

COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

ROOM 32 ▪ CITY HALL ▪ BURLINGTON, VERMONT 05401
(802) 865-7144 ▪ (802) 865-7142 (TTY) ▪ (802) 865-7024 (FAX)

Date: November 8, 2012
To: Burlington Board of Finance
Cc: Peter Owens, CEDO Director
Steve Goodkind, Public Works Director
Barbara Grimes, Burlington Electric Director
Norm Baldwin, DPW
Erin Demers, DPW
Munir Kasti, BED
Richard Haesler, Assistant City Attorney
From: Kirsten Merriman Shapiro, Special Projects Manager, CEDO
Re: Waterfront Access North Project – BED Easement

As part of the Waterfront Access North Project, the undergrounding of the overhead utilities within the project area require that a section of poles and wires be removed north of the project area on the eastern side of the railroad tracks below Lakeview Terrace and reconnected at the far northern end of the Urban Reserve to the existing service going over North Avenue to the McNeil Plant near the railroad tunnel. To accomplish this BED needs an easement from the city. Please see attached documents.

We are requesting the Board of Finance approve and sponsor a resolution fro City Council granting this easement to Burlington Electric so they can prepare for the undergrounding of their overhead facilities in relation to the Waterfront Access North Project.

Please contact me with any questions. I will be at the Board of Finance meeting on Tuesday, November 13, 2012.

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement made this _____ day of _____ 2012, between the City of Burlington and the City of Burlington Electric Department.

Whereas the parties desire to enter into a Memorandum of Agreement which will have the force and effect of an Easement Agreement for recording purposes.

Whereas the City of Burlington, a municipality located in Chittenden County and State of Vermont (hereinafter called GRANTOR), for and in consideration of ONE DOLLAR and other good and valuable consideration paid to its full satisfaction by its Electric Department, (hereinafter called GRANTEE), the receipt whereof is hereby acknowledged, does hereby freely GRANT unto GRANTEE, and its successors and assigns, a perpetual and exclusive right-of-way and easement for the purpose of installing, inspecting, maintaining, constructing, reconstructing, operating, removing, repairing and replacing electrical lines and cables, which may be constructed at different voltages as GRANTEE, its successor and assigns, may from time to time determine, including necessary or advisable poles, anchors, guys, conduits, transformers, equipment and appurtenances under, upon, over and through the following described premises owned by the GRANTOR in the City of Burlington, County of Chittenden and State of Vermont, described as follows: VIZ:

The right-of-way and easement herein granted is located within the lands known as **0 Lake Street** (Parcel ID 043-4-007-000). Also known as the "North Forty". Being a portion of all and the same land and premises conveyed to the GRANTOR by the following conveyance:

Deed of Central Vermont Railway, Inc to the City of Burlington dated October 15th, 1991 and recorded in volume 438 at page 402 of the City of Burlington Land Records.

Said right-of-way and easement, being twenty feet (20') in width, ten feet (10') on each side of the centerline of the **asbuilt location** of the overhead primary electric lines. Said centerline of the overhead primary electric lines begin at the GRANTEE'S existing pole numbered 2756; thence running in a southerly direction a distance of approximately one hundred and sixty six feet (166') to GRANTEE'S new H-Frame structure (H1); thence continuing in a southerly direction a distance of approximately one hundred and eighty five feet (185') to GRANTEE'S new H-Frame structure (H2); thence running in a southwesterly direction a distance of approximately two hundred feet (200') to GRANTEE'S new H-Frame structure (H3); thence running in a westerly direction a distance of approximately one hundred and forty seven feet (147') to GRANTEE'S existing pole numbered 2779. Also from the aforementioned new H-Frame structure (H3) a distance of approximately one hundred and fifty-five feet (155') in a southwesterly direction to GRANTEE'S existing pole numbered 2778.

Said aforementioned right-of-way and easement is more particularly depicted on a Burlington Electric Department Drawing C374100, entitled "ROW & EASEMENT – FROM P2756 BY RR TUNNEL – TO LAKE ST. EXTENSION/BIKEPATH" last revised 10/31/12 and recorded in the City of Burlington Land Records at Map Hanger _____.

The above granted right, being more particularly described as the right to construct, place, reconstruct, operate, maintain, replace and remove, electrical transformers, poles, anchors, guys, conduits, hand holes, conductors, lines and cables and any other fixture and appurtenances thereto as the GRANTEE, its successors and assigns, may from time to time deem necessary or advisable. GRANTEE shall have the right to cut down and remove any trees, branches, underbrush etc. that may interfere with the safe and efficient operation and use of GRANTEE'S electric lines. Together, also with the right at all times to cross and recross Grantor's premises by convenient and reasonable approaches to gain access to the above described premises on foot and with motor vehicles and construction equipment for the purposes herein described. In the event GRANTEE disturbs the ground surface, Grantee will replace said ground surface to the condition it was found.

The GRANTOR covenants and agrees not to construct, install or permit the construction or installation of, any structures or objects of any kind upon or under the surface of the ground or to change the elevation of the ground within five feet (5') on each side of the easement, without the prior written consent of the GRANTEE.

TO HAVE AND TO HOLD the aforementioned rights and easements, with all privileges and appurtenances thereto belonging unto GRANTEE and its successors, and assigns forever to it and their own proper use, benefit and behoof.

GRANTOR agrees to indemnify and hold harmless GRANTEE from any and all claims, including costs of defense, arising from the presence of any toxic substance (other than any substance delivered by GRANTEE) or hazardous waste on or in GRANTORS property which is subject to the easement herein granted.

GRANTOR and GRANTEE agree that this instrument contains all of the terms and conditions of the easement herein conveyed, that no one has any authority on behalf of the GRANTOR and/or GRANTEE to make any agreement not herein expressed, and the consideration recited herein is in full satisfaction of every right hereby granted.

The foregoing shall be binding upon and shall inure to the benefit of the respective successors and assigns of the GRANTOR and GRANTEE.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this ____ day of _____, 2012.

CITY OF BURLINGTON

IN THE PRESENCE OF:

By: _____
Duly Authorized Agent

Witness

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS:

At _____, in said _____ County, this ____ day of _____ 2012, personally appeared _____, Duly Authorized Agent for the City of Burlington and acknowledged that the signing of this document was his/her free act and deed of the City of Burlington.

Before me, _____ Notary Public
Commission Expires; _____

BURLINGTON ELECTRIC DEPARTMENT

IN THE PRESENCE OF:

By: _____
Duly Authorized Agent

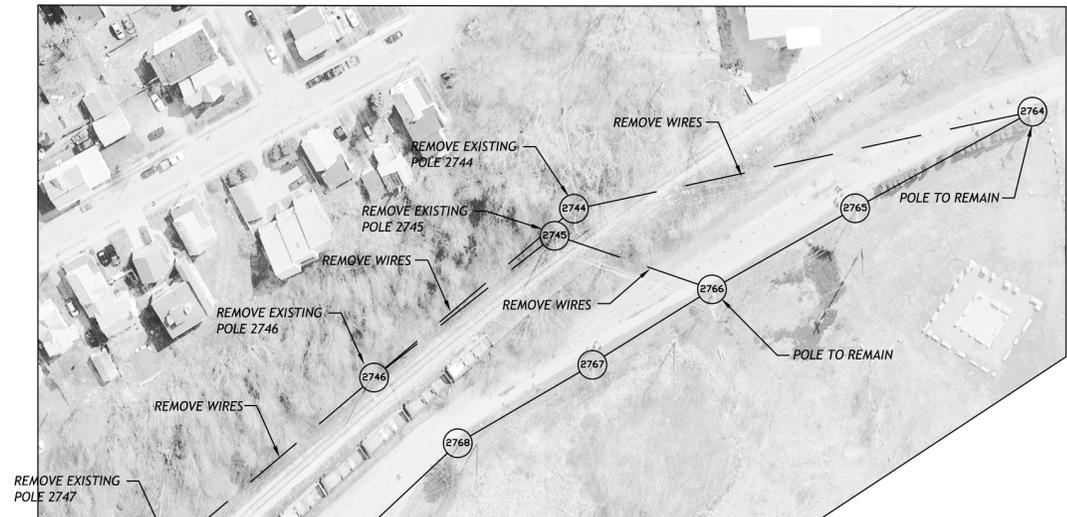
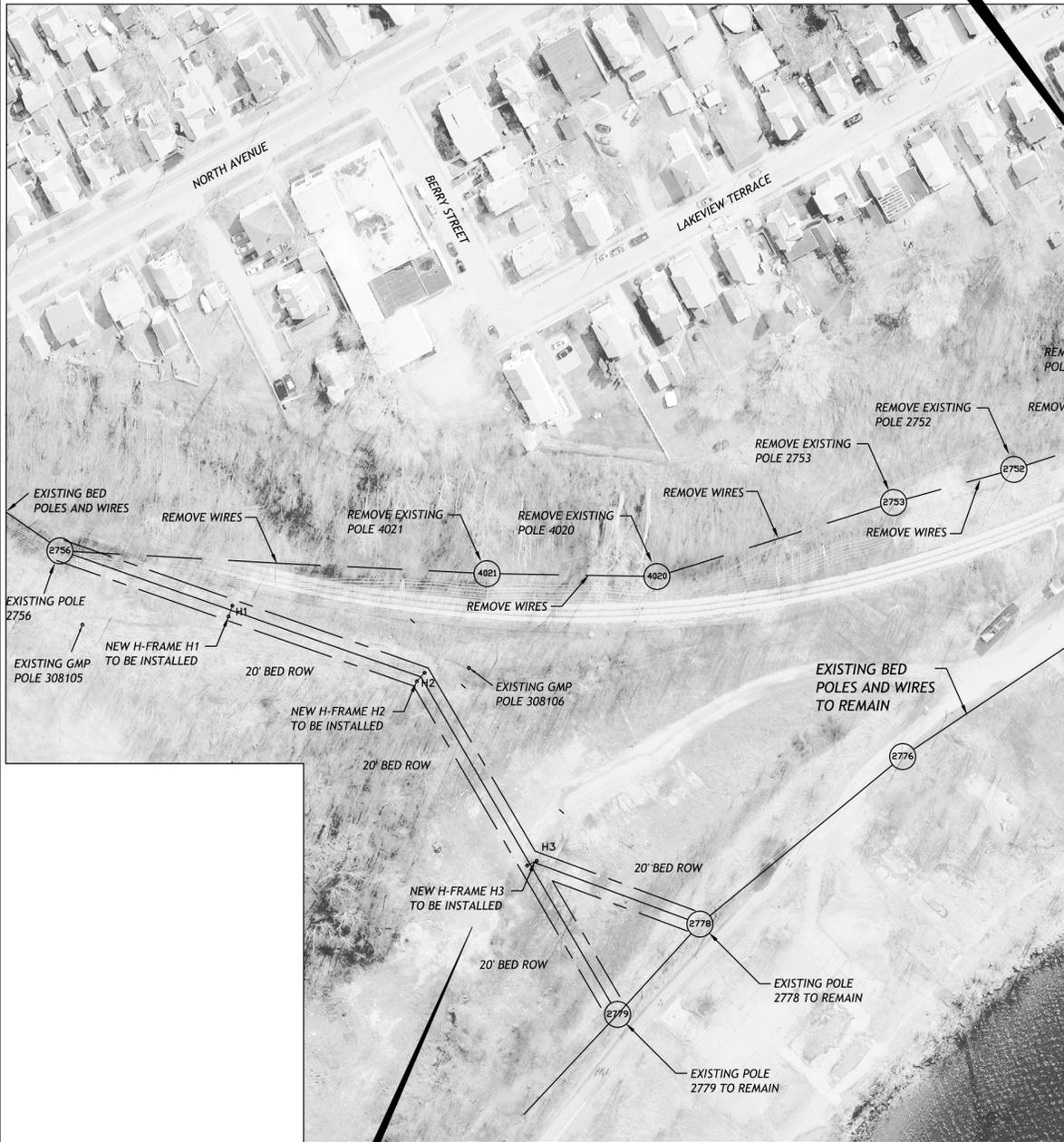
Witness

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS:

At _____, in said _____ County, this ____ day of _____ 2012, personally appeared _____, Duly Authorized Agent for the Burlington Electric Department and acknowledged that the signing of this document was his/her free act and deed of the Burlington Electric Department.

Before me, _____ Notary Public
Commission Expires; _____

REMOVE EXISTING BED POLES AND WIRES



REMOVALS
 REMOVE POLES 4021 THROUGH 2744 (12 POLES)
 REMOVE WIRES FROM POLE 2756 TO POLE 2764 AND 2746 TO 2766.
 ALL ASSOCIATED GUY WIRES, ANCHORS AND ASSOCIATED EQUIPMENT TO BE REMOVED.

INSTALLATIONS
 INSTALL NEW H-FRAMES H1, H2 AND H3.
 INSTALL GUY WIRE(S) AND ANCHOR(S) FOR H-FRAMES AS REQUIRED
 INSTALL WIRES FROM EXISTING POLE 2756 TO NEW H-FRAME H1, TO NEW H-FRAME H2, TO
 NEW H-FRAME H3 TO EXISTING POLE 2778 AND ALSO FROM NEW H-FRAME H3 TO EXISTING
 POLE 2779.

RIGHT OF WAY
 NEW 20 FOOT WIDE RIGHT OF WAY AND EASEMENT OVER LANDS OF THE CITY OF BURLINGTON
 TO BE CONVEYED AS A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF BURLINGTON
 AND THE BURLINGTON ELECTRIC DEPARTMENT.
 DEED REFERENCE: VOLUME 438, PAGE 402 OF THE CITY OF BURLINGTON LAND RECORDS.

INSTALL NEW BED POLES AND WIRES
 NEW BED RIGHT OF WAY



REV. #	DRAWN BY:	PLOT DATE:	DESCRIPTION/APPROVAL/DATE
1	MAD	10/31/12	CHANGE NEW ALIGNMENT
2	MAD	11/7/12	ADD POLES/WIRES TO BE REMOVED

BURLINGTON ELECTRIC DEPARTMENT
 BURLINGTON, VERMONT

**ROW & EASEMENT
 FROM P2756 BY RR TUNNEL
 TO LAKE ST. EXTENSION/BIKEPATH**

DRAWN BY: AJN	SCALE: 1"=100'	DWG. NO.: C3740100
PLOT DATE: 10/6/10	CHECKED BY/DATE	SHEET 1 OF 1