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2 **Resolution Relating to**  
3  
4

**RESOLUTION** 17.5  
Sponsor(s): Councilor Shannon  
  
Introduced: 11/18/13  
Referred to: \_\_\_\_\_  
  
Action: adopted  
Date: 11/18/13  
Signed by Mayor: 11/18/13

5  
6 AUTHORIZATION FOR SETTLEMENT OF  
7 PENDING LITIGATION – CHAMPLAIN PARKWAY  
8

9  
10  
11  
12 **CITY OF BURLINGTON**

13  
14 In the year Two Thousand Thirteen.....  
15 Resolved by the City Council of the City of Burlington, as follows:  
16

17 That WHEREAS, the City of Burlington (City) and the Vermont Agency of Transportation (VTrans)  
18 are the named Appellees in a Superior Court – Environmental Division (Docket No. 68-5-12 Vtec) appeal  
19 of the City’s Champlain Parkway Act 250 Permit application; and

20 WHEREAS, the City and VTrans have negotiated a proposed settlement of the appeal relative to  
21 one of the Appellants, Allan Hunt;

22 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the settlement of  
23 Allan Hunt’s appeal on the terms outlined in the attached Agreement and authorizes Mayor Miro  
24 Weinberger to sign said Agreement; and

25 BE IT FURTHER RESOLVED that in order to carry out the Agreement, Brian S. Dunkiel of  
26 Dunkiel Saunders Elliot Raubvogel & Hand, PLLC, as lead counsel of record for the City of Burlington in  
27 the above-referenced matter is hereby authorized to execute the Stipulation as referenced in the  
28 Agreement to dismiss Mr. Hunt’s appeal in Docket Number 68-5-12 Vtec; and

29 BE IT FURTHER RESOLVED that in order to carry out the Agreement, the City Council hereby  
30 further authorizes all of the City commitments contained therein; and

31 BE IT FURTHER RESOLVED that separate and apart from its approval of the above-referenced  
32 Agreement and the advancement of the Champlain Parkway project, this City Council also renews and  
33 reaffirms its support for the City’s proposed Railyard Enterprise Project, which was previously endorsed  
34 by resolution of this Council on October 15, 2012.  
35

\* \* \* \* \*

ORIGINAL

**DISTRIBUTION:**

I hereby certify that this resolution has been sent to the following department(s) on

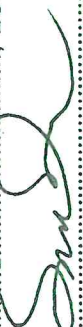
Mayor's Office  
Richard Haesler, City Attorney's Office

**RESOLUTION RELATING TO**

Authorization for Settlement of Pending Litigation  
Champlain Parkway

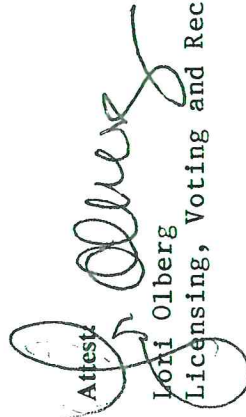
Adopted by the City Council

November 18, 2013

  
Clerk

Approved November 18, 2013

  
Mayor

Attest:  
  
Lori Olberg  
Licensing, Voting and Records Coordinator

Vol. Page

\* \* \* \* \*

## AGREEMENT

This Agreement is by and between Allan S. Hunt of the City of Burlington, County of Chittenden and State of Vermont (HUNT), and the City of Burlington, a municipal corporation under the laws of the State of Vermont (the CITY);

Whereas, the CITY is proposing to construct the Champlain Parkway, which includes a new roadway and a new shared-use path from I-189 to Lakeside Avenue, a new road surface on Pine Street from Lakeside to Main Street, new sidewalks, a new shared-use path on the western side of Pine Street, crosswalks, new street lighting, and street trees;

Whereas, HUNT resides near the proposed northern terminus of the Champlain Parkway, on Maple Street, and is concerned about the impacts of the Champlain Parkway on his neighborhood;

Whereas, HUNT has appealed a decision of the District #4 Environmental Commission that made positive findings and conclusions for Act 250 approval for the Champlain Parkway;

Whereas, HUNT's appeal is currently pending before the Vermont Superior Court, Environmental Division, Docket Number 68-5-12 Vtec;

Whereas, HUNT is willing to dismiss his appeal in consideration of certain agreements between the parties as set forth below;

NOW THEREFORE, in consideration of the following, HUNT and the CITY agree as follows:

1. The City will install the Rectangular Rapid Flashing Beacons, crosswalks, and portion(s) of sidewalk as shown on the attached plan, labeled Exhibit A, to be completed in calendar year 2013.
2. The City will include the City's standard red-brick crosswalk designs at the Maple-Pine and King-Pine crosswalks when the Parkway is constructed.
3. Signage

Based on the estimated time for project construction, the current status of the Act 250 appeal, and the current status of project engineering plans, it is premature to adopt any specific signage plans or elements at this time.

The City supports the concept of wayfinding signs on I-189 westbound being neutral with respect to directing travelers toward downtown Burlington. When the Champlain Parkway signage plans are being developed in detail, the City will indicate to VTrans that the City supports I-189 westbound wayfinding signs for the Parkway and Shelburne Street exits that are silent as to "downtown."

The parties acknowledge that public highways and streets are important pieces of City and State infrastructure that serve a large proportion of the public. Appropriate wayfinding and safety signage is critical to safe and proper use of public roadways. The City and the State will always retain their authority, pursuant to their inherent police powers and applicable criteria then in place, to change signage associated with the Parkway when they determine that changes are appropriate.

4. The City will complete Items 1-3 before the Parkway is opened to traffic.
5. If the Parkway is constructed, then within 90 days after the Parkway is opened to traffic, the City will sponsor and support a proposal to the Public Works Commission to remove Maple Street as a designated truck route. The Public Works Commission holds independent decisional authority over truck routes within the City.
6. The City recognizes the changing nature of the Pine Street area and is committed to advancing enhancements, both within and independent of the Champlain Parkway project, that will help create a more vibrant and livable urban street. The current Pine Street Pedestrian Project with new crosswalks and rapid flashing beacons (Item 1, above) is an example of the City's commitment to this policy.

If the Parkway is constructed, then, within 12 months after the Parkway is opened to traffic, the City will conduct traffic signal warrant analyses at the intersections of Pine Street and Locust Street and Pine Street and Howard Street. The results of the analyses will in no way bind the City to any particular action at either intersection. The City will not be required to conduct traffic signal warrant analyses pursuant to this Agreement if the City undertakes such analyses at these intersections for any other reason within 12 months after the Parkway is open to traffic. In addition, the City will not be required to conduct traffic signal warrant analyses pursuant to this Agreement if any other person undertakes the analyses within 12 months after the Parkway is open to traffic and the City is able to review the analyses.

7. The City commits to initiating a Neighborhood Enhancement Program effort for the Maple-King neighborhood upon receipt of a neighborhood petition from at least 100 residents. For the purposes of this Agreement, the "Maple-King neighborhood" is defined as the area in Burlington bounded by Maple Street, Main Street, St. Paul Street, and Battery Street. If the petition is received, the City will hire a contractor to ensure the timely coordination of the effort and host an initial public meeting within 90 days of the date of receipt of the petition; and endeavor to make initial enhancements in the neighborhood by the end of 2014. Treatments to be explored will include: directional and regulatory signs, speed limits, crosswalks, bump outs, planters, pavement textures or colors, and other placemaking techniques. This work is part of the City's continued commitment to foster a livable and dynamic mixed-use urban neighborhood in the Maple-King area.
8. Allan Hunt and the City will file a stipulated motion with the Vermont Superior Court, Environmental Division to dismiss Mr. Hunt's appeal in Docket Number 68-5 -12 Vtec

within ten days after the Burlington City Council authorizes the Mayor to sign this Agreement.

9. Allan Hunt will not oppose any other permits or regulatory or legislative approvals that may be required before the Parkway can be constructed.
10. Allan Hunt will not support, aid, or otherwise participate in the actions of any other person or entity seeking to oppose the planning, permitting, regulatory or legislative approvals, or construction of the Champlain Parkway.
11. The parties agree that (i) this Agreement shall have the status of a contract independent of its role in Docket Number 68-5-12 Vtec, (ii) a breach of this Agreement would not be adequately remediable through an award of damages, (iii) this Agreement may be enforced by a decree for specific performance and/or other equitable remedies appropriate to the case, and (iv) in any action or proceeding to enforce the terms of this Agreement, the substantially prevailing party shall be entitled to recover his or its costs and expenses, including, without limitation, a reasonable attorney's fee.

IN WITNESS WHEREOF, Allan Hunt has caused this instrument to be executed this 6<sup>th</sup> day of NOVEMBER, 2013.

In the presence of:

Allan S. Hunt

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_

STATE OF VERMONT  
CHITTENDEN COUNTY

At Burlington, Vermont, this 6<sup>th</sup> day of November, 2013 personally appeared Allan Hunt and acknowledged this instrument, by him sealed and subscribed to be his free act and deed.

Before me,


  
\_\_\_\_\_  
Notary Public

My Commission Expires: 2/10/15

IN WITNESS WHEREOF, the City of Burlington has caused this instrument to be executed this 18<sup>th</sup> day of November, 2013.

In the presence of:

City of Burlington

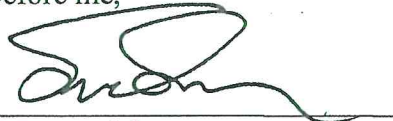
  
Witness

By:   
Mayor Miro Weinberger

STATE OF VERMONT  
CHITTENDEN COUNTY

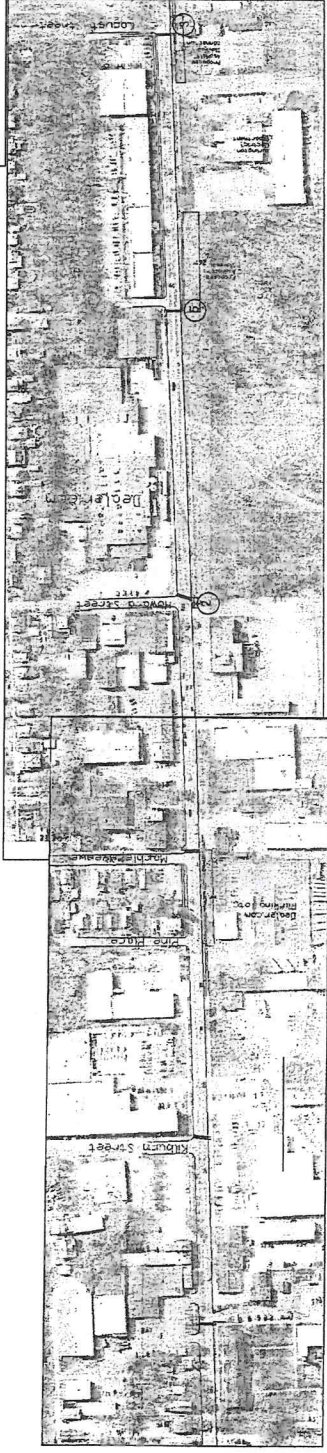
At Burlington, Vermont, this 18<sup>th</sup> day of November, 2013 personally appeared Miro Weinberger and acknowledged this instrument, by him sealed and subscribed to be his free act and deed and to be the free act and deed of the City of Burlington.

Before me,



Notary Public

My Commission Expires: 2/15



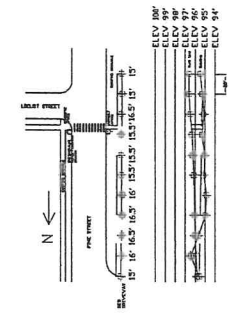
**PROJECT DESCRIPTION**

PRIMARY TASK: IMPROVE THE UNCONTROLLED PEDESTRIAN CROSSINGS AND SAFETY OF EXISTING SIDEWALKS ON PINE STREET BETWEEN LOCUST STREET AND MARBLE STREET.

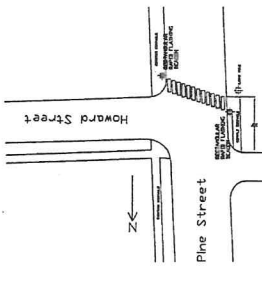
1. AT KILBURN STREET: INSTALL A PAIR OF RRFB'S AT THE WEST END OF HOWARD STREET.
2. AT HOWARD STREET: INSTALL NEW PAINTED CROSSWALK A PART OF RRFB'S AT THE EASTERN SIDE OF THE INTERSECTION ACROSS THE EASTERN SIDE OF THE INTERSECTION. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF HOWARD STREET.
3. AT LOCUST TERRACE: INSTALL A NEW PAINTED CROSSWALK ACROSS THE NORTHERN SIDE OF THE INTERSECTION. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF LOCUST TERRACE. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE EAST SIDE OF LOCUST TERRACE. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF LOCUST TERRACE TO CONNECT THE CROSSWALK TO THE EXISTING SIDEWALK.
4. AT MARBLE AVENUE: INSTALL A NEW PAINTED CROSSWALK ACROSS THE NORTHERN SIDE OF THE INTERSECTION. INSTALL NEW PAINTED CROSSWALK ACROSS THE WESTERN SIDE OF THE INTERSECTION. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF MARBLE AVENUE. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE EAST SIDE OF MARBLE AVENUE. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF MARBLE AVENUE TO CONNECT THE CROSSWALK TO THE EXISTING SIDEWALK TO THE NORTH.
5. AT THE DRIVEWAY TO JACKSON TERRACE, ASBESTOS: INSTALL A NEW PAINTED CROSSWALK ACROSS THE NORTHERN SIDE OF THE INTERSECTION. INSTALL NEW PAINTED CROSSWALK ACROSS THE WESTERN SIDE OF THE INTERSECTION. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF JACKSON TERRACE. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE EAST SIDE OF JACKSON TERRACE. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF JACKSON TERRACE TO CONNECT THE CROSSWALK TO THE EXISTING SIDEWALK TO THE SOUTH.
6. AT THE DRIVEWAY TO BOBBIN MILL APARTMENTS: INSTALL A NEW PAINTED CROSSWALK ACROSS THE NORTHERN SIDE OF THE INTERSECTION. INSTALL NEW PAINTED CROSSWALK ACROSS THE WESTERN SIDE OF THE INTERSECTION. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF BOBBIN MILL APARTMENTS. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE EAST SIDE OF BOBBIN MILL APARTMENTS. INSTALL A CONCRETE ADA COMPLIANT CURB RAMP ON THE WEST SIDE OF BOBBIN MILL APARTMENTS TO CONNECT THE CROSSWALK TO THE EXISTING SIDEWALK TO THE SOUTH.

**LEGEND**

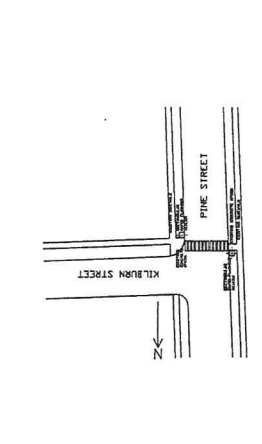
- ⊕ RECTANGULAR RRFB
- ⊕ ROUND RRFB
- ⊕ ELEVATION POINTS
- ▬ CROSSWALK
- N NORTH



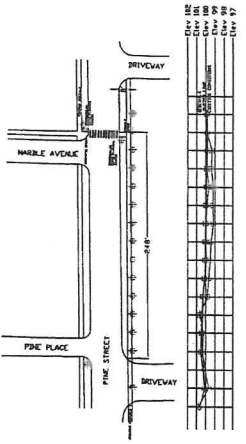
3 LOCUST TERRACE CROSSWALK  
NOT SCALED



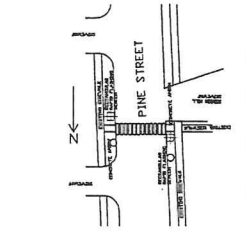
2 HOWARD STREET CROSSWALK  
NOT SCALED



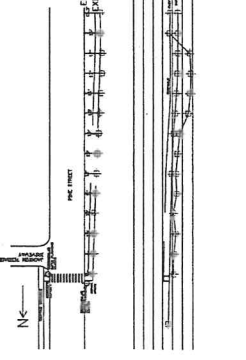
1 KILBURN STREET CROSSWALK  
NOT SCALED



4 MARBLE AVENUE CROSSWALK  
NOT SCALED



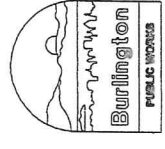
6 BOBBIN MILL CROSSWALK  
NOT SCALED



5 JACKSON TERRACE CROSSWALK  
NOT SCALED

**Burlington Public Works**

645 Pine Street  
Burlington, VT 05401  
(802) 863-9094  
(802) 863-0466 (Fax)



City of Burlington  
Director of Public Works  
Approved: \_\_\_\_\_  
Date: \_\_\_\_\_

DRAWN BY: JPE  
DESIGN BY: DA/JPF  
CHECKED BY: \_\_\_\_\_  
APPROVED BY: \_\_\_\_\_  
MODIFICATION DATES: \_\_\_\_\_

**Pine Street Pedestrian Safety Pilot Project**