

**INVITATION FOR BIDS
&
CONTRACT DOCUMENTS
FOR
City of Burlington
Vermont**



**Department of Public Works
Water Resources**

GSI/CSO: South End Retrofits

February 2021

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Table of Contents

BIDDING REQUIREMENTS

Invitation for Bids	5
Exhibit A: Bid Form*	9
Exhibit B: Livable Wage Ordinance Certification*	13
Exhibit C: Outsourcing Ordinance Certification*	23
Exhibit D: Union Deterrence Ordinance Certification*	27
Exhibit E: Burlington Prequalification of Construction Contractors*	31

CONTRACT FORMS

Notice of Award.....	41
Exhibit F: DRAFT Construction Contract	43
Payment Bond.....	47
Performance Bond.....	49
Notice to Proceed.....	51
General Contractor’s or Subcontractor’s Release and Waiver of Lien	53
Change Order	55
Certificate of Substantial Completion.....	57
Certificate of Final Completion and Acceptance of Work.....	59
Exhibit G: City of Burlington Standard Contract Conditions	61
City of Burlington – Supplementary Conditions	79
City of Burlington – General Special Provisions.....	81
Modifications to the Vtrans 2018 Standard Specifications.....	85
Hazardous Materials and Historic Preservation.....	87
VTrans 2018 Special Provisions	89

** The pages above marked with asterisks must be completed and signed and included in bid submittal*

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CITY OF BURLINGTON
INVITATION FOR BIDS
Construction of GSI/CSO - South-End Retrofits Project
Issued: Wednesday, February 17, 2021
Due: Monday, March 15, 2021, 2:00 p.m.

I. PROJECT BACKGROUND

The City of Burlington’s sewer collection system is comprised of piping networks that are designed to convey both sanitary and storm flows to the three (3) wastewater treatment facilities throughout the City; Main Plant, East Plant and North Plant. The collection system is also equipped with five (5) combined sewer overflows (CSOs) that act as “relief” points that aid in preventing damage to the treatment facilities and in the prevention of sewage backups into residences and businesses during storm events. The Pine Street CSO is the most challenging of these five (5) CSO locations, creating the greatest annual volume of untreated combined sewer overflows. Discharges from the Pine Street CSO are also the most approximate to Lake Champlain, causing various recreational beach closures since the discovery of the Pine Street CSO in 2015. Approximately 30% of the drainage area contribution to the Pine Street CSO is located in the South End district of the City of Burlington. To aid in the mitigation of this contributing area, the City of Burlington submitted applications for a Stormwater Mitigation Grant sponsored by the State and won approximately \$1 Million to design and implement Green Stormwater Infrastructure (GSI) to reduce the polluted runoff and high storm flows from developed lands that drain into the Combined Sewer System (CSS).

II. SCOPE OF WORK

The City of Burlington Department of Public Works (City) is seeing bids for the construction of both surface and subsurface Green Stormwater Infrastructure in the City’s public right-of-way located within the vicinity of Prospect Parkway, South Street, Fairmount Street, and South Prospect Street. The City is seeking qualified construction teams that can perform all aspects of the retrofit projects including excavation, traffic control, site maintenance, installation of subsurface stormwater infiltration systems, installation of stormwater bioretention systems, installation of subsurface structures, landscaping, installation of curbing and sidewalks, paving restoration, connecting to existing sewers and all other tasks necessary for a complete project in accordance with the contract documents. Contract Drawings accompany these bid documents which depict the proposed work.

III. RESPONSE FORMAT

Questions concerning this Request for Proposals (RFP) must be made via email to the point of contact below. Responses to all submitted questions will be posted at <https://www.burlingtonvt.gov/rfp/>. Any revisions, addendums, and answers to questions received by **2:00 p.m. on Tuesday, March 2, 2021**, will be sent to Contractors who directly received this RFP by **Monday, March 8, 2021**. It is advised that Contractors sign up for GovDelivery notification so they will be notified of any changes to the RFP page.

There will be no formal site visits held by the City. Contractors may inspect the streets and project locations on their own or schedule site visits through the point of contact below.

All proposals in response to this Request for Proposals must be received by the point of contact no later than **2:00 p.m. on Monday, March 15, 2021**. Late replies will not be accepted under any circumstances. Proposals must be submitted by **e-mail** in a common PDF file with pages

numbered to:

Ashley Walenty, PE
Water Resources Engineer
awalenty@burlingtonvt.gov

IV. CONTRACTOR SELECTION

During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications. The City reserves the exclusive right to select or reject a contractor that it deems to be in its best interest to do so. The award of this project will not be based on the price proposal alone. The City will award the project to the most advantageous proposal from a responsible and responsive offer. All proposals shall be in full compliance with all applicable requirements of Federal, State and local laws. The City reserves the right to further negotiate the price proposal.

V. SUBMISSIONS

Contractors are encouraged to be concise. Contractors may partner with other firms, local, or otherwise, in order to provide the best possible proposal for ensuring quality and efficient completion of the project tasks. All proposals must include, at a minimum, the following:

1. Completed bid form, Exhibit C, including estimated start date, and signature/date by an authorized representative for the firm.
2. Signed Exhibit F – Burlington Livable Wage Ordinance Certification, Exhibit G – Burlington Outsourcing Ordinance Certification and Exhibit H – Burlington Union Deterrence Ordinance Certification with the bid sheet and as described in the Contract documents.
3. Completed Exhibit I - Burlington Prequalification of Construction Contractors

VI. EXHIBITS

- A. Exhibit A: Contract Bid Form
- B. Exhibit B: Burlington Livable Wage Ordinance Certification
- C. Exhibit C: Burlington Outsourcing Ordinance Certification
- D. Exhibit D: Burlington Union Deterrence Ordinance Certification
- E. Exhibit E: Burlington Prequalification of Construction Contractors
- F. Exhibit F: Draft Construction Contract
- G. Exhibit G: Burlington Standard Contract Conditions
- H. Exhibit H: Contract Specifications
- I. Exhibit I: Contract Drawings: GSI/CSO– South End Retrofits

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

VII. CONTRACTING

The contractor 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 D in this RFP). The certificate of insurance coverage shall be documented on forms acceptable to the City.

If the award of the contract aggrieves any person or entity, they must appeal in writing to the City. The appeal must be post-marked within seven (7) calendar days following the date of written notice to award the contract.

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 D) and the attached Draft Agreement.

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 of the bid documents, including but not limited to unit prices and rate calculations, the bidder shall immediately give the City written notice thereof. Contractors 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 contractor 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.

XVI. PUBLIC HEALTH EMERGENCIES

Bidders are advised that public health emergencies, as declared by the City, the State of Vermont, or the Federal Government, including the current pandemic of Novel Coronavirus (COVID-19), may introduce significant uncertainty into the project, including disruption of timelines or revised practices. Contractors shall consider public health emergencies as they develop project schedules and advance the work.

The City may require a public health emergency plan be submitted as part of the bid. This plan will contain:

- 1) Measures to manage risk and ensure that potential impacts to safety and mobility are mitigated in accordance with health and safety standards and guidelines proposed by local, state, and federal agencies (see attached Draft Contract, Sections 20);
- 2) A schedule for possible updates to the plan in advance of the start of work (see attached Draft Contract, Section 20); and
- 3) Means to adjust the schedule and sequence of work should the emergency change in nature or duration.

The City will have sole discretion to approve, deny, or require changes to this plan as a condition of consideration of the bid, will retain the right to inspect all work to ensure compliance with health and safety standards, and may at any time require the contractor to stop work because of the emergency.

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 public emergencies, including the current pandemic of Novel Coronavirus (COVID-19), will be excusable, but will not be compensable.

Exhibit A

BID FORM – SOUTH END RETROFITS

Contractor: _____ Address: _____

Contact: _____ Telephone/Email: _____

Subcontractor(s), if applicable: _____

BID ITEM NUMBER	DESCRIPTION	EST. QTY	UNIT	COST PER UNIT	SUBTOTAL
203.15	COMMON EXCAVATION	700	CY	\$	\$
204.20	Trench Excavation of Earth	80	CY	\$	\$
204.21	Trench Excavation of Rock	10	CY	\$	\$
204.22	Trench Excavation of Earth, Exploratory (N.A.B.I.)	150	CY	\$	\$
301.25	Subbase of Crushed Gravel, Coarse Graded	170	CY	\$	\$
404.65	Emulsified Asphalt	1	CWT	\$	\$
406.25	Marshall Bituminous Concrete Pavement	20	TON	\$	\$
507.11	Reinforcing Steel, Level I	2295	LB	\$	\$
601.2605	12" CPEP(SL)	40	LF	\$	\$
604.18	Precast Reinforced Concrete Drop Inlet with Cast Iron Grate	6	EACH	\$	\$
604.20	Precast Reinforced Concrete Catch Basin with Cast Iron Grate	9	EACH	\$	\$
604.40	Changing Elevation of Drop Inlets, Catch Basins, or Manholes	1	EACH	\$	\$
605.10	Underdrain Pipe, 6 Inches	880	LF	\$	\$
616.28	Cast-In-Place Concrete Curb, Type B	115	LF	\$	\$

BID ITEM NUMBER	DESCRIPTION	EST. QTY	UNIT	COST PER UNIT	SUBTOTAL
616.41	Removal of Existing Curb	1540	LF	\$	\$
618.10	Portland Cement Concrete Sidewalk, 5 Inch	75	SY	\$	\$
622.10	Insulation Board	4	MFBM	\$	\$
629.20	Adjust Elevation of Valve Box	5	EACH	\$	\$
629.54	Crushed Stone Bedding	625	TON	\$	\$
635.11	Mobilization/Demobilization	1	LS	\$	\$
641.10	Traffic Control	1	LS	\$	\$
646.261	24 Inch Stop Bar, Waterborne Paint	12	LF	\$	\$
646.85	Removal of Existing Pavement Markings	25	SF	\$	\$
649.41	Geotextile for Underdrain Trench Lining (Geogrid)	190	SY	\$	\$
651.15	Seed	20	LB	\$	\$
651.18	Fertilizer	80	LB	\$	\$
651.20	Agricultural Limestone	0.5	TON	\$	\$
651.35	Topsoil	80	CY	\$	\$
653.20	Rolled Erosion Control Product, Type I	690	SY	\$	\$
653.41	Inlet Protection Device, Type II	23	EACH	\$	\$
656.35	Deciduous Shrubs	23	EACH	\$	\$
656.85	Tree Protection	1	LS	\$	\$
675.20	Traffic Sign, Type A	52	SF	\$	\$
675.341	Square Tube Signpost and Anchor	140	LF	\$	\$

676.10	Delineator with Steel Post	10	EACH	\$	\$
BID ITEM NUMBER	DESCRIPTION	EST. QTY	UNIT	COST PER UNIT	SUBTOTAL
900.608	Special Provision (Bioretention Soil Mixture)	160	CY	\$	\$
900.608	Special Provision (3/8" Circular Peastone)	40	CY	\$	\$
900.620	Special Provision (Ornamental Grasses)	915	EACH	\$	\$
900.640	Special Provision (Infiltration Chamber)	340	LF	\$	\$
900.640	Special Provision (Reinforced Cast-in-Place Concrete Curb)	1505	LF	\$	\$
900.670	Special Provision (4" – 6" Rounded Stone)	230	SF	\$	\$
900.675	Special Provision (Geotextile)	1775	SY	\$	\$

TOTAL BASE BID (SUM OF ITEMS 203.15 THROUGH 900.675): _____

NOTES:

1. The lowest responsive and responsible bidder will be determined by the Total Base Bid. The above unit prices shall include all labor, materials, removal, overhead, profit, insurance, etc. to cover the finished work of the several kinds called for on the drawings and specifications.
2. The Method of Measurement and Basis of Payment for all contract items shall follow the Vermont Agency of Transportation ("VTrans") 2018 Standard Specification for Construction, unless modified in these Contract Documents.
3. By submission of this BID, each BIDDER certifies, and in the case of a joint BID, each party thereto certifies as to his own organization, that his BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.
4. BIDDER hereby agrees to commence WORK under this contract on the date of issuance of the NOTICE TO PROCEED and to fully complete the PROJECT by October 31, 2021. BIDDER further agrees to pay as liquidated damages as provided in Section 108.12 of the

VTRANS 2018 Standard Specifications for Construction if project delays are caused by the BIDDER. We anticipate the NOTICE TO PROCEED will be issued by May 1, 2021 or sooner.

5. BIDDER hereby agrees and understands that it has been given notice that an agreement entered into pursuant to an award under this request for proposals is intended to be a multi-fiscal year agreement under which the obligations of the City to make payments shall be a current expense of the City in the fiscal year the expense is to be paid and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional, statutory limitation or requirement, or the City's charter. BIDDER further understands and agrees that nothing contained in a such contract shall constitute a pledge of the credit or tax revenues, funds or monies of the City, that the decision whether or not to budget and appropriate funds during each fiscal year of the City is and shall be within the discretion of the governing body of the City, that the obligations of the City under the contract are subject to annual appropriations by the governing body of the City and that an act of non-appropriation shall act to terminate the contract under the terms of the agreement.

A Performance Bond and a Payment Bond, each for 100% of the Bid value, will be submitted at the time of Contract award. Irrevocable Letters of Credit for 100% of the Bid value may be substituted by the Contractor for each of the Bonds. The Payment Bond (or Irrevocable Letter of Credit) will not be released until satisfactory evidence has been provided to the City that all outstanding debts, liens, and judgments incurred by the Contractor for the performance of subcontractors, or supplies and materials incorporated into the Work have been paid. The Performance Bond (or Irrevocable Letter of Credit) will be held in force for one year after the Substantial Completion and will serve as warranty of the Contract. The Irrevocable Letter of Credit for Performance (if used in place of a Performance Bond) may not be reduced or released prior to completion of the one year warranty period unless authorized by the City and approved by the Lending Authority.

BIDDER acknowledges receipt of the following ADDENDUM:

By signing this bid sheet, the Contractor agrees to abide by all specifications and conditions in these Contract Documents.

Signature

Title

Date

EXHIBIT B
Certification of Compliance with the City of Burlington's Livable Wage Ordinance
(TO BE SUBMITTED WITH BID)

I, _____, on behalf of _____ ("the Contractor") in connection with a contract for _____ services that we provide to the City, hereby certify under oath that the Contractor (and any subcontractors under this contract) is and will remain in compliance with the City of Burlington's Livable Wage Ordinance, B.C.O. 21-80 et seq., and that

(1) as a condition of entering into this contract or grant, we confirm that all covered employees as defined by Burlington's Livable Wage Ordinance (including the covered employees of subcontractors) shall be paid a livable wage (as determined, or adjusted, annually by the City of Burlington's chief administrative officer) and provided appropriate time off for the term of the contract;

(2) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace(s) or other location(s) where covered employees work;

(3) we will provide verification of an employee's compensation, produce payroll or health insurance enrollment records or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of a request by the City;

(4) we will cooperate in any investigation conducted by the City of Burlington's City Attorney's office pursuant to this ordinance; and

(5) we will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this ordinance.

Date _____ By: _____
Contractor

Subscribed and sworn to before me:

Date _____
Notary

A copy of the Ordinance follows this Certification.

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)

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EXHIBIT C
Certification of Compliance with the City of Burlington's Outsourcing Ordinance
(TO BE SUBMITTED WITH BID)

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 _____, 2018.

By: _____
Duly Authorized Agent

Subscribed and sworn to before me: _____
Notary

A copy of the Ordinance follows this Certification.

NOTE: This ordinance only applies for contracts over \$50,000.

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.

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EXHIBIT D
Certification of Compliance with the City of Burlington's Union Deterrence Ordinance
(TO BE SUBMITTED WITH BID)

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

A copy of the Ordinance follows this Certification.

NOTE: This ordinance only applies for contracts over \$15,000.

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.

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Exhibit E

City of Burlington



Pre-Qualification of Construction Contractors Application

Date Received: _____

Date Checked: _____

Available for Electronic Mailing

Pre-Qualification of Construction Contractors Application

This is an application for pre-qualification of construction contractors for the City of Burlington under Chapter 21 of the Code of Ordinances. The purpose of the application is to solicit information necessary to determine whether a contractor applying for work on a government-funded project is a responsible contractor.

1. Policy

It is the policy of the City of Burlington to let contracts for city construction projects only to contractors and subcontractors that demonstrate that they are responsible contractors.

2. Responsible Contractor

Responsible contractors are those contractors and subcontractors who have demonstrated to the City that they are financially responsible, have experience suggesting that they have the ability to perform government projects responsibly, have demonstrated that they are responsible employers, and have demonstrated that they have fair subcontractor relations, or that they perform all work with their own forces.

3. Minimum Contract Amount

This pre-qualification requirement applies to any construction contract by a department, board or council of the City, or those construction projects financed by tax exempt bonds issued by the Burlington Community Development Corporation, in which the total project cost is \$100,000 or more.

4. Contracting Authority

This application is to be delivered to the contracting authority under the schedule determined by that authority as part of the bidding process. The contracting authority is the department, board or council, agency, or entity that is sponsoring the contract on behalf of a government funded project.

5. Proprietary Information

All information submitted by contractors and subcontractors in connection with a pre-qualification application shall be considered proprietary information. The City shall not release the information except as may be required by the Access to Public Records Law, or by court order.

6. Subcontract Work

The pre-qualification requirement does not apply to subcontractors where the total value of the work to be performed is less than \$7,500.

Instructions for Filing the Questionnaire, Financial Statement and Other General Information For Contractors

1. Preparation of Statement:

One copy of the questionnaire is required by the City. It must be completely executed and properly sworn to before a Notary Public. Financial Statements which are compiled, reviewed, or fully-audited must be prepared and certified by an Independent Certified Public Accountant (CPA). A Certified Public Accountant is considered on who, in Vermont, is registered by the State of Vermont Board of Public Accountancy as a CPA. For other states, the City will consider a CPA whose registration qualifications in their state equal those established in Vermont. If the Contractor has not been approved to be prequalified as of the date of the bid opening, this questionnaire must be submitted before the date of opening bids, or with the Contractor's Bid, in order to ensure consideration for pre-qualification for a particular bid opening.

2. Notification of Action Taken:

The City will send in writing to the applicant a notification of its decision. Questionnaires will be considered in the order received and acted upon at all times as promptly as circumstances permit. Contractors duly pre-qualified will be appraised in writing of both the amount and type of work on which they will be eligible to bid.

3. Duration of Pre-Qualification:

The duration of any pre-qualification will not exceed one (1) year and will expire annually three (3) months subsequent to the closing date of the contractors fiscal year, as evidenced in their financial statement.

4. Revision of Pre-Qualification Rating:

Requests for revision of pre-qualification rating will be considered at any time provided credentials showing increased assets, equipment or ability to perform work are submitted. These must be submitted prior to a bid opening to receive consideration for that bid opening. Contractors shall also report any substantial increase in liabilities that occurs during the pre-qualification period.

5. Request for Plans, Specifications and Proposal Form:

Contractors having been duly pre-qualified will receive notices from time to time inviting submission of proposals for the contracts to be let on specified dates. A Contractor desiring to receive plans, proposal and specifications for any contract may obtain them upon written request only, utilizing the special form entitled A Standard Form B Request for Proposal and/or Plans. This form is furnished to all pre-qualified contractors by the City and this form must show the status of all work under contract or otherwise executed by the Contractor, both inside and outside the State of Vermont, as of the date of request.

**PRE-QUALIFICATION OF
CONSTRUCTION CONTRACTORS
APPLICATION**

Submitted by _____

Corporation Partnership Individual Other

Mailing Address _____

Location Address _____

Telephone Number _____ Federal ID Number _____

The signatory of this questionnaire guarantees the truth and accuracy of all statements and of all answers to interrogatories hereinafter made.

Notary:

Authorized Signature

Name and Title of Authorized Agent

Date

Experience Questionnaire

How many years has your organization been in business as a general contractor under your present business name? _____ Under other names? (List)

How many years experience in construction work has your organization had, (a) As a general Contractor, (b) As a Sub-Contractor: _____

Has your organization, or any officer, partner, director or principal individual thereof ever admitted to or been convicted of any criminal violation, including but not limited to discrimination, anti-trust or labor violations, other than traffic offences; or been convicted of or is currently being sued for any civil antitrust violation or other civil suit involving fraud; or been debarred from performing work on any contract?

YES / NO

If so, give full details, including the name of any individual involved and the court and docket number of any civil or criminal actions:

Date of reinstatement _____

2. Is your organization currently debarred from performing work on any contract? YES / NO

If yes, by whom? _____

Date of reinstatement: _____

3. Has your organization ever been denied pre-qualification by the City of Burlington?

YES / NO

If so, by whom and for what reason? _____

4. Have you ever failed to complete any work awarded to you? YES / NO

If so, where and why? _____

5. Has any officer, director or partner of your organization ever been an officer or partner of some other organization that failed to complete a construction contract? YES / NO

If so, state the name of individual, other organization and reason therefore:

6. Has any officer, director or partner of your organization ever failed to complete a construction contract handled in his own name? YES / NO

If so, state name of individual, name of owner and reason therefore: YES / NO

7. Has the organization been cited in the past three (3) years for violations of OSHA?

If so, please explain: YES / NO

YES / NO

8. Has the organization currently any outstanding legal action against it by a subcontractor on a current or former job? YES / NO

If so, please explain:

9. List all parents, subsidiaries, affiliates or divisions of your firm, and any related parties included in disclosures in your most recent financial statements or the notes thereto:

10. List any of your officers, shareholders or directors that are affiliated with any other contractor and/or supplier:

11. Identify all persons having final bidding authority and/or the Chief Estimator:

12. Give names and complete addresses of three (3) major material suppliers and/or subcontractors with whom your firm has done business in the past 3 years:

13. List the names and addresses of the following:

Bank:

Amount of Letter of Credit:

Bonding Co. and limit (Please specify per project and aggregate limits):

Bonding Agent:

Liability Insurance:

Name of Carrier:

Limits of Liability:

Worker's Compensation:

Name of Carrier:

14. Does the organization have a company safety program, such as, YES / NO
a currently approved VOSHA plan in place?

If so, briefly describe:

15. List the average wages and benefits paid by the organization over the past year for the skills, trades and job classifications intended to be employed for the contract (s) under consideration in this pre-qualification:

<u>Job Title</u>	<u>Hourly wages</u>	<u>Health Insurance</u>
<u>CARPENTER</u>		
<u>ELECTRICIAN</u>		
<u>PAINTERS</u>		
<u>PIPEFITTERS</u>		
<u>PLUMBERS</u>		
<u>ROOFERS</u>		
<u>POWER EQUIPMENT OPERATORS</u>		
<u>TRUCK DRIVERS</u>		
<u>LABORERS</u>		
<u>OTHERS</u>		

16. List specific projects which your organization has completed in the last five years (Attach additional sheet if required):

<u>Contract Amount</u>	<u>Type of Work</u>	<u>% of Subcontract</u>	<u>When Completed</u>	<u>Location</u>	<u>Name, Address and Telephone of Owner</u>

17. List all field supervisory personnel and indicate their construction experience:

<u>Name</u>	<u>Present Position or Office</u>	<u>No. of Years With this Firm</u>	<u>Construction Experience</u>	<u>Magnitude and Type of Work</u>	<u>In what Capacity</u>

18. Is your firm pre-qualified by the State of Vermont? YES / NO
 If so, please state rating and type of work qualified to perform:

<u>RATING</u>	<u>TYPE OF WORK</u>

Experience and Work Preference

In the following tabulation indicate the various types of work in which you are experienced and for which you desire to be qualified:

Bridge Construction	_____	Bridge Rehabilitation	_____
Railroad Signals	_____	Roads Culverts	_____
Building Construction	_____	Building Demolition	_____
Surface Rehabilitation	_____	Maintenance	_____
Tank Removal/Replacement	_____	Foundation	_____
Guard Rail, Fencing & Signs	_____	Hazardous Material Removal	_____
Construction & Rehabilitation	_____	Landscaping	_____
Traffic Signals & Lighting	_____	Pavement Markings	_____
Road Construction	_____	Water & Sewer	_____
		Other (as specified)	_____

19. Financial Capability.

The City reserves the right to request additional information if necessary to establish financial capability.

NOTICE OF AWARD

TO:
PROJECT:
City's Project Number:

The City has considered the BID submitted by you for the above described WORK in response to its ADVERTISEMENT FOR BIDS dated February 17, 2021, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of _____.

You are required to execute the Agreement. The NOTICE OF AWARD shall be accompanied by the necessary Agreement. In case of failure of the BIDDER to execute the Agreement, the OWNER may, at its option, consider the BIDDER in default, in which case the BID BOND or certified check accompanying the proposal shall become the property of the OWNER.

The OWNER, within ten (10) days of receipt of Agreement signed by the party to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE withdraw their signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The OWNER shall issue the NOTICE TO PROCEED within ten (10) days of the execution of the Agreement. The "Date of Issuance" of the NOTICE TO PROCEED shall start the CONTRACT time. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended only by mutual written agreement between the OWNER and CONTRACTOR.

If the NOTICE TO PROCEED has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this _____ day of _____, 20____.

Chapin Spencer
Director of Public Works
City of Burlington

ACCEPTANCE OF NOTICE: Receipt of the above NOTICE OF AWARD is hereby acknowledged:

Dated this _____ day of _____, 20____.

Print Name and Title

Signature

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EXHIBIT F
CITY OF BURLINGTON
DRAFT CONSTRUCTION CONTRACT

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

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

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

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

2. RECITALS

- A. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. **Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. **Purpose.** The City seeks to employ the Contractor to construct the Green Stormwater Infrastructure (GSI) in the City’s public right-of-way in the South-End Prospect Parkway neighborhood.

3. EFFECTIVE DATE & TERM

- A. **Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no

obligation to pay Contractor for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.

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

4. SCOPE OF WORK

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

5. PAYMENT FOR SERVICES

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

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

- B. Payment Schedule.** The City shall pay the Contractor in the manner and at such times as set forth in the Contract Documents [or as follows:_____]. 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 Contractor for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$[_____]. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval.

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

James Sherrard
235 Penny Lane, P.O. Box 878
Burlington, VT 05401
802-863-4501
jsherrard@burlingtonvt.gov

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

6. SECTION & ATTACHMENT HEADINGS

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

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

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

The following documents constitute the Contract Documents:

Attachment A: Request for Proposals dated [REDACTED]

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

Attachment C: Burlington Standard Contract Conditions for Construction Contractors

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.

Contractor
[Name of Contractor]

By: _____
Name & Signature

Date: _____

City of Burlington
Department of Public Works

By: _____
Chapin Spencer
Director of Public Works

Date: _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS THAT:

(Name of CONTRACTOR)

(Address of CONTRACTOR)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

(Name of OWNER)

(Address of OWNER)

hereinafter called OWNER, in the penal sum of _____ Dollars,
\$(_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the ____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK and all insurance premiums on said WORK, and for all labor performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed

an original, this the _____ day of _____, 20_____.

ATTEST:

(Principal Secretary)

(Seal)

Witness as to Principal

Address

ATTEST:

Witness as to Surety

Address

Principal's Printed Name

By: _____(s)

Address: _____

Surety

By: _____
Attorney-in-Fact

Address: _____

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570) as amended and be authorized to transact business in the State of Vermont.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS THAT:

(Name of CONTRACTOR)

(Address of CONTRACTOR)

a _____, hereinafter called Principal, and
(Corporation, Partnership or Individual)

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

(Name of OWNER)

(Address of OWNER)

hereinafter called OWNER, in the penal sum of _____ Dollars,
\$(_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the ____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20_____

ATTEST:

Principal's Printed Name

(Principal Secretary)

(Seal)

By: _____(s)
Address: _____

Witness as to Principal

Address

Surety

ATTEST:

Witness as to Surety

Address

By: _____
Attorney-in-Fact
Address: _____

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570) as amended and be authorized to transact business in the State of Vermont.

NOTICE TO PROCEED

To: _____
(CONTRACTOR)

Date of Issuance: _____

Project: South End Retrofits

You are hereby notified to commence all WORK on this date in accordance with the Agreement dated _____, 20____. The date of completion of all WORK is October 31st, 2021

By: _____
(Printed or Typed Name)

By: _____
(Signature)

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____ (Name of CONTRACTOR) on this ____ day of _____, 2020.

By: _____
(Printed or Typed Name)

By: _____
(Signature)

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INSTRUCTIONS FOR CONTRACTORS OR SUBCONTRACTORS

RELEASE AND WAIVER OF LIEN FORM

1. At the preconstruction meeting, the OWNER will receive from the CONTRACTOR a list of all major items (s)he intends to SUBCONTRACT.
2. Prior to the first requisition for payment, the OWNER will inform the CONTRACTOR as to which of these SUBCONTRACTORS or vendors may be required to complete a Release of Lien Form. Note that 40 CFR §33.302 requires CONTRACTOR to pay their SUBCONTRACTORS for satisfactory performance within 30 days of payment to CONTRACTOR by OWNER. CONTRACTOR shall comply with this requirement.
3. The CONTRACTOR shall include in the payment package a Release of Lien Form for the overall CONTRACT and those of any SUBCONTRACTORS or vendors so identified by the OWNER.
4. For all interim payments prior to 90% completion of the CONTRACT, the CONTRACTOR may delete, "...the undersigned does hereby waive, release and relinquish any and all claims, demands and rights of lien for all work, labor, materials, machinery or other goods, equipment or services done, performed or furnished..." from the first statement.
5. Final payment requires complete wording in the first statement and a fully executed form.

GENERAL CONTRACTOR'S OR SUBCONTRACTOR'S

RELEASE AND WAIVER OF LIEN

For and in consideration of the receipt of \$ _____, in payment for labor and/or materials furnished, the undersigned does hereby waive, release and relinquish any and all claims, demands and rights of lien for all work, labor, materials, machinery or other goods, equipment or services done, performed or furnished for the construction located at the site hereinafter described, to wit:

_____ (Project Name and OWNER)

_____, Vermont as of _____ (Date)

The undersigned further warrants and represents that any and all valid labor and/or materials and equipment bills, now due and payable on the property herein above described in behalf of the undersigned, have been paid in full to date of this waiver, or will be paid from these funds.

\$ _____
Total Paid to Date This Contract

\$ _____
Current Payment Due

\$ _____
Total Billed to Date This Contract

CONTRACTOR/SUBCONTRACTOR

Witness Signature

By: _____

Title: _____

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Witness Printed Name

CHANGE ORDER #

Date: _____
Contract #: _____
Contract Title: _____
Owner: _____
Contractor: _____
Owner: _____

Agreement Date: _____
ORIGINAL PRICE: \$ _____
Notice to Proceed Date: _____
Calendar Days: _____
Original Completion Date: _____

The following changes are hereby made to the CONTRACT DOCUMENTS:

DESCRIPTION:

JUSTIFICATION:

PRICE: This C.O.⁽¹⁾ will (not change/increase/decrease) the Contract Price By: \$ _____
Current Contract Price per most recent C.O.: \$ _____
The new Contract Price including this C.O. is: \$ _____

TIME: Current Contract Calendar Days as per most recent C.O.: Calendar Days _____
This C.O. will (not change/increase/decrease) the Contract Calendar Days by: Calendar Days _____
The new Contract Calendar Days including this C.O. is: Calendar Days _____
The new Contract Completion Date is, therefore: _____

NOTE: The CONTRACTOR must provide a Revised Project Schedule to reflect increases or decreases in Contract Time as authorized by this C.O.

REQUESTED BY: _____
Print or Type Name Signature

SIGNATURES/APPROVALS:

Stipulated price and time adjustment includes all costs and time associated with the above described change. CONTRACTOR waives all rights for additional compensation or time extension for said change. CONTRACTOR and OWNER agree that the price(s) and time adjustment(s) stated above are equitable and acceptable to both parties.

Recommended By (Owner): _____
Print or Type Name Signature

Accepted By (CONTRACTOR): _____
Print or Type Name Signature

Ordered By (OWNER): _____
Print or Type Name Signature

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CERTIFICATE OF SUBSTANTIAL COMPLETION

OWNER _____

OWNER's Project Number _____

Project Name _____

=====

CONTRACTOR _____ Contract Date _____

Contract for _____

=====

Project or Specified Part Shall Include _____

=====

DEFINITION OF SUBSTANTIAL COMPLETION

The date of Substantial Completion of a Project or specified part of a Project is the date when the construction is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part of the Project can be utilized for the purpose for which it was intended.

=====

To: _____
(OWNER)

And To: _____
(CONTRACTOR)

The WORK performed under this CONTRACT has been inspected by authorized representatives of the OWNER, CONTRACTOR, and OWNER, and the Project or Specified Part of the Project is hereby declared to be Substantially Completed as of the following date:

Date of Substantial Completion: _____

If a tentative list of items to be completed or corrected is appended hereto, the failure to include an item on it does not alter the responsibility of the CONTRACTOR to complete all the WORK in accordance with the CONTRACT DOCUMENTS and CONTRACT TIME.

Recommended By:

OWNER

(Print or Type Name)

(Signature)

Date

Approved By:

_____	_____	_____
OWNER	(Signature)	Date

	(Print or Type Name)	

=====

The CONTRACTOR accepts the above Certificate of Substantial Completion.

_____	_____	_____
CONTRACTOR	(Signature)	Date

	(Print or Type Name)	

=====

EXCEPTIONS AS TO GUARANTEES AND WARRANTIES:

=====

ATTACHMENTS:

1) Punch List Dated: _____

2) List the CONTRACTOR's Warranty Start and End Dates along with any Extended Warranty information here. Some items (such as roofing) may have a manufacturer's warranty longer than one year. Any documentation to support warranty requests (bill of sale, etc.) need to be supplied as part of the OWNER's O&M Manual under the warranty section.

CERTIFICATE OF FINAL COMPLETION AND ACCEPTANCE OF WORK

CONTRACT NO. _____ AGREEMENT DATE: _____

CONTRACT DESCRIPTION: _____

Notice to Proceed Date of Issuance: _____

Completion Date per Agreement and Change Orders # _____ thru # _____ : _____
(Date)

FINAL CERTIFICATION OF CONTRACTOR

I hereby certify that the WORK as identified in the Final Estimate of Payment for construction CONTRACT WORK dated _____, represents full compensation for the actual value of WORK completed. All WORK completed conforms to the terms of the AGREEMENT and authorized changes.

CONTRACTOR	Signature
Date	Print or Type Name
Title	

FINAL CERTIFICATION OF OWNER

I have reviewed the CONTRACTOR'S Final Payment Request dated _____ and hereby certify that to the best of my knowledge, the cost of the WORK identified on the Final Estimate represents full compensation for the actual value of WORK completed and that the WORK has been completed in accordance with the terms of the AGREEMENT and authorized changes. This certification is provided in accord with the terms of GENERAL CONDITION number 16.3.

OWNER	Signature
Date	Print or Type Name

FINAL ACCEPTANCE OF OWNER

I, as representative of the OWNER, accept the above Final Certifications and authorize Final Payment in the amount of \$ _____ and direct the CONTRACTOR'S attention to the GENERAL CONDITION #5. The guaranty for all WORK completed subsequent to the date of SUBSTANTIAL COMPLETION, expires one (1) year from the date of this Final Acceptance.

OWNER	Signature
Date	Print or Type Name

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Exhibit G: ATTACHMENT C

**BURLINGTON STANDARD CONTRACT CONDITIONS
FOR CONSTRUCTION CONTRACTORS**

1. DEFINITIONS:

- A. The “Contract” shall mean the Contract between Contractor and the City to which these conditions apply and includes this Attachment C.
- B. The “Contractor” 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 Contractor, as provided in the Contract.

2. REGISTRATION: The Contractor 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 Contractor 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 Contractor’s actions or omissions. The liability insurance furnished by the Contractor is primary and non-contributory for all the additional insured.

The Contractor is responsible to verify and confirm in writing to the City that: (i) all subcontractors must comply with the same insurance requirements as the Contractor; (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 Contractor for the Contractor’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 Contractor, subcontractors, agents or workers, it is the Contractor’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' 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 Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all subcontractors 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. Automobile Liability: The Contractor 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.

D. Umbrella Liability:

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

4. CONFLICT OF INTEREST: The Contractor shall disclose in writing to the City any actual or potential conflicts of interest or any appearance of a conflict of interest by the Contractor, its employees or agents, or its subcontractors, if any.

5. PERSONNEL REQUIREMENTS AND CONDITIONS: A Contractor shall employ only qualified personnel with responsible authority to supervise the work. 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 Contractor 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 City employees so involved within one (1) year of termination of employment with the City.

The Contractor warrants that no company or person has been employed or retained (other than a bona fide employee working solely for the Contractor) to solicit or secure this Contract, and that no company or person has been paid or has a contract with the Contractor to be paid, other than a bona fide employee working solely for the Contractor, 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 Contractor from work related to the Contract, for misconduct, incompetence, or negligence, in the opinion of the City, in the due and proper performance of Contractor's duties, or who neglects or refuses to comply with the requirements of the Contract.

6. **PERFORMANCE:** Consultant warrants that performance of Work will conform to the requirements of this Contract. Contractor 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 Contractor for its own business.
7. **RESPONSIBILITY FOR SUPERVISION:** The Contractor shall assume primary responsibility for general supervision of Contractor employees and any subcontractors 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 Contractor shall be responsible to the City for all acts or omissions of its subcontractors and any other person performing work under this Contract.
8. **INSPECTION OF WORK:** The City shall, at all times, have access to the Contractor's work for the purposes of inspection, accounting, and auditing, and the Contractor shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Contractor 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 Contractor pursuant to the Contract, as well as any preparatory work, work-in-progress, or completed work at a field site.

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.

- 9. UTILITIES & ACCESS:** Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Contractor will counsel with the City and will enter into 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 Contractor shall inform the City, in writing, of any such contacts and the results thereof.

The City shall provide the land and/or construction easements for the land upon which the Work under this Contract is to be done, and will, so far as is convenient, permit the Contractor to use as much of the land as is required for the erection of temporary construction facilities and storage of materials, together with the right of access to same, but beyond this, the Contractor shall provide at the Contractor's cost and expense any additional land required.

10. PROTECTION OF PROPERTY:

- A. In General:** Contractor shall avoid damage, as a result of its operations, to trees, plant life, existing sidewalks, curbs, streets, alleys, pavements, utilities, adjoining property, the work of other contractors, and the property of the City and others. Contractor shall, at its own expense, repair any damage to any property caused by Contractor's operations.
- B. Underpinning and Shoring:** Contractor shall become familiar with the requirements of local and state laws applicable to underpinning, shoring and other work affecting adjoining property, and wherever required by law Contractor shall shore up, brace, underpin, secure and protect as may be necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected in any way by the excavations or other operations connected with the work to be performed under this Contract.
- C. Damage to Utilities:** Contractor shall be responsible for all damage to any utility equipment or structures caused by its acts or omissions to act, whether negligent or otherwise, and shall leave the utility equipment or structures in as good condition as they were in prior to the commencement of operations under this contract. However, any utility equipment or structures damaged as a result of any act, or omission to act, of the contractor may, at the option of the city department, utility company, or other party owning or operating the utility equipment or structures damaged, be repaired by the city department, utility company, or other party, and in that event, the cost of repairs shall be borne by Contractor.

- 11. PUBLIC RELATIONS:** Throughout the performance of the Contract, the Contractor will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Contractor shall conduct themselves with propriety. The Contractor 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 Contractor agrees that any work will be done with minimum damage to the property and disturbance to the owner. Upon request of the Contractor, the City shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Contractor is acting as an agent of the City.

12. 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.

13. APPEARANCES:

A. Hearings and Conferences: The Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related contract, on behalf of the City. The Contractor 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.

14. RESPONSIBILITY OF COST: The Contractor shall furnish and pay the cost, including taxes (except tax-exempt entities) and all applicable fees, of all the necessary materials and shall furnish and pay for full time on-site superintendence during any construction activity, labor, tools, equipment, and transportation. The Contractor shall perform all the Work required for the construction of all items listed and itemized under Attachment A (Request for Proposals) and Attachment B (Contractor's Response to Request for Proposals) and in strict accordance with the Contract Documents and any amendments thereto and any approved supplemental plans and specifications. The Contractor agrees to pay all claims for labor, materials, services and supplies and agrees to allow no such charge, including no mechanic's lien, to be fixed on the property of the City.

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

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 by 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, and no payment shall be construed to be acceptance of defective work or improper materials.

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

16. DUTY TO INFORM CITY OF CONTRACT DOCUMENT ERRORS: If Contractor 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, Contractor shall immediately give the City written notice thereof. Contractor 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 Contractor may proceed without any modification being made to Contract Documents.

17. 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 Contractor as soon as practicable of any non-appropriation, and Contractor 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.

18. CHANGE ORDERS & AMENDMENTS: No changes or amendments to the Contract shall be effective unless documented in writing and signed by authorized representatives of the City and

the Contractor. All changes affecting the Project's construction cost, length of time, or modifications of the terms or conditions of the Contract, must be authorized by means of a written Contract Change Order which is mutually agreed to by the City and Contractor. The Contract Change Order will include extra Work, Work for which quantities have been altered from those shown in the Bid Schedule, as well as decreases or increases in the quantities of installed units from those shown in the Bid Schedule because of final measurements. All changes must be recorded on a Contract Change Order (which form is part of these Contract Documents) and fully executed before they can be included in a partial payment estimate. Changes for Work, quantities, and/or conditions will include any respective time adjustment, if justified. Time adjustments will require an updated Project Schedule with the Change Order.

19. EXTENSION OF TIME: The Contractor agrees to prosecute the work continuously and diligently, and no charges or claims for damages shall be made by the Contractor for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Contract. The Contractor may request an extension of time for such delays or hindrances, if any.

Time extensions may be granted by amendment only for excusable delays, such as delays beyond the control of the Contractor and without the fault or negligence of the Contractor.

The City may suspend the work or any portion thereof for a period of not more than ninety (90) days at its discretion or such further time as agreed by the Contractor. The Contractor will be allowed an extension of contract time directly attributable to any suspension.

20. PUBLIC HEALTH EMERGENCY:

A. Compliance with Mandates and Guidance: The Contractor 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 Contractor must comply with all local, state, federal orders, directives, regulations, guidance, advisories during a public health emergency. Contractor 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 Contractor shall create a public health emergency plan acceptable to the City. The Contractor 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 Contractor'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. Contractor 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: Contractor 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 Contractor has adequately corrected its failure to comply with the above.

If Contractor'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.

21. 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 Lease to be extended and shall not affect any

rights accrued under this Lease prior to the occurrence of the force majeure. The Party giving notice of the force majeure shall also give notice of its cessation.

22. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The City may, in writing, require or agree to changes, or additions to or deletions from the originally contemplated scope of work.

The value of such changes, to the extent not reflected in other payments to the Contractor, shall be incorporated in an amendment and be determined by mutual agreement, by one or more of the following:

1. Fixed Price. By a price that is not subject to any adjustment on the basis of the Contractor's expenses experienced in performing the work. The Contractor is fully responsible for all costs and resulting profit or loss.
2. Rate Schedule. By unit prices designated in the Contract, or by unit prices covered under any subsequent contracts.
3. Actual Cost. By amounts determined on the basis of actual costs incurred, as distinguished from forecasted expenditures.

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 Contractor agrees to maintain complete and accurate records of all change work, in a form satisfactory to the City. The City reserves the right to audit the records of the Contractor 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 Contractor 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.

23. 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 Contractor written notice in which the City shall specify in detail the cause of dissatisfaction. Should the Contractor fail or refuse to remedy the matters complained of within five days after the written notice is received by the Contractor, the City shall have the right to take control of the Work and either make good the deficiencies of the Contractor itself or direct the activities of the Contractor in doing so, employing such additional help as the City deems advisable. In such events, the City shall be entitled to collect from the Contractor any expenses in completing the Work. In addition, the City may withhold from the amount payable to the Contractor an amount approximately equal to any interest lost or charges incurred by the City for each calendar day that the Contractor is in default after the time of completion stipulated in the Contract Documents.

- 24. RETURN OF MATERIALS:** Contractor 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.
- 25. ACCEPTANCE OF FINAL PAYMENT; RELEASE:** Contractor'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 Contractor or its sureties from any obligations under the Contract Documents or any performance or payment bond.
- 26. OWNERSHIP OF THE WORK:** The Contractor 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 Contractor, hereafter referred to as "instruments of professional service", shall become the property of the City as they are prepared and/or developed in the course of the Contract. The Contractor agrees to allow the City access to all "instruments of professional service" at any time. The Contractor 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 Contractor may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
- 27. PROPRIETARY RIGHTS:** The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed by the Contractor under the Contract, all rights accruing from such discoveries or inventions shall be the sole property of the Contractor. The Contractor, 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.
- 28. PUBLIC RECORDS:** The Contractor 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 Contractor 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.
- 29. RECORDS RETENTION AND ACCESS:** The Contractor 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 Contractor 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 Contractor 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 any time 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. Contractor, subcontractors, 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.

30. WARRANTY: In addition to any warranty provided by the manufacturer or distributor, Contractor guarantees the Work performed, and all materials or equipment furnished, to be free from defects in material and workmanship for a minimum period of one (1) year from the date of the City's acceptance of completion. The Contractor's warranty is not intended and shall not be interpreted as a limitation upon the City's rights or a waiver of manufacturer and distributor warranties, any subcontractor warranties, or any other warranties provided in connection with the Work.

Contractor, at its own expense, shall make any repairs, or replacement necessary to correct these defects to the satisfaction of the City.

This warranty of material and workmanship applies only:

1. To the property only as long as it remains in the possession of the City.
2. To the Work that has not been subject to accident, misuse, or abuse by someone other than the Contractor.
3. To the Work that has not been modified, altered, defaced, or had repairs made or attempted by someone other than the Contractor.
4. If the Contractor is immediately notified in writing within ten (10) days of first knowledge of the defect by the City.
5. If the Contractor is given the first opportunity to make any repairs, replacements, or corrections to the defective construction at no cost to the City within a reasonable period of time.

Under no circumstances shall Contractor be liable by virtue of this warranty or otherwise for damage to any person or property whatsoever for any special, indirect, secondary or consequential damages of any nature however arising out of the use or inability to use because of the construction defect.

If the Contractor is unable, after receipt of two (2) written notices given to Contractor by the City, to successfully repair or replace the labor, equipment, or materials within six (6) months of the second notice, then the District's repair and replace warranty shall be deemed to have failed and the City's rights and remedies shall not be limited by the provisions of this section.

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 Director of Public Works shall act as referee on all questions arising under the terms of the Contract and that the decision of the Director of Public Works 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 Contractor, 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 Contractor 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 Contractor prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Contractor 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 Contractor shall make no claim for additional compensation against the City by reason of such termination.

B. Termination for Cause:

i. **Breach:** Contractor shall be in default if Contractor fails in any manner to fully perform and carry out each and all conditions of this Contract, including, but not limited to, Contractor'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. Contractor will not be in default for any excusable delays as provided in Sections 18-20.

The City may give Contractor written notice of such default. If Contractor 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. Dishonest Conduct: If Contractor engages in any dishonest conduct related to the performance or administration of this Contract then the City may immediately terminate this contract.
- iii. 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 Contractor 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.
- iv. Rights and Remedies Not Exclusive: The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

34. GENERAL COMPLIANCE WITH LAWS: The Contractor and any subcontractor 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).

35. SAFETY REQUIREMENTS: The Contractor shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any VOSHA (Vermont OSHA) Safety and Health requirements, including the provision and use of appropriate safety equipment and practices.

The Contractor, and not the City, shall be responsible for the safety, efficiency, and adequacy of Contractor's or its subcontractors' plant, appliances, equipment, vehicles, and methods, and for any damages, which may result from their failure or their improper construction, maintenance or operation.

36. CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Contract, the Contractor 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. Contractor, and any subcontractors, 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.

37. CHILD SUPPORT PAYMENTS: By signing the Contract, the Contractor certifies, as of the date of signing the Contract, that the Contractor (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 Contractor is a sole proprietorship, the Contractor's statement applies only to the proprietor. If the Contractor is a partnership, the Contractor's statement applies to all general partners with a permanent residence in Vermont. If the Contractor is a corporation, this provision does not apply.

38. TAX REQUIREMENTS: By signing the Contract, the Contractor certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, the Contractor 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.

39. INDEMNIFICATION:

- A. Indemnification by Contractor: Except for the gross negligence or willful misconduct by the City, or any of its boards, officers, agents, employees, assigns and successors in interest, contractor 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 Contractor'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 Contractor or its subcontractors 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 Contractor in writing that a claim to which the indemnification provision may apply has been filed. Contractor 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 Contractor 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 Contractor or any third party.

40. NO GIFTS OR GRATUITIES: The Contractor 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.

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

42. TRANSFERS, SUBLETTING, ASSIGNMENTS, ETC: Contractor 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 subcontractor 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 Contractor of responsibility for the performance of that portion of the work so transferred. The form of the subcontractor's contract shall be as developed by the Contractor and approved by the City. The Contractor shall ensure that insurance coverage exists for any operations to be performed by any subcontractor as specified in the insurance requirements section of this Contract.

The services of the Contractor, 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.

43. CONTINUING OBLIGATIONS: The Contractor 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 Contractor 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 Contractor is unable to satisfactorily execute the Contract.

44. 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.

45. 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 Contractor.

46. RELATIONSHIP: The Contractor is an independent contractor and shall act in an independent capacity and not as officers or employees of the City. To that end, the Contractor shall determine the method, details, and means of performing the work, but will comply with all legal requirements in doing so. The Contractor shall provide its own tools, materials, or equipment. The Parties agree

that neither the Contractor nor its principal(s) or employees are entitled to any employee benefits from the City. Contractor 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 Contractor 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 Contractor 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.

- 47. 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.
- 48. JURISDICTION:** All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.
- 49. 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.
- 50. SEVERABILITY:** The invalidity or unenforceability of any provision of this Contract or the Contract Documents 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.
- 51. ENTIRE CONTRACT & AGREEMENT:** This Contract, including the Contract Documents, 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.
- 52. APPENDICES:** The City may attach, to these specifications, appendices containing various forms and typical sample sheets for guidance and assistance to the Contractor 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 Contractor to ensure that they have the latest versions applicable to the Contract.
- 53. 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.

54. 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.

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Exhibit H: Contract Specifications
CITY OF BURLINGTON - SUPPLEMENTARY CONDITIONS

1. Maintenance of Traffic

Work shall be performed in accordance with all portions of VTrans sections 104.04, excluding 104.04(b).

2. Hours of Work

The CONTRACTOR is limited to working 7:00 AM to 4:00 PM, Monday through Friday and 7:00 AM to 4:00 PM, Saturday unless a waiver is requested in writing and is granted by the Owner.

3. Business/Driveway Access

The CONTRACTOR shall notify property owners or residents 24 hours in advance before blocking access to any drives. Access shall be provided to all drives during non-working hours. The Contractor shall maintain pedestrian access to homes and businesses at all times.

4. Construction Signing

The CONTRACTOR shall erect and maintain adequate construction signing for protection of the public on all Project streets and adjacent streets in accordance with Sections 104.04, 107.07, 107.08, and 107.09 of the VTrans Standard Specifications.

5. Dust Control

Work shall be performed in accordance with all portions of Sections 105.24 and 609 of the VTrans Standard Specifications.

6. Temporary Barricades

The CONTRACTOR shall provide and maintain temporary barricades in all locations where any hazard to the public may occur or as ordered by the OWNER or to protect public safety as described in portions of Section 107 of the VTrans Standard Specifications.

7. Maintenance of Utility Services

The CONTRACTOR shall maintain all existing utility services to homes at all times except during switch-overs from existing services to new services and cooperate with utilities as described in Sections 105.07 and 107.13 of the VTrans Standard Specifications.

8. Utility Work

The CONTRACTOR must coordinate work and cooperate with Burlington Electric, Burlington Water, Burlington Telecom, Fairpoint, Comcast, Level 3, TelJet, and Vermont Gas, as needed. There may be an inspector from Burlington Electric Department on site, if needed.

Employees or agents of the above listed utility companies are to be allowed full and free access within the project limits with the tools, materials, and equipment necessary to install, operate, maintain, place, replace, relocate and remove their facilities. There will be no extra compensation paid to the CONTRACTOR for any inconvenience caused by working around and with the utility company. Should the CONTRACTOR desire

additional adjustments of utility facilities for his or her convenience, proper arrangements shall be in conformance with subsection 105.07 and 107.13 of the VTrans Standard Specifications.

CITY OF BURLINGTON – GENERAL SPECIAL PROVISIONS

Standard Specifications. The provisions of the 2018 VTrans STANDARD SPECIFICATIONS FOR CONSTRUCTION, as modified herein, shall apply to this Contract unless they conflict with previously defined terms or provisions provided by the City of Burlington. In case of conflict, the City provisions shall govern.

Utilities. The Contractor is advised to use caution when working around aerial or underground utilities to protect the facilities from damage.

Employees or agents of utility companies are to be allowed free and full access within the project limits with the tools, materials, and equipment necessary to install, operate, maintain, place, replace, relocate, and remove their facilities.

There will be no extra compensation paid to the Contractor for any inconvenience caused by working around and with utilities.

Act No. 86 of 1987 (30 VSA Chapter 86) (“Dig Safe”) requires that notice be given prior to making an excavation. It is suggested that the Permit Holder or his/her contractor telephone 1-888-344-7233 at least 48 hours before, and not more than 30 days before, beginning any excavation at any location.

Should the Contractor desire additional adjustments of the utility facilities for his/her convenience, proper arrangements shall be made in conformance with Subsection 105.07 of the Standard Specifications for Construction.

Notice to Bidders. All temporary construction signs shall meet the following requirements:

- A. Where sign installations are not protected by guardrail or other approved traffic barriers, all sign stands and post installations shall meet National Cooperative Highway Research Program (NCHRP) Report 350 or the AASHTO Manual for Assessing Safety Hardware (MASH). The appropriate resource shall be determined as described in the MASH publication.
- B. As a minimum, roll up sign material shall have ASTM D 4956 Type VI fluorescent orange retroreflective sheeting.
- C. All post-mounted signs and solid substrate portable signs shall have ASTM D 4956 Type VII, Type VIII, or Type IX fluorescent orange retroreflective sheeting.
- D. All retroreflective sheeting on traffic cones, barricades, and drums shall be at a minimum ASTM D 4956 Type III sheeting.
- E. All stationary signs shall be mounted on two 3 lb/ft flanged channel posts or 2 inch square steel inserted in 2-1/4” galvanized square steel anchors. No sign posts shall extend over the top edge of sign installed on said posts.
- F. Construction signs shall be installed so as to not interfere with nor obstruct the view of existing traffic control devices, stopping sight distance, and corner sight distance from drives and town highways.
- G. Speed zones, if used, should be a maximum of 10 mph below existing posted speeds. Temporary speed limit certificates must be approved by the Chief Engineer on State highways and can be approved by the City on local roads.

All retro-reflective sheeting on permanent signs (signs to remain after the project is completed) shall be at a minimum ASTM Type III sheeting, unless otherwise shown on the Plans.

Construction Vehicle Parking Restrictions. Only such trucks and equipment as are necessary for the construction of this project will be permitted to stop or park on the shoulders or right-of-way of City roadways. Parking or stopping on the traveled portion of the roadway will not be permitted unless authorized by the Engineer to meet field conditions.

SECTION 101 – DEFINITIONS

101.02, DEFINITIONS, are hereby modified by deleting the existing following definitions and replacing as follows:

AGENCY – Wherever the word Agency appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; **City of Burlington**, except when referenced to documents or publications.

BOARD – Wherever the term Board or Transportation Board appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Transportation Board of the State of Vermont or its successor.

CALENDAR DAY – Any day shown on the calendar, beginning and ending at midnight.

CHANGE ORDER – A document recommended by the Engineer, signed by the Contractor and **City of Burlington** authorizing changes in the plans or quantities or both, establishing the basis of payment and time adjustments for the Work affected by the changes.

CONSTRUCTION ENGINEER – Wherever the term Construction Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Resident Engineer and/or Full Time City Employee in Responsible Charge.

CONTRACT COMPLETION DATE – The calendar date specified in the Contract and as adjusted by Change Order when applicable, by which the Contractor shall achieve Substantial Completion.

CONTRACT – The written agreement between **City of Burlington** and the Contractor setting forth the obligations of the parties relative to the performance of the work. The Contract includes the Contract agreement, Contract Bonds, Project permits, Project Special Provisions, Contract Plans, General Special Provisions, Standard Drawings, Supplemental Specifications, the Standard Specifications for Construction, and any Supplemental Agreements or supporting documents that are required to complete the work in an acceptable manner.

CONTRACT BOND(S) – The approved forms of security, signed, notarized and furnished by the Contractor and the Contractor’s Surety or Sureties, guaranteeing complete performance of the Contract, compliance with the Contract, and the payment of all legal debts pertaining to the construction of the Project or work.

CONTRACTOR(S) – The individual, partnership, firm, corporation, any acceptable combination thereof, or a joint venture which is a party to the Contract with the City which is undertaking the performance of the work under the terms of the Contract and acting directly or through its agent(s) or employee(s). The term “Contractor” means the prime Contractor as differentiated from a Subcontractor. All Contractors must be registered with the Vermont Secretary of State. The Contractor will act in an independent capacity and not as officers or employees of the City.

ENGINEER – Wherever the term Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Resident Engineer (RE).

GENERAL SPECIAL PROVISIONS – Approved additions and revisions to the Standard Specifications for Construction approved pursuant to the Specification approval process.

MATERIALS MANAGER – Whenever the term Materials Manager appears on the plans, in any specification, or in the Contract, it shall be read as, and shall mean; the Resident Engineer.

PROPOSAL FORM – Whenever the term Proposal Form appears on the plans, in any specification, or in the Contract it shall be read as, and shall mean; the BID FORM unless specifically referenced otherwise in these Special Provisions.

REGIONAL CONSTRUCTION ENGINEER – Whenever the term Regional Construction Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Resident Engineer.

RESIDENT ENGINEER – An entity employed by **City of Burlington** to perform supervisory duties including the oversight of testing services on the project.

SECRETARY – Wherever the term Secretary appears on the plans, in any specification, or in the contract it shall be read as, and shall mean; the **City of Burlington**.

PROJECT SPECIAL PROVISIONS – Additions and revisions to the Standard Specifications for Construction, Supplemental Specifications, General Special Provisions applicable to the Contract, as well as other provisions specific to the Contract. Also referred to as Special Provisions.

SPECIFICATIONS – The compilation of provisions and requirements for the performance of prescribed work including the Standard Specifications for Construction, Supplemental Specifications, General Special Provisions, Project Special Provisions, and other requirements included in the contract.

STANDARD SPECIFICATIONS or STANDARD SPECIFICATIONS FOR CONSTRUCTION – The Vermont Agency of Transportation book entitled Standard Specifications For Construction and the specifications included therein, as approved for general and repetitive use and application in Agency/Municipal projects.

STATE – Wherever the term State appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the **City of Burlington**.

SURETY – An individual or legal entity acceptable to the Town executing the bond or bonds furnished by the bidder or contractor.

WORK – The furnishing of all labor, materials, equipment, and incidentals necessary or convenient to the successful completion of a project and the carrying out of all duties and obligations imposed by a contract.

WORKING DAY – Weekdays during the Construction Season during which construction operations may proceed. If the Contractor works on Saturdays, Sundays, holidays, or during the Seasonal Closure Period, those days will be considered Working Days.

ADD TO DEFINITION LIST IN 101.02, DEFINITIONS, the following definitions:

ADDENDUM (addenda) – Contract revisions developed after advertisement and before opening bids.

ADVERTISEMENT – A public announcement, inviting bids for work to be performed or materials to be furnished.

AGREEMENT – The written instrument which is evidence of the agreement between **City of Burlington** and the Contractor.

AWARD – The formal acceptance by **City of Burlington** of a bid.

BID – The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

BID BOND – A bid guarantee as outlined in the Instructions to Bidders for Contracts.

BIDDER – The individual, partnership, firm, corporation, or any combination thereof, or joint venture, submitting a Bid in accordance with the bidding requirements.

CONTRACT TIME – The time allowed for completion of the contract including authorized time extensions.

INCIDENTAL AND INCIDENTAL ITEM – These terms are used to indicate work for which no direct payment will be made. Such work is considered to be incidental to items having contract prices, and the bid prices submitted by the contractor shall be sufficient to absorb the cost of all work designated as incidental or as incidental items.

INVITATION FOR BIDS – An advertisement for receiving bids for all work and/or materials on which bids are invited from prospective contractors.

MUNICIPAL PROJECT MANAGER – A person or firm employed or appointed by **City of Burlington** to provide administrative services for the project.

NOTICE OF AWARD – The written notice of the acceptance of the Bid from the Owner to the successful Bidder.

OWNER – **City of Burlington**

PROPOSAL – The offer of a bidder, on the prescribed form, to perform work and/or provide materials at the price quoted in the offer.

PROPOSAL FORM – The prescribed form on which **City of Burlington** requires the Bid be submitted.

PROPOSAL GUARANTEE – The security furnished with a bid to ensure that the bidder will enter into a contract if the bidder's proposal is accepted by **City of Burlington**.

SUBCONTRACTOR – An individual or legal entity to which the contractor sublets a part of the work included in the contract.

TESTING FIRM – An independent firm employed by **City of Burlington** or Resident Engineer to perform all sampling and testing of materials as specified in the Contract Documents and as defined in the VTrans Qualified Laboratory Program.

The following sections represent modifications to the VTRANS 2018 Standard Specifications for Construction

Section 105 – Control of the Work

105.03, Plans and Working Drawings, paragraph 1, part (b) Working Drawings, and subpart (3) Categories of Working Drawings, a. Fabrication Drawings, and subpart b. Construction Drawings; where the Agency is mentioned it shall mean the **City of Burlington**.

The address where these drawings should be sent is:

Ashley Walenty, PE
Water Resources Engineer, Department of Public Works, Water Resources
53 Lavalley Lane
Burlington, VT 05401
Telephone: 802-495-9976
Email: awalenty@burlingtonvt.gov

105.09, Construction Stakes, Part (a) Initial Layout, (b) Layout of Subgrade and (c) Permanent Marking Layout delete these paragraphs in their entirety and replace with the following:

Horizontal and vertical control information for the project is shown on the project plans or shall be based on existing conditions. The information is sufficient to enable the Contractor to stake the project. The Contractor shall perform all staking requirements for the proposed work. The Contractor will be responsible for the accuracy and preservation of the staking.

105.20 Claims for Adjustments, (c) Claims Procedure; Delete the second, third and fourth sentence and replace with the following:

Claims must be evaluated first by the Engineer and then by the Municipal Project Manager. Should a claim be ruled in favor of the Contractor, it will be allowed, in whole or in part, and paid as provided in the Contract. Should a claim be denied in whole or in part by the Municipal Project Manager the Contractor may appeal to the Director of Public Works.

(d) Claims Documentation Requirements; In the first sentence, replace Construction Engineer with Municipal Project Manager

Section 106 – Control of Material

106.03 Samples and Tests, Add the following two paragraphs to the beginning:

An independent firm employed by the **City of Burlington** or Resident Engineer to perform all sampling and testing of materials as specified in the Contract Documents and as defined in the VTrans Qualified Laboratory Program, shall be responsible for all acceptance sampling and testing of materials and completed work.

The Contractor shall be responsible for their Quality Control. The cost of their Quality Control shall be considered incidental to the payment items in the bid. Any sampling, testing, retesting, and submission of reports and certifications by the Contractor as required by the contract documents and plans shall be considered incidental to the payment items in the bid.

Change the last word in the first paragraph from Agency to **City of Burlington**.

Delete the first sentence of the second paragraph and replace with the following:

Samples will be taken and testing performed by certified personnel of the testing firm in accordance with the requirements of the latest edition of the Vermont Agency of Transportation's Quality Assurance Program and Material Sampling Manual.

Modify the last sentence of the third paragraph to read as follows:

Copies of all test results shall be forwarded directly to the Resident Engineer and the Contractor by the testing firm.

Section 755 – Landscaping Materials

Add the following:

755.04 Seed

Seed Mix: "Green Mountain Special Mix" or Approved Equal

100% perennial grasses with fine to medium texture

Catamount Grass Seed Item #s GMS050, GMS025, GMS007, and/or GMS003

Perennial grasses with fine to medium texture	100%
Creeping Red Fescue	40%
Kentucky Bluegrass	30%
Perennial Ryegrass	30%

Application rate: Seed at 4 lbs per 1000 sq ft

HAZARDOUS MATERIALS

1. If at any time during construction the presence of unanticipated hazardous materials at or proximate to a construction site is detected, the construction CONTRACTOR shall cease work in the affected area and perform the following immediately:
 - a. Notify the CITY verbally and in writing. The CITY is responsible for notification of the Waste Management Division of the Agency of Natural Resources.

THE HAZARDOUS MATERIALS SPILLS AND EMERGENCY REPORTING PHONE NUMBER IS Toll Free 1-800-641-5005.
 - b. Take all action necessary and appropriate for the protection and safety of the public and persons at or about the site, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying CITYs and users of adjacent sites and utilities.
2. Actions at the construction site following completion of these steps shall be at the direction of the Waste Management Division. Nothing in this Article shall be construed to require the CONSULTANT and/or the CONTRACTOR to perform work for which adequate compensation has not been contracted for other than to insure that basic measures necessary to protect the health and welfare of workers, residents and abutters are immediately adopted.
3. At construction sites where the presence of contaminated or hazardous materials are suspected to exist and provisions have been made in the Contract Documents for their management, the requirements in the Contract Documents will determine the appropriate actions of the CONTRACTOR. In any event, discovery of contaminated soils require the immediate notification of the CITY. If sites other than the suspected areas previously delineated in the Contract Documents are discovered, Item 1 above shall apply.

HISTORIC PRESERVATION

1. If at any time during construction, the presence of possible human remains are discovered at or proximate to a construction site, the CONTRACTOR shall cease work in the affected area and immediately contact the local medical examiner or law enforcement official in addition to notifying the CITY or CITY's representative. The CONTRACTOR shall take all action necessary and appropriate for the protection and safety of the public and the site.
 - a. Notify the CITY verbally and in writing. The CITY is responsible for notification of the Agency of Natural Resources and FED Construction Project City
2. If at any time during construction, the presence of unanticipated historic and archeological resources are detected at or proximate to a construction site, the construction CONTRACTOR shall cease work in the affected area, take all action necessary and appropriate for the protection and safety of the public and the site, and inform the following immediately:
 - a. Notify the CITY verbally and in writing. The CITY is responsible for notification of the Agency of Natural Resources.
 - b. Notify the Vermont Division of Historic Preservation at: **(802) 828-3050 landline or (802) 477-2517 cell**
Or (802) 828-3048 landline or (802) 310-0289 cell
3. Actions at the construction site following completion of these steps shall be at the direction of the local medical examiner, law enforcement agent or Historic Preservation Division as appropriate. Nothing in

this Article shall be construed to require the CONSULTANT and/or the CONTRACTOR to perform work for which adequate compensation has not been contracted for other than to insure that basic measures necessary to protect the safety and welfare of the workers and the site.

SECTION 900 - SPECIAL PROVISION ITEMS

900.608 - BIORETENTION SOIL MIXTURE

1. DESCRIPTION. This work shall consist of furnishing and installing a low-phosphorus soil mixture in the bioretention basin where indicated on the construction documents. Work shall be consistent with VTrans Standard Specifications Section 651, with the additions and modifications below.

2. MATERIALS.

a. Bioretention Soil shall consist of loose, friable soil, free of ice, snow, and rubbish with no admixture of refuse or material toxic to plant growth.

b. The final bioretention soil mixture shall meet the following parameters:

1. pH	5.5 - 7.5
2. Moisture Content	25% - 55%
3. Available Phosphorus	less than 0.2% phosphorus (Morgan Test or approved equivalent)

c. The bioretention soil mixture shall be a uniform mix, free of stones, stumps, roots or other similar objects larger than one (1) inch in diameter excluding mulch.

d. No other materials or substances shall be mixed or dumped within the bioretention area that may be harmful to plant growth or prove a hindrance to the planting or maintenance operations.

e. The bioretention soil mixture shall be free of all invasive species, including Knotweed, Phragmites, Purple Loosestrife, Bermuda grass, Quackgrass, Johnson grass, Mugwort, Nutsedge, Poison Ivy, Canadian Thistle, Teathumb, or other noxious weeds.

f. The bioretention soil shall meet the following requirements:

<u>Textural Class</u>	<u>% of Total (by Weight)</u>
Sand	85-88
Silt (0.002 - 0.05 mm)	8-12
Clay (less than 0.002 mm)	0-2
Compost	3-5

1. Sand - The Sand shall consist of clean, inert, hard, durable grains of quartz or other hard, durable rock, free from loam or clay, surface coatings and deleterious materials and meeting the gradation requirements of VTrans Specifications, Table 704.01A.

2. Compost - The compost shall be comprised of well pulverized and composted leaf mulch. No bio-solids or animal or poultry manure may be used. Compost shall be a highly organic dark brown to black spongy residue resulting from the well-aerated composting of deciduous organic materials, free of plants and their roots, debris, stones, or other objects larger than 1-inch in any direction. It should be free of other extraneous matter and shall be uncontaminated by foreign matter and substances harmful to plant growth.

The compost shall have the following properties:

a. pH	5.5 - 8.0
b. Moisture Content	35% - 55%
c. Soluble Salts	4.0 mmhos (dS)
d. C:N ratio	15 - 30:1
e. Particle Size	< 1"
f. Organic Matter Content	> 25%
g. Bulk Density	< 1,300 lbs / cubic yard
h. Foreign Matter	< 1% (dry weight)

3. SUBMITTALS.

Bioretention Soil Test Reports

1. Prior to ordering bioretention soil mixture materials, submit soil test reports for two separate samples to the Resident Engineer for review and approval. Do not order materials until approval has been obtained. Delivered materials shall be from the same source as the tested material and verified as such.
2. The Contractor shall employ a certified testing laboratory to test the material and shall submit bioretention soil mixture test result reports for representative samples to the Representative. Reports shall include:
 - a. Location of sample source, date of sample.
 - b. Tests for Phosphorus, Potassium, Soluble Salts, soil pH, Moisture Content, Organic Matter Content, and soil texture analysis in accordance with the current standards of the Association of Official Agriculture Chemists.

Test shall include a soil particle gradation analysis and classification of soil.

4. METHOD OF MEASUREMENT. The quantity of Special Provision (Bioretention Soil Mixture) to be measured for payment will be the number of Cubic Yards of material furnished and placed in the final, accepted work.

5. BASIS OF PAYMENT. The accepted quantity of Special Provision (Bioretention Soil Mixture) will be paid at the contract unit price per Cubic Yard. Payment will constitute full compensation for furnishing, transporting, handling, placing, and finishing the materials specified, as well as for furnishing all labor, tools, equipment, and incidentals necessary to complete the work. Submittals shall be incidental to this item.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.608 Special Provision (Bioretention Soil Mixture)	Cubic Yard

900.608 - 3/8" CIRCULAR PEA STONE

1. DESCRIPTION. This work shall consist of furnishing and placing circular pea stone within bioretention areas.
2. MATERIALS. Stone placed shall meet the requirements of VTrans Specifications 704.02, and the gradation of VTrans Specifications Table 704.02A.
3. PLACING. Place carefully to depth of 2".

4. METHOD OF MEASUREMENT. The quantity of Special Provision (3/8" Circular Pea Stone) to be measured for payment will be the number of square feet installed in the completed and accepted work, measured within the limits shown on the Plans or as directed by the Engineer.
5. BASIS OF PAYMENT. The accepted quantity of Special Provision (3/8" Circular Pea Stone) will be paid for at the Contract unit price per square foot. Payment will be full compensation for furnishing, transporting, and placing the material specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.608 Special Provision (3/8" Circular Pea Stone)	Square Foot

900.620 - ORNAMENTAL GRASSES

1. DESCRIPTION. This work shall consist of furnishing and placing ornamental grasses, as shown on the Plans and as directed by the Landscape Architect.

The work under this Section shall be performed in accordance with these provisions, the Plans, and Section 656 of the Standard Specifications.
2. MATERIALS. In lieu of Landscape Backfill, Topsoil, and Compost, refer to 900.608 - Special Provision (Bioretention Soil Mixture).

900.640 - INFILTRATION CHAMBER

1. DESCRIPTION. This work shall consist of furnishing and installing an arch-shaped subsurface infiltration chamber as defined on the Plans.
2. MATERIALS.
 - a. Chambers shall be arch-shaped and shall be manufactured from virgin, impact-modified polypropylene or polyethylene copolymers.
 - b. Chambers shall meet the requirements of ASTM F2922 (polyethylene) or ASTM F2418-16A (polypropylene), "Standard Specification for Corrugated Wall Stormwater Collection Chambers"
 - c. Chamber rows shall provide continuous, unobstructed internal space with no internal supports that would impede flow or limit access for inspection.
 - d. The structural design of the chambers, the structural backfill, and the installation requirements shall ensure that the load factors specified in the AASHTO IRFD bridge design specifications, Section 12.12, are met for: 1) long-duration dead loads and 2) short-duration live loads, based on the AASHTO design truck with consideration for impact and multiple vehicle presences.
 - e. Chambers shall be designed, tested and allowable load configurations determined in accordance with ASTM F2787, "Standard Practice for Structural Design of Thermoplastic Corrugated Wall Stormwater Collection Chambers". Load configurations shall include: 1) instantaneous (<1 min) AASHTO design truck live load on minimum cover 2) maximum permanent (75-yr) cover load and 3) allowable cover with parked (1-week) AASHTO to design truck.

- f. Only chambers that are approved by the engineer will be allowed. The chamber manufacturer shall submit the following upon request to the engineer for approval before delivering chambers to the project site:
 - 1. A structural evaluation sealed by a registered professional engineer that demonstrates that the safety factors are greater than or equal to 1.95 for dead load and 1.75 for live load, the minimum required by ASTM F2787 and by AASHTO for thermoplastic pipe.
 - 2. A structural evaluation sealed by a registered professional engineer that demonstrates that the load factors specified in the AASHTO LRFD bridge design specifications, Section 12.12, are met. The 50 year creep modulus data specified in ASTM F2418 must be used as part of the AASHTO structural evaluation to verify long-term performance.
- g. Chambers and end caps shall be produced at an ISO 9001 certified manufacturing facility.
- h. Incidental geotextiles shall be as shown on the Plans or approved equal.

3. PLACING.

- a. To maintain the width of chambers during shipping and handling, chambers shall have integral, interlocking stacking lugs.
- b. To ensure a secure joint during installation and backfill, the height of the chamber joint shall not be less than 2".
- c. To ensure the integrity of the arch shape during installation, a) the arch stiffness constant as defined in Section 6.2.8 of ASTM F2418 shall be greater than or equal to 400 lbs/in/in. And b) to resist softening during hot, sunny conditions, chambers shall be stored out of direct sunlight until installation.
- d. Install per manufacturer's recommendations.

4. METHOD OF MEASUREMENT. The quantity of Special Provision (Infiltration Chamber) to be measured for payment will be Linear Feet of chamber, measured within the limits shown on the Plans or as directed by the Engineer.

5. BASIS OF PAYMENT. The accepted quantity of Special Provision (Infiltration Chamber) will be paid for at the Contract unit price per linear foot. Payment will be full compensation for furnishing, transporting, and placing the material specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.640 Special Provision (Infiltration Chamber)	Linear Foot

900.640 - REINFORCED CAST-IN-PLACE CONCRETE CURB

- 1. DESCRIPTION. This work shall consist of furnishing and installing reinforced cast-in-place concrete curbing surrounding the bioretention areas and adjacent areas. This item will follow the specifications for VTRANS Section 616 with the below exceptions.
- 2. MATERIALS. Bar reinforcement shall conform to the requirements of VTrans Specifications Subsection 713.01, Plain Reinforcing Steel.
- 3. PLACING. Place curbing as specified on plans and details.

4. METHOD OF MEASUREMENT. The quantity of Special Provision (Reinforced Cast-In-Place Concrete Curb) to be measured for payment will be the number of linear feet installed in the completed and accepted work, measured within the limits shown on the Plans or as directed by the Engineer.
5. BASIS OF PAYMENT. The accepted quantity of Special Provision (Reinforced Cast-In-Place Concrete Curb) will be paid for at the Contract unit price per linear foot. Payment will be full compensation for furnishing, transporting, and placing the material specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.640 Special Provision (Reinforced Cast-In-Place Concrete Curb)	Linear Foot

900.670 - 4"-6" ROUNDED STONE

1. DESCRIPTION. This work shall consist of furnishing and placing rounded stone within bioretention areas.
2. MATERIALS. Provide submittal to Engineer for review and approval
3. PLACING. Place carefully to depth of 6".
4. METHOD OF MEASUREMENT. The quantity of Special Provision (4"-6" Rounded Stone) to be measured for payment will be the number of square feet installed in the completed and accepted work, measured within the limits shown on the Plans or as directed by the Engineer.
5. BASIS OF PAYMENT. The accepted quantity of Special Provision (4"-6" Rounded Stone) will be paid for at the Contract unit price per square foot. Payment will be full compensation for furnishing, transporting, and placing the material specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.670 Special Provision (4"-6" Rounded Stone)	Square Foot

900.675 - GEOTEXTILE

1. DESCRIPTION. This work shall consist of furnishing and placing geotextiles in bioretention areas. Work shall be carried out in accordance with VTrans Specification Section 649 Geotextile Fabric, with the following exceptions.
2. MATERIALS. Geotextile fabric shall be AASHTO Class 2 non-woven geotextile, ADS 0601T, Mirafi 160N, or approved equal.
4. METHOD OF MEASUREMENT. The quantity of Geotextile of the type specified to be measured for payment will be the number of square yards placed in the

complete and accepted work. Slope measurements will be used in computing the area. Measurement will not be made for material used for repairs, seams, or overlaps. Measurement will not be made for material used to replace an installation of fabric that has become damaged, destroyed, lost, washed away, or otherwise ineffective unless authorized by the Engineer.

5. BASIS OF PAYMENT. The accepted quantity of Geotextile of the type specified will be paid for at the Contract Unit Price per square yard. Payment will be full compensation for furnishing, transporting, storing, handling, placing, repairing, and removing the material specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work. Unless otherwise specified in the Contract, payment for the maintenance of Geotextile of the type specified will not be paid for directly, but will be considered incidental to the specific Contract Item.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
900.675 Special Provision (Geotextile)	Square Yards