
- (4) The Contractor shall cooperate in any investigation conducted pursuant to the LWO by the City's designated accountability monitors or the City's Office of City Attorney & Corporate Counsel;
- (5) The Contractor shall not retaliate, nor allow any of its subcontractors or subgrantees to retaliate, against an employee or other person because such employee or person has exercised rights or is planning to exercise rights protected under the LWO, or has cooperated in an investigation conducted pursuant to the LWO;
- (6) The Contractor is required to insert in all subcontracts the requirements of the LWO. The Contractor is liable for violations of the LWO committed by its covered subcontractors.

Date: _____

By: _____
Contractor, or its duly authorized agent

Subscribed and sworn to before me:

Date: _____

Notary Public

Rights & Responsibilities

Under Burlington's Livable Wage Ordinance

\$16.98/hr

WHEN

employer *provides* employer assisted health insurance

\$18.09/hr

WHEN

employer *does not provide* employer assisted health insurance

and 12 days of paid time off per year*

*prorated for part-time employees

The law requires employers to display this poster where employees can readily see it.

COVERAGE

Any employer who receives City contracts or grants totaling in excess of \$15,000 for any 12-month period is covered. Covered employees are entitled to livable wages, 12 days paid time off per year* for vacation, sick leave, or personal leave, and all rights under the Fair Labor Standards Act (FLSA), as well as other applicable state and federal laws.

Covered contractors are required to include all subcontracts notice of the Livable Wage Ordinance (LWO), and are liable for LWO violations committed by their covered subcontractors.

ENFORCEMENT

The City is responsible for the administration of the LWO, and has the authority to recover back wages in instances of violations. Employers found in violation of the LWO may be assessed monetary penalties and be barred from future City contracts and grants. The law prohibits retaliation against workers who file a complaint or participate in any proceeding under the LWO.

ADDITIONAL INFORMATION

To obtain additional information about your rights and responsibilities under the LWO, visit the LWO Landing Page (<https://www.burlingtonvt.gov/CT/Livable-Wage-Ordinance>) or contact the LWO at their email address (livablewage@burlingtonvt.gov).

Livable Wage July 1, 2022 - June 30, 2023

Effective July 1, 2022

ARTICLE VI. LIVABLE WAGES¹

21-80 Findings and purpose.

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its employees have an opportunity for a decent quality of life and are compensated such that they are not dependent on public assistance to meet their basic needs;
- (c) The City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-81 Definitions.

As used in this article, the following terms shall be defined as follows:

- (a) *Contractor or vendor* is a person or entity that has a service contract with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor.
- (b) *Grantee* is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants, including any contractors or subgrantees of the grantee, that exceed fifteen thousand dollars (\$15,000.00) for any twelve (12) month period.

(c) *Covered employer* means the City of Burlington, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.

(d) *Covered employee* means an "employee" as defined below, who is employed by a "covered employer," subject to the following:

(1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington, notwithstanding that the employee may be a temporary or seasonal employee;

(2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the City of Burlington is a "covered employee."

(e) *Designated accountability monitor* shall mean a nonprofit corporation which has established and maintains valid nonprofit status under Section [501\(c\)\(3\)](#) of the United States Internal Revenue Code of 1986, as amended, and that is independent of the parties it is monitoring.

(f) *Employee* means a person who is employed on a full-time or part-time regular basis. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four (4) years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six (6) months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

(g) *Employer-assisted health care* means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)

(h) *Livable wage* has the meaning set forth in Section [21-82](#).

(i) *Retaliation* shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.

(j) *Service contract* means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property). A contract involving the furnishing of financial products, insurance products, or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-82 Livable wages required.

(a) Every covered employer shall pay each and every covered employee at least a livable wage no less than:

(1) For a covered employer that provides employer-assisted health care, the livable wage shall be at least fifteen dollars and thirty-five cents (\$15.35) per hour on the effective date of the amendments to this article.

(2) For a covered employer that does not provide employer-assisted health care, the livable wage shall be at least sixteen dollars and seventy-four cents (\$16.74) per hour on the effective date of the amendments to this article.

(3) Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage compensation will at least equal the livable wage as established under this article.

(b) The amount of the livable wage established in this section shall be adjusted by the chief administrative officer of the city as of July 1 of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the Joint Fiscal Office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to May 1 preceding any such adjustment and prior to

May 1 of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by posting a written notice in a prominent place in City Hall by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information to the chief administrative officer, by notice to each such covered employer. However, once a livable wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.

(c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, personal, or combined time off leave.

(Ord. of 11-19-01; Ord. of 5-2-11; Ord. of 6-13-11; Ord. of 10-21-13)

21-83 Applicability.

(a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.

(b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the funds awarded by the City of Burlington are being expended by the covered employer.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-84 Enforcement.

(a) Each service contract or grant covered by this article shall contain provisions requiring that the covered employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this article. The covered employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The covered employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief

administrative officer of the City of Burlington, within ten (10) business days from receipt of the City of Burlington's request.

(b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to:

- (1) Verification of an individual employee's compensation;
- (2) Production of payroll, health insurance enrollment records, or other relevant documentation; or
- (3) Evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

(c) The City of Burlington shall appoint a designated accountability monitor that shall have the authority:

- (1) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;
- (2) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;
- (3) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their initial credibility; and
- (4) To refer credible complaints to the city attorney's office for potential enforcement action under this article.

The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

(d) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the city attorney's office within one (1) year after the alleged violation. The city attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the

complaint. Prior to ordering any penalty provided in subsection (e), (f), or (g) of this section, the city attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing officer appointed by the city attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the city attorney's office and the covered employer.

(e) The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with a covered employer from any court of competent jurisdiction, if the covered employer has not complied with this article.

(f) Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.

(g) A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.

(h) If a complaint is received that implicates any City of Burlington employee in a possible violation of this article, that complaint will be handled through the City's personnel procedures, not through the process outlined in this article.

(i) Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:

(1) The difference between the livable wage required under this article and the amount actually paid to the covered employee;

(2) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;

(3) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or fifty dollars (\$50.00) for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;

(4) Reinstatement in employment and/or injunctive relief; and

(5) Reasonable attorneys' fees and costs.

(j) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

(Ord. of 11-19-01; Ord. of 2-17-04; Ord. of 5-2-11; Ord. of 10-21-13)

21-85 Other provisions.

(a) No covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this subsection shall be deemed a violation of this article subject to the remedies of Section [21-84](#).

(b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the livable wage as a result of amendments to this article.

(c) Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection (d) of this section, shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

(d) Notwithstanding subsection (c) of this section, where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.

(e) Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.

(f) The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-86 Exemptions.

An exemption from any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage would cause substantial economic hardship;
and
- (b) By the City of Burlington where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this section may reapply for an exemption upon the expiration of the exemption. Requests for exemption may be granted by majority vote of the city council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee of the City of Burlington shall first consider such request and make a recommendation to the city council. The decision of the city council shall be final.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-87 Severability.

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-88 Annual reporting.

On or before April 15 of each year, the city attorney's office shall submit a report to the city council that provides the following information:

- (a) A list of all covered employers broken down by department;
- (b) A list of all covered employers whose service contract did not contain the language required by this article;
and
- (c) All complaints filed and investigated by the city attorney's office and the results of such investigation.

(Ord. of 10-21-13)

21-89 Effective date.

The amendments to this article shall take effect on January 1, 2014, and shall not be retroactively applied.

(Ord. of 10-21-13)

Exhibit G: Burlington Outsourcing Ordinance Certification

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, _____, on behalf of

_____ (Contractor) and in connection with the

_____ [project], hereby certify under oath that (1) Contractor shall comply with the City of
Burlington's Outsourcing Ordinance (Ordinance §§ 21-90 – 21-93); (2) as a condition of entering
into this contract or grant, Contractor confirms that the services provided under the above-
referenced contract will be performed in the United States or Canada.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

Subscribed and sworn to before me: _____
Notary

ARTICLE VII. OUTSOURCING

21-90 Policy.

It is the policy of the City of Burlington to let service contracts to contractors, subcontractors and vendors who perform work in the United States.

(Ord. of 11-21-05/12-21-05)

21-91 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any city funds and the total amount of the contract is fifty thousand dollars (\$50,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Outsourcing.* The assigning or reassigning, directly, or indirectly through subcontracting, of services under a government funded project to workers performing the work outside of the United States.

(Ord. of 11-21-05/12-21-05)

21-92 Implementation.

(a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who is outsourcing, or causing the work to be performed outside of the United States or Canada.

(b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that the services provided under the contract will be performed in the United States or Canada.

(Ord. of 11-21-05/12-21-05)

21-93 Exemption.

An exemption from requirements of this article may be authorized by the chief administrative officer based upon a determination that the services to be performed for the government funded project are not available in the United States or Canada at a reasonable cost. Any such exemption decision by the chief administrative officer

shall be reported to the board of finance in writing within five (5) days. The board of finance may, if it should vote to do so, override the exemption decision if such vote occurs within fourteen (14) days of the date of the chief administrative officer's communication to such board.

(Ord. of 11-21-05/12-21-05)

21-94 Enforcement.

(a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or outsources work on a government funded project shall be deemed to be in violation of this article.

(b) A violation of this article shall be a civil offense subject to a civil penalty of from one hundred dollars (\$100.00) to five hundred (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any violation of any provision of this article shall continue shall constitute a separate violation.

(c) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 11-21-05/12-21-05)

21-95—21-99 Reserved.

Exhibit H: Burlington Union Deterrence Ordinance Certification

Certification of Compliance with the City of Burlington's
Union Deterrence Ordinance

I, _____, on behalf of _____
(Contractor) and in connection with _____ (City
contract/project/grant), hereby certify under oath that _____
(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will
it over the life of the contract advertise or provide union deterrence services in violation of the
City's union deterrence ordinance.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

ARTICLE VIII. UNION DETERRENCE

21-100 Policy.

It is the policy of the City of Burlington to limit letting contracts to organizations that provide union deterrence services to other companies.

(Ord. of 3-27-06/4-26-06)

21-101 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Union deterrence services.* Services provided by a contractor, subcontractor or vendor that are not restricted to advice concerning what activities by an employer are prohibited and permitted by applicable laws and regulations, but extend beyond such legal advice to encouraging an employer to do any of the following:

- 1) Hold captive audience, (i.e., mandatory) meetings with employees encouraging employees to vote against the union;
- 2) Have supervisors force workers to meet individually with them to discuss the union;
- 3) Imply to employees, whether through written or oral communication, that their employer may have to shut down or lay people off if the union wins the election;
- 4) Discipline or fire workers for union activity;
- 5) Train managers on how to dissuade employees from supporting the union.

(d) *Substantial portion of income.* For the purposes of this article, substantial portion of income shall mean greater than ten (10) percent of annual gross revenues or one hundred thousand dollars (\$100,000.00), whichever is less.

(Ord. of 3-27-06/4-26-06)

21-102 Implementation.

- (a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who
 - 1) Advises or has advised an employer to conduct any illegal activity in its dealings with a union.
 - 2) Advertises union deterrence services as specialty services;
 - 3) Earns a substantial portion of its income by providing union deterrence services to other companies in order to defeat union organizing efforts.
- (b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that it has not advised the conduct of any illegal activity, it does not currently, nor will it over the life of the contract provide union deterrence services in violation of this article.

(Ord. of 3-27-06/4-26-06)

21-103 Enforcement.

- (a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or provided union deterrence services during the life of a contract for a government funded project shall be deemed to be in violation of this article.
- (b) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 3-27-06/4-26-06)

21-104—21-110 Reserved.
