



# Burlington Fire Department



136 South Winooski Avenue  
Burlington, Vermont 05401-8378

(802) 864-4554 • (802) 658-2700 (TTY)

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## **Request for Proposals for a Station Consolidation Study**

Date of Issuance: October 11, 2017

Issued by: City of Burlington Fire Department

### GOAL OF PROJECT

To determine the total costs of constructing and operating a new consolidated fire station as compared to the total costs of maintaining two current fire stations so as to help the City determine whether, and by when, it would be less costly to the City to have constructed a new fire station. Additionally, project will assess best new location for new fire station as well as impact on deployment and response time. The City will also be taking into account additional operating costs such as staffing and equipment, and these costs are being determined through other mechanisms and not via this RFP. Cost comparisons to be determined via this process include (see RFP for more complete and detailed list):

- Cost of constructing a new consolidated fire station

- Ongoing maintenance costs for new facility anticipated over next 20 years

- Yearly utility costs for new facility

- Space needs for a new combined fire station

- Ongoing maintenance costs for current two fire stations anticipated over next 20 years

- Yearly utility costs for current two fire stations

- Space needs for each of the two current facilities

- Any costs of preparing two current fire station for sale

- Anticipated sale price for current two fire station

- Cost to demolish current to fire stations

### BACKGROUND

The Burlington Fire Department Headquarters, built in 1926, has many facility deficiencies that must be addressed in order for it to continue to adequately accommodate the Department. Recognizing that the necessary repairs, upgrades and construction will be costly, coupled with a belief that an updated deployment model presents a unique opportunity to address long-term facility needs with a financially favorable solution, the

Burlington Fire Department seeks recommendations as to its best path forward regarding station placements.

The Department believes that one new station, properly located, may be able to replace the Headquarters at 136 South Winooski Avenue and Station #5 on Ferguson Avenue and adequately service the Downtown and the South End from that location. The City of Burlington seeks specialized consulting services to (1) assess current physical conditions of buildings, (2) analyze the physical, operational, and financial impacts of consolidation (“Option 1”), (3) compare Option 1 with a plan to maintain existing five stations/facilities (“Option 2”), and (4) recommend an implementation strategy for Option 1.

### SCOPE OF WORK

Specifically, proposals must take into account and certify that the following Scope of Work will be completed:

1. ***Gather Information*** and Conduct an ***Existing Conditions Assessment*** at Fire Stations One and Five.

To the extent that information is available, the City will provide any requested and pertinent documents, reports and useful data such as building plans, previous assessments, maintenance reports, emergency repairs, renovations, upgrades, utility bills, service agreements, and incident reports (location and deployment summary).

The following systems and components shall be inspected, assessed, and documented (narratively and photographically)

Architectural – building envelope (roof, walls, masonry, doors and windows, sills and thresholds, insulation, etc.) and interiors (ceilings, walls, doors, floors, trim and finishes).

Structural – foundations, slabs, framing integrity

Mechanical (heating, ventilation, air conditioning, fire protection systems and components, kitchen/food service equipment, control systems)

Plumbing (water heaters, fixtures, water distribution, sewer discharge, insulation, drainage systems, treatment systems)

Electrical – lighting, power, distribution, generator, technology, communications, data/telecom, security systems, fire alarm and emergency systems

Site/Civil – utilities, pavement, walkways, access/egress, parking, fencing, security barriers, drainage

Environmental – asbestos, hazardous materials (visual only, no testing), indoor air quality, mold, water leaks, material storage

The Assessment shall identify and document safety issues, accessibility, code and other building system deficiencies.

The Assessment shall assess facilities from a space utilization and operational perspective – identify limitations or constraints (circulation, adjacencies, lack of space) that adversely impact personnel, operations, productivity, efficiency and suggest improvements that can be made.

The Assessment shall develop a list of accessibility issues, capital improvement items needed to bring the facilities and systems to code, and a list of all repairs, replacements and updates needed to create an efficient, healthy and comfortable environment throughout the buildings and on and around the site. The Assessment shall categorize each item (Health, Safety + Welfare, Code Compliance, Functional Use, Handicap Accessibility, Life Extending, Energy, Hazardous Materials) and prioritize them – Immediate, High Priority (short term, 1-3 years), Medium Priority (issues that can be tolerated short term but will need to be addressed in 3-6 years) and Low Priority (longer term 7-10 years). Longer term items and regular replacement items (roof, boiler, windows, etc.) should be listed with a target replacement date. All listed items must state a cost estimate, in today's dollars, of what is needed to mitigate identified deficiencies.

2. Conduct a ***Deployment Assessment*** looking at the department's current response capabilities and strategies, examine and describe how that could be changed with a new four-station model, and evaluate the re-deployment of existing personnel to fire and EMS apparatus.

Note: The University of Vermont is conducting a Response Time Study that will be made available to the selected consultant. Regardless of their findings and conclusions, the consultant must establish ***Optimal Station Locations*** for the City of Burlington for both the existing 5-station model and the proposed 4-station model based on the Department's incident reports for at least the last 5 years.

Note: The City may request additional services to assess the operational impact of specific fire station locations, including Response Time Study updates.

3. Meet with the Department to establish ***Space Needs***, including a dedicated training facility, and develop a responsive ***Program*** for Option 1 (a new consolidated facility using the standards of cover and the new deployment model for the four-station approach) and for Option 2 (retaining the current five station approach and deployment strategies). It should be noted that the Department does not currently have a training facility or an area to conduct pump/aerial operations. Consideration should be given to an all hazards training site that would assist in meeting local, state, federal and ISO requirements.
4. Conduct a ***Site Assessment*** of the City-owned lot under consideration as the location for the new consolidated station at 339 Pine Street.
  - i. obtain GIS data, establish lot area and property lines; determine minimum zoning requirements and setbacks; review City records
  - ii. provide site description and the situation related to abutters
  - iii. identify the location, tie-ins, and capacities of site utilities (electrical, gas, water supply, fuel tanks)

- iv. identify site limitations due to natural features such as wetlands, ledge, topography
- v. analyze the site for its ability to accommodate new construction and the developed program, and describe site development issues and concerns:
  - o ingress/egress, parking (staff and public) and circulation
  - o sight lines
  - o sanitary systems and drainage, storm water
  - o pavement, curbs, fencing and security barriers
  - o impact of proposed construction to the site, abutters
  - o sight lighting
  - o neighborhoods, roadways and intersections, traffic patterns, bike/pedestrian routes, vehicular and pedestrian access

This site assessment must also analyze the Department's coverage ability from this location based on historical data and trend analytics and forecasts, measured against the Department's targets, service level objectives and the optimal location.

5. Identify a geographic boundary south of the downtown that would be considered an ***Acceptable Fourth Station Location***.
6. Based on the results of Items 3 and 4, develop ***Conceptual Plans*** for the City-owned site, a building layout and floor plans for a new facility.
7. Generate construction and total project ***Cost Estimates*** and an anticipated design and construction schedule for the new build option.
8. ***Assess the Financial Impact*** of the new deployment model, answering the following and like questions:

What are the repairs, upgrades, renovations and abatements needed to make the existing two properties 'market ready' for sale?

What is the value and possible sales price for the two existing stations?

How might the existing properties be repurposed? Are there reasons why, and ways in which, the City can benefit from repurposing rather than selling the properties?

This financial analysis should include:

Comparative operational expenses – utilities, equipment and supplies, maintenance, cost avoidance, labor, contingencies and other replacement items.

The fiscal impact of operational changes related to a shift from five to four stations.

Costs of professional services not provided by the City – legal, real estate, auditing, financing, etc.

Miscellaneous consolidation costs, savings, (furniture, apparatus, equipment, supplies, moving expenses, etc.) and any other expected or potential expenses.

9. The Department seeks an accurate portrayal of the implications presented by both options. Therefore, the Consultant's analysis must ***Compare the Two Options*** and articulate their associated pros and cons so that the City can determine whether to create a new deployment model (four stations) and build a new facility (Option 1) or retain the existing deployment model and five facilities (Option 2). The analysis shall give consideration to physical assets (maintenance, costs and longevity), operations (functionality, safety, efficiencies, delivery of services), and economics.
10. Based on the findings, ***Make and Substantiate a Recommendation***.
11. In addition to other informational and progress review meetings during the course of the study, prepare for and make a presentation of the process, your findings, concepts and recommendations to the Fire Chief, the Mayor and, if appropriate, the City Council.

Station #1 - Central Station, 136 So. Winooski Ave



Tower 1 - 2003 E-One 95" Tower Ladder with 2,000 GPM Pump

Engine 1 - 2003 E-One Rescue Pumper with 2,000 GPM Pump

Rescue 1 - 2016 Ford F450 Chassis with Osage Custom ALS Patient Compartment

Car 12 - 2013 Ford Expedition

Mobile Support Unit and Cars 1, 2, and 3

In 1926, Central Fire Station was built, near the corner of Main St. & South Winooski Avenue. In those days, the firefighters worked and lived at the station and were only allowed to go home occasionally. For this reason, the station was built with fifteen bedrooms. There is a large kitchen and dayroom in the center of the second floor, and the numerous individual bedrooms ring the outside of the building. One of station's fire poles was removed, but three of the four original brass fire poles remain and are still in use today. Some of the walls between rooms were demolished to make space for a weight room. The kitchen was renovated in 2001, a new office/conference room area behind the short apparatus bay was built this year; however, much of the station is as it was originally constructed.

This remains a very active station with both Engine 1 and Rescue 1 responding to just under 3,500 calls per year.

Station #3 – 20 Mansfield Avenue



Engine 3

- 2011 E-One Pumper
- 1500 GPM Advanced Life Support / Rescue Pumper

Fire Station 3 is one of the oldest operating firehouses in Vermont. It originally housed two horse drawn apparatus, a steam engine and a hose cart. In later years, a motorized engine carried both the pump and the hose, and a horse-drawn 85" spring-loaded aerial ladder was added. A motorized tractor later took the place of the horses pulling the aerial ladder.

In the original construction, there were two bays on the front of the building, and behind the apparatus was the stable and tack room. Except for the front wall, the entire first floor has very high windows in the red brick walls. These were originally placed at such height to provide fresh air and light for the horses.

## Station # 5 - 23 Ferguson Avenue



### Engine 5

2003 E-One Rescue Pumper  
Advanced Life Support / Rescue Pumper

Rescue 5  
Reserve Ambulance

The current Station 5 was built in 1991. The original station was built in the 1950's and housed a single engine with living quarters for three firefighters in a space not much bigger than the truck. The original Station Five was identical to Station Four, but in this case, the original building was demolished. The second floor of the station has spacious living quarters for the firefighters, with an extra bedroom to allow for additional staff in the future.

### PROPOSAL EVALUATION & REJECTION AND ACCEPTANCE OF PROPOSALS

The City reserves the right to consider proposals for 30 days after receipt thereof, and further reserves the right to reject any or all proposals, waive any defects, informalities, and minor irregularities, accept exemptions to the scope of work and make such awards or act otherwise as it alone may deem in its best interest. Additional information may be requested prior to final selection.

### DUE DATE

Written proposals are due November 3, 2017 at 1:00 PM at the Central Fire Station, 136 South Winooski Avenue, Burlington, Vermont 05401.

Proposals may be sent via US Mail, or delivered in person to the Burlington Fire Department Main Offices located at 136 South Winooski Avenue, Burlington, Vermont

05401. Electronic proposals are preferred as long as they are received by the point of contact by the required due date. Proposals should be sent to the attention of Fire Chief Steven A. Locke.

Due Date for Questions: October 17, 2017 (please submit via email to [slocke@burlingtonvt.gov](mailto:slocke@burlingtonvt.gov) ) Responses will be posted on October 20, 2017 by 5:00 pm.

### ANSWERS TO QUESTIONS AND REVISIONS TO REQUEST FOR PROPOSAL

Any revisions, addendums and answers to questions received by the due date for questions will be sent to consultants who directly received this proposal via email. In addition, revisions will be posted on the City's RFP web page <https://www.burlingtonvt.gov/RFP/>. It is advised that contractors sign up for the GovDelivery notification so that they will be notified of any changes to the RFP page.

### PARTNERSHIPS

It is understood that vendors may team up with other firms, local or otherwise, in order to provide whatever diversity deemed necessary for completing the project tasks.

### PROPOSAL FORMAT

Proposals are encouraged to be concise and must include, but are not limited to the following:

1. Letter of Transmittal and two copies of the proposal if sent through the mail. If sent electronically, all documents shall be in PDF format.
2. Proposed scope of work including a schedule of completion of all tasks indicating meetings and milestones.
3. Price and signature by authorized representative for the firm.
4. A brief description of your firm's history and experience with station assessments and station consolidation. If your firm intends to partner with another company, also provide pertinent information on the subcontractor.
5. A work history of up to three (3) related projects within the last 2 years showing for each:
  - a. Name, address and phone number for each client.
  - b. Brief project description.
  - c. Statement as to whether project was completed on time and within budget.

## PROPOSAL EVALUATION

Proposals will be reviewed and evaluated by Department staff based on the information provided in the proposal. Additional information may be requested prior to final selection. It is anticipated that a decision will be made within 30 days of the due date. The selected consultant shall be willing to enter into an agreement similar to the Draft Agreement in Attachment B.

## REJECTION OF PROPOSALS

Notwithstanding the above selection process, the City of Burlington reserves the right to reject any or all proposals, to negotiate with one or more parties, or to award the contract in the City's best interests, including proposed contractor's schedule. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals.

## CONTRACT REQUIREMENTS

Consultants are advised to review the Draft Agreement example (Attachment B), the Livable Wage and Union Deterrence Ordinances (Attachment D and F respectively) in advance of submitting a proposal. The City of Burlington reserves the right to alter or amend any or all of these provisions in the project contract.

## LIMITATIONS OF LIABILITY

The City of Burlington, Vermont assumes no responsibility and liability for costs incurred by parties responding to this Invitation to Bid or responding to any further requests for interviews, additional data, etc., prior to the issuance of the contract.

## INDEMNIFICATION

The Consultant will act in an independent capacity and not as officers or employees of the Municipality. The Consultant shall indemnify, defend and hold harmless the Municipality and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the Contractor's acts and/or omissions in the performance of this contract.

The Municipality is responsible for its own actions. The Consultant is not obligated to indemnify the Municipality or its officers, agents and employees for any liability of the Municipality, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

## 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 considered to be trade secrets, as that term is defined by subsection 317(c)(9) of the

Vermont Public Records Act, shall be identified, as shall all other records considered to be exempt under the Act.

It is not sufficient to merely state generally that the proposal 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.

#### OWNERSHIP OF DOCUMENTS

Proposals, plans, specifications, and other documents prepared and submitted under this RFP shall become property of the City.

#### NON-DISCRIMINATION

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 865-7145.

**ATTACHMENT A – Proposal**

**PROJECT: Station Consolidation Study**

Consultant: \_\_\_\_\_

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Telephone/Email: \_\_\_\_\_

Proposed Start Date: \_\_\_\_\_

Estimated End Date: \_\_\_\_\_

TOTAL BID: \$ \_\_\_\_\_

BY SIGNING THIS BID FORM, THE CONSULTANT AGREES TO ABIDE BY ALL SPECIFICATIONS AND CONDITIONS IN THE CONTRACT DOCUMENTS.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

WITH THIS BID, THE CONSULTANT MUST INCLUDE SIGNED CERTIFICATES OF COMPLIANCE WITH LIVABLE WAGE AND UNION DETERENCE. THIS FORM IS INCLUDED IN ATTACHMENT D AND F.

**DRAFT AGREEMENT**

**CITY OF BURLINGTON, VERMONT  
CONTRACT AGREEMENT  
FOR STATION CONSOLIDATION STUDY**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the City of Burlington, VT, hereinafter referred to as the CITY and \_\_\_\_\_, a Vermont corporation, with its principal place of business in \_\_\_\_\_, hereinafter referred to as the CONSULTANT.

The CITY wishes to employ the CONSULTANT for fire station consolidation study Services for the City of Burlington Vermont Fire Department.

WHEREAS the CONSULTANT is ready, willing, and able to perform the required services;

NOW THEREFORE, in consideration of these premises and the mutual covenants herein set forth, it is agreed by the parties hereto as follows:

**1. SCOPE OF WORK**

The CONSULTANT shall provide services necessary to ensure the successful completion of the project under consideration as set forth in Request for Proposals from the Burlington Fire Department dated \_\_\_\_\_ and CONSULTANT'S Response and Proposal dated \_\_\_\_\_, which are incorporated herein and made a part of this Agreement. The outcome of this work is the completion of design engineering services for the \_\_\_\_\_.

Should it become necessary for the CONSULTANT to procure sub-consultant services, this selection will be subject to approval. It is expected that any solicitations by the CONSULTANT will include reference to the Federal Equal Employment Opportunity (Executive Order 11246), the FHWA Title VI Non-Discrimination Program, Vermont Agency of Transportation's Disadvantaged Business Enterprises Policy (CA-110) and the CITY'S Livable Wage Ordinance.

## 2. BEGINNING OF WORK AND TERMINATION

This Agreement shall be effective upon execution and shall be completed on or before \_\_\_\_\_, 201\_\_

## 3. THE AGREEMENT FEE

A. General. The CITY agrees to pay the CONSULTANT and the CONSULTANT agrees to accept as full compensation for performance of all services and expenses (including those of sub-consultants) encompassed under this Agreement, payment at the rates specified in the CONSULTANT's response to the CITY'S request for proposals and proposal submitted dated\_\_\_\_\_.

B. Maximum Limiting Amount. The total amount to be paid to the CONSULTANT for all services shall not exceed a maximum limiting amount of \$\_\_\_\_\_, without duly authorized written approval.

## 4. PAYMENT PROCEDURES

One copy of each invoice and backup documentation for expenses shall be submitted to:

Steven A. Locke, Fire Chief  
Burlington Fire Department  
136 South Winooski Avenue  
Burlington, VT 05401

Invoices may be emailed to: [slocke@burlingtonvt.gov](mailto:slocke@burlingtonvt.gov).

## 5. ATTACHMENTS

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

ATTACHMENT A – Vendor's response to CITY'S Request for Proposals and Proposal with itemized expenses by item, dated \_\_\_\_\_

ATTACHMENT B – City of Burlington Specifications for Consultant Services

ATTACHMENT C - Insurance Certificate(s) from CONSULTANT with the City of Burlington as an additional insured

ATTACHMENT D & F – Livable Wage Ordinance Form, Union Deterrence Form

ATTACHMENT E – Burlington Fire Department, Request for Proposals,  
\_\_\_\_\_, dated \_\_\_\_\_.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**City of Burlington, Vermont**

By: \_\_\_\_\_

Steven A. Locke, Fire Chief

Date: \_\_\_\_\_

## **ATTACHMENT B - BURLINGTON STANDARD CONTRACT CONDITIONS**

Wherever used, abbreviations may be used in place of a word or phrase and definitions may be used to interpret statements for the meaning of words phrases or expressions. The intent and meaning for abbreviations and definitions shall be interpreted as herein set forth:

AGC	Associated General Contractors of America
ANSI	American National Standards Institute
ASCE	American Society of Civil Engineers
AWWA	American Water Works Association
CADD	Computer Aided Drafting and Design
CES	Contractor Engineering Services
CFR	Code of Federal Regulations
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EDM	Electronic Data Media
FSS	Federal Specifications and Standards
IBC	International Building Code
IPC	International Plumbing Code
NEC	National Electrical Code
SIR	Self Insured Retention
USC	United States Code
USEPA	United States Environmental Protection Agency
VOSHA	Vermont Occupational Safety and Health Act
VSA	Vermont Statutes Annotated
WEF	Water Environment Association

1. **INDEMNIFICATION:**

The CONTRACTOR will act in an independent capacity and not as officers or employees of the CITY. The CONTRACTOR shall indemnify, defend and hold harmless the CITY and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the CONTRACTOR's negligent acts and/or omissions in the performance of this contract.

2. **RELATIONSHIP:**

The parties agree that the CONTRACTOR is an independent CONTRACTOR. 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. City shall provide the CONTRACTOR with no specific instructions or training in how to provide the required services, except to the extent required by law or regulation. The CONTRACTOR shall provide its own tools, materials or equipment. The parties agree that neither the CONTRACTOR nor its Principal is an employee of City or any

of its departments, agencies, or related entities. The parties also agree that neither the CONTRACTOR nor its Principal is entitled to any employee benefits from City. CONTRACTOR understands and agrees that it and its Principal have no right to claim any benefits under the Burlington Employee Retirement System, City's worker's compensation benefits, health insurance, dental insurance, life insurance or any other employee benefit plan offered by City. The CONTRACTOR agrees to execute any certifications or other documents and provide any certificates of insurance required by 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 City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

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](http://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 Agreement. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the CITY. In the event that this Contract extends to greater than one year, evidence of continuing coverage must be submitted to the CITY on an annual basis. Certified copies of any insurance policies may be required. Each policy (with the exception of professional liability and workers compensation) shall name the CITY as an additional insured for the possible liabilities resulting from the CONTRACTOR's actions or omissions. It is agreed that 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:

- (a) All SUB-CONTRACTORS, agents or workers meet the minimum coverage and limits plus maintain current certificates of coverage for all SUB-CONTRACTORS, agents or workers. SUB-CONTRACTORS must comply with the same insurance requirements as the CONTRACTOR.
- (b) All coverage shall include adequate protection for activities involving hazardous materials.
- (c) All work activities related to the agreement 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.

*GENERAL LIABILITY AND PROPERTY DAMAGE:*

With respect to all operations performed by the CONTRACTOR, SUB-CONTRACTORS, agents or workers, it is the CONTRACTOR's responsibility to insure that general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to and with limits not less than:

1. Premises Operations
2. Independent CONTRACTORS' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Contractual Liability
6. Broad Form Property Damage
7. Medical Expenses
8. Collapse, Underground and Explosion Hazards

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

*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 SUB-CONTRACTORS and SUBCONTRACTORS carry the same workers' compensation insurance for all work performed by them under this contract. Minimum limits for Employer's Liability:

- (a) Bodily Injury by Accident: \$500,000 each accident
- (b) Bodily Injury by Disease: \$500,000 policy limit, \$500,000 each employee

*PROFESSIONAL LIABILITY INSURANCE:*

- (a) General. The Contractor shall carry architects/engineers professional liability insurance covering errors and omissions made during their performance of contractile duties with the following minimum limits:
  - \$3,000,000 - Annual Aggregate
  - \$1,000,000 - Per Occurrence
- (b) Deductibles. The CONSULTANT is responsible for any and all deductibles.
- (c) Coverage. N/A

*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 agreement. Each policy shall provide coverage with a limit not less than: \$1,000,000 - Combined Single Limit for each occurrence.

*UMBRELLA LIABILITY:*

\$1,000,000 Each Event Limit

\$1,000,000 General Aggregate Limit

## **COMPLIANCE WITH LAWS**

### **4. GENERAL COMPLIANCE WITH LAWS**

The CONTRACTOR shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance, the Non-Outsourcing Ordinance and the Union-Deterrence Ordinance and shall provide the required certifications attesting to compliance with these ordinances (see attached ordinances and certifications).

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

### **5. CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY**

During performance of the Agreement, the CONSULTANT will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status or genetic information.

The CONTRACTOR shall comply with the applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR Part 60). The CONTRACTOR shall also comply with the rules, regulations and relevant orders of the Secretary of Labor, Nondiscrimination regulations 49 CFR § 21 through Appendix C, and Regulations under 23 CFR§710.405 (b). Accordingly, all subcontracts shall include reference to the above. The CONTRACTOR shall comply with all the requirements of Title 21, VSA, Chapter 5, Subchapter 6 and 7, relating to fair employment practices to the extent applicable. A similar provision shall be included in any and all subcontracts.

### **6. CHILD SUPPORT PAYMENTS**

By signing the Contract the CONTRACTOR certifies, as of the date of signing the Agreement, that they are (a) 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.

7. **TAX REQUIREMENTS:** By signing the Agreement, the CONTRACTOR certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, he/she 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 Agreement.

## **CONTRACTUAL AGREEMENTS**

8. **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.
9. **PERSONNEL REQUIREMENTS AND CONDITIONS:** A CONTRACTOR shall employ only qualified personnel, for 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 Agreement.

Except with the approval of the CITY, during the life of the Agreement, the CONTRACTOR shall not employ:

- (a) Personnel on the payroll of the CITY who are directly involved with the awarding, administration, monitoring, or performance of the Agreement or any project(s) that are the subjects of the Agreement.
- (b) Any person 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 bonafide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that no company or person has been paid or has an agreement with the CONTRACTOR to be paid, other than a bonafide 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 Agreement. For breach or violation of this warranty, the CITY shall have the right to annul the Agreement, without liability to the CITY, and to regain all costs incurred by the CITY in the performance of the Agreement.

The CITY reserves the right to require removal of any person employed by a CONTRACTOR, from work related to the Agreement, for misconduct, incompetence, or negligence, in the opinion of the CITY in the due and proper performance of its duties, or who neglects or refuses to comply with the requirements of the Agreement.

10. **TRANSFERS, SUBLETTING, ETC:** A CONTRACTOR shall not assign, sublet,

or transfer any interest in the work, covered by an Agreement, without prior written consent of the CITY and further, if any SUB-CONTRACTOR 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 SUB-CONTRACTOR's agreement 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 SUB-CONTRACTOR as specified in the insurance requirements section of this agreement.

The services of the CONTRACTOR, to be performed under the Agreement, are personal and shall not be transferred without written authorization of the CITY. Any authorized sub agreements shall contain all of the same provisions for and attached to the original agreement with the CITY.

11. **CONTINUING OBLIGATIONS:** The CONTRACTOR agrees that if because of death or other occurrences, it becomes impossible to effectively perform its services in compliance with the Agreement, neither the CONTRACTOR nor its surviving members shall be relieved of their obligations to complete the Agreement. However, the CITY may terminate the Agreement if it considers a death or incapacity of any members to be a loss of such magnitude that it would affect the firm's ability to satisfactorily execute the Agreement.
12. **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 CONTRACTORS, hereafter referred to as "instruments of professional service", shall become the property of the CITY as they are prepared and/or developed during execution of the Agreement. The CONTRACTOR agrees to allow access to all "instruments of professional service" at any time. The CONTRACTOR shall not copyright any material originating under the Agreement without prior written approval of the CITY. No publications or publicity of the work, in part or in total, shall be made without the agreement of the CITY, except that CONTRACTORS may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
13. **PROPRIETARY RIGHTS:** The parties under the Agreement hereby mutually agree that, if patentable discoveries or inventions should result from work performed under the Agreement, 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 practice each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the Agreement.
14. **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.

**15. RECORDS RETENTION**

The CONTRACTOR agrees to retain, in its files, and to produce to City within the time periods requested, all books, documents, EDM, accounting records, and other evidence related to City, at any time during this Agreement and for a period of at least three (3) years after its termination. The CONTRACTOR further agrees that the CITY shall have access to all the above information for the purpose of reviewing and audit during the Agreement period and anytime within the aforementioned retention period. Copies of all of the above referenced information shall be provided to the CITY if requested. CONTRACTOR, SUB-CONTRACTORS, or any representatives performing work related to the Agreement, are responsible to insure that all data and information created or stored on EDM is secure and can be duplicated if the EDM mechanism is subjected to power outage or damage.

**16. APPEARANCES:**

(a) Hearings and Conferences. The CONTRACTOR shall provide professional services required by the CITY and necessary for furtherance of any work covered under the Agreement. Professional 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 Agreement.

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 Agreement.

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 Agreement.

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

(b) Appearance as Witness. If and when required by the CITY, a CONTRACTOR, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related Agreement, on

behalf of the CITY. The CONTRACTOR shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract document.

17. **CHANGES AND AMENDMENTS:** No changes or amendments of the Agreement shall be effective unless documented in writing and signed by authorized representatives of the CITY and the CONTRACTOR.
18. **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 Agreement.
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 Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the CITY may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the CONTRACTOR and without the fault or negligence of the CONTRACTOR.
20. **SETTLEMENTS OF MISUNDERSTANDINGS:** In order to prevent misunderstandings and litigation, it is mutually agreed by all parties that the City's Chief Engineer shall act as referee on all questions arising under the terms of an Agreement and that the decision of this governing body in such cases shall be binding upon both parties.

In agreements subjecting costs to final audit, an administrative review regarding the audit will be sent to the CONTRACTOR. Any dispute arising from an administrative decision shall be appealed in writing within thirty (30) days of receipt.

21. **FAILURE TO COMPLY WITH TIME SCHEDULE:** It is mutually understood and agreed to, that neither party hereto shall be held responsible for delay in performing the work encompassed herein, when such delay is due to unforeseeable causes such as acts of God, or a public enemy, fire, strikes, floods, or legal acts of public authorities. In the event that any such causes for delay are of such magnitude as to prevent the complete performance of the Agreement within two (2) years of the originally scheduled completion date, either party may by written notice request to amend or terminate the Agreement.
22. **CITY'S OPTION TO TERMINATE:** The Agreement may be terminated in accordance with the following provisions, which are not exclusive:
  - (a) Breach of Contract. Administrative remedies - the CITY reserves the right to terminate a Contract for breach of Contract agreements. Termination

for breach of Contract will be without further compensation to the CONTRACTOR.

- (b) Termination for Cause. The CITY reserves the right, upon written notice to the CONTRACTOR, to terminate the Agreement, as of a date to be specified by the CITY, if the CONTRACTOR fails to complete the designated work to the satisfaction of the CITY, within the time schedule agreed upon. The CONTRACTOR shall be compensated on the basis of the work performed and accepted by the CITY at the date of final acceptance of the Agreement.
- (c) Termination for Convenience. In addition to its rights and options to terminate an Agreement as provided herein, the CITY may, at any time prior to completion of services specified under an Agreement, terminate the Agreement by submitting written notice to a CONTRACTOR, within not less than fifteen (15) days prior to the effective date, via certified or registered mail, 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, 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.

### 23. **ACKNOWLEDGEMENTS**

Acknowledgment of the City of Burlington's support must be included in any and all publications, renderings and project publicity, including audio/visual materials developed under this contract.

## **OPERATIONAL STANDARDS**

- 24. **RESPONSIBILITY FOR SUPERVISION:** The CONTRACTOR shall assume primary responsibility for general supervision of CONTRACTOR employees and his/her or their 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 Agreement.
- 25. **INDEPENDENCE:** The CONTRACTOR shall act in an independent capacity and not as officers or employees of the CITY.
- 26. **UTILITIES:** 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, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must

be completely and accurately exhibited on any detail sheets or plans. The CONTRACTOR shall inform the CITY, in writing, of any such contacts and the results thereof.

27. **PUBLIC RELATIONS:** Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, 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 VSA Title 19 § 35 and §503, in order to accomplish the work under the Agreement. The CONTRACTOR agrees that any work will be done with minimum damage to the land 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.

28. **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 execution of the Agreement.

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.

29. **RETURN OF MATERIALS.** CONTRACTOR agrees that at the termination of this Agreement, it shall return to City all materials provided to it during its engagement on behalf of City.

**PROJECT DEVELOPMENT AND STANDARDS**

30. **PLANS RECORDS AND AVAILABLE DATA:**

The CITY agrees to make available, at no charge, for the CONTRACTOR's use all available data related to the Agreement including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plats, or any other pertinent public records.

31. **DESIGN STANDARDS:** Unless otherwise specifically provided for in the Agreement, or directed in writing, CONTRACTOR services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data necessary for construction of a designed facility, shall be in conformance with applicable portions of the following specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted and in effect prior to award of the Agreement:

(a) VTRANS'S latest edition of the Standard Specifications for Construction.

- (b) VTRANS'S Bridge Design Manual.
- (c) All applicable AASHTO roadway, traffic, bridge, bicycle and pedestrian policies, guides and manuals.
- (d) VTRANS'S Manual on Survey.
- (e) VTRANS'S Right-of-Way Manual.
- (f) The Highway Capacity Manual - Special Report 209.
- (g) The ANSI/AASHTO/AWS D-1.5, Bridge Welding code.
- (h) The MUTCD and Vermont Supplement requirements.
- (i) The Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals
- (j) Other CITY directives and guidelines current at the time of the Agreement and as may be issued by the CITY during the progress of the design.

In case of any conflict with the guidelines referenced, the CONTRACTOR is responsible to identify and follow any course of direction provided by the CITY.

32. **REVIEWS AND ACCEPTANCES:** All preliminary and detailed designs, plans, specifications, estimates or other documents prepared by the CONTRACTOR, shall be subject to review and endorsement by the CITY.

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

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

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

33. **BINDING NATURE AND JURISDICTION**

This agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors or heirs and representatives, and assigns. This agreement shall be governed by Vermont law, and the CONTRACTOR expressly agrees to submit to the jurisdiction of the courts of the State of Vermont.

**PAYMENT FOR SERVICES RENDERED:**

34. **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 Agreement. When applicable, for the type of payment specified in the Agreement, the progress report shall summarize actual costs and any earned portion of fixed fee.

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

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

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

The CITY agrees to pay the CONTRACTOR and the CONTRACTOR agrees to accept, as full compensation, for performance of all services rendered and expenses encompassed in conformance therewith, the type of fee specified in the Agreement.

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

35. **PAYMENT FOR ADDITIONS OR DELETIONS:** The CITY may, upon written notice, and without invalidating the Agreement, require any changes to, additions to, or deletions from, the originally contemplated extent of the work, prior to completion of the Agreement by means of an amendment to the original Agreement. Any adjustments of this nature shall be executed under the appropriate fee established in the Agreement, based on the adjusted quantity of work, except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such addition or deletion.
36. **PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES:** The CITY may, upon written notice, and without invalidating the Agreement, require changes resulting from revision or abandonment of work already performed by the CONTRACTOR or changes in the 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:

- (a) 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.
- (b) Rate Schedule. By unit prices designated in the Agreement, or by unit prices covered under any subsequent Agreements.
- (c) 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 shall be valid unless so ordered.

The CONTRACTOR agrees to maintain complete and accurate records, in a form satisfactory to the CITY for all time devoted directly to same by CONTRACTOR employees. 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 Agreement. When changes are so ordered, no additional work shall be performed by the CONTRACTOR until an Agreement amendment has been fully executed, unless written notice to proceed is issued by the CITY. Any claim for extension of time, which 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.

ATTACHMENT D – BURLINGTON ORDINANCE REQUIREMENTS

CITY OF BURLINGTON

10.

revised version

ORDINANCE \_\_\_\_\_  
 Sponsor: Councilors Mason,  
Bushor, Paul: Ordinance Com.  
 Public Hearing Dates \_\_\_\_\_  
 \_\_\_\_\_  
 First reading: 09/23/13  
 Referred to: Ordinance Committee  
 Rules suspended and placed in all  
 stages of passage: \_\_\_\_\_  
 Second reading: 10/21/13  
 Action: adopted  
 Date: 10/21/13  
 Signed by Mayor: 10/30/13  
 Published: 11/06/13  
 Effective: 11/27/13

In the Year Two Thousand Thirteen

An Ordinance in Relation to

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

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

That Chapter 21, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 21-80 through 21-87 thereof and adding new Sections 21-88 and 21-89 thereto to read as follows:

Sec. 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 year-round employees (~~full and part-time~~) have an opportunity for a decent quality of life and are compensated, and such that they are not dependent on public assistance, to meet their basic needs;
- (c) ~~The city~~ 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~~ 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 ~~city employees of the City of Burlington~~ employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

**Sec. 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 primarily for the furnishing of services (as opposed to the purchasing of goods) ~~where Burlington where~~ the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve-month period, including any subcontractors of such contractor or vendor. ~~A person or entity that has a contract with the City of Burlington for the use of property under the jurisdiction of the board of airport commissioners, or any person or entity that has a sublease or other agreement to perform services on such property, shall also be considered a contractor under this article.~~

(b) Grantee is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants administered by the city, including any contractors or ~~subcontractor~~ grantees of the grantee, that exceeds fifteen thousand dollars (\$15,000.00) for any twelve-month period.

(c) Covered employer means the City of Burlington ~~(except that the Burlington School Department shall not be considered a covered employer)~~, 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 funded by the city, 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~~ 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.

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(ef) Employee means a person who is employed on a full-time or part-time regular basis (i.e., nenseasonal). 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 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 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.

(fg) 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.)

(gh) 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, ~~and~~ 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.

**Sec. 21-82. - Livable wages required.**

(a) Every covered employer shall pay each and every covered employee at least a livable wage ("Livable Wage") as established under this article no less than:

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(1) For a covered employer that provides employer assisted health care, the livable wage shall be at least ~~nine dollars and ninety cents~~ thirteen dollars and ninety four cents (~~\$13.949-90~~) per hour on the effective date of the ~~amendments is to this article [Dec. 19, 2001].~~

(2) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least ~~eleven dollars and sixty eight cents~~ fifteen dollars and eighty three cents (~~\$15.831-68~~) per hour on the effective date of the amendments to this article [Dec. 19, 2001].

(3) ~~Tipped covered employees and other ee~~ 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 an hourly wage which, when combined with the other compensation, will at least equal the Livable wWage as established under this article.

(b) The amount of the Livable wWage established in this section shall be adjusted by the chief administrative officer of the city, as of July ~~1st~~ first 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-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-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 the first day of May preceding any such adjustment and prior to the first day of May of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by ~~publishing a notice in a newspaper of general circulation, 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 an address of record to the chief administrative officer, by notice written letter 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.

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(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, ~~or personal, or combined time off~~ leave.

**Sec. 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 [~~Dec. 19, 2001~~]. 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 ~~city's~~ funds awarded by the City of Burlington are being expended by the covered employer.

**Sec. 21-84. - Enforcement.**

(a) ~~The City of Burlington shall require, as a condition of any~~Each service contract or grant covered by this ~~article section, shall contain provisions requiring~~ that the ~~affected-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 ordinance. ~~confirming payment of a livable wage as a condition of entering into said contract or grant.~~ The ~~affected-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 ~~affected-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~~city'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:

(i) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;

(ii) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;

(iii) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their legitimacy and initial credibility; and

(iv) 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.

(ed) 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 subsections (e), (f), or (g) below, 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

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

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.

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

(fde) 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.

(edg) 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 ordinance, that complaint will be handled through the City's personnel procedures, not through the process outlined in this ordinance.

(fi-) 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:

- (i) The difference between the livable wage required under this article and the amount actually paid to the covered employee;
- (ii) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;
- (iii) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or of \$50 for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;
- (iv) Reinstatement in employment and/or injunctive relief; and
- (v) Reasonable attorneys' fees and costs.

(gj) 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.

**Sec. 21-85. - Other provisions.**

(a) No affected-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 paragraph 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 ordinance.

(bc) 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 21-85(ed), shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

(ed) Notwithstanding subsection 21-85(bc), 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.

(ée) 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.

(ef) 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.

**Sec. 21-86. - Exemptions.**

An partial or complete exemption from the 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 authorized based upon a determination that compliance with the livable wage requirement 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 provision or 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 21-86 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 board of the city 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, shall consider the request for exemption with prior notice provided to the city council. A unanimous decision by the finance board shall be final. A split decision by the finance board is reviewable by the city council not later than the next meeting of the city council which occurs after the date of the finance board decision.

**Sec. 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.

**Section 21-88. Annual Reporting.**

On or before April 15<sup>th</sup> of each year, the City Attorney's office shall submit a report to the City Council that provides the following information:

An Ordinance in Relation to

(a) all 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.

**Sec. 21-89. Effective Date.**

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

\* Material stricken out deleted.

\*\* Material underlined added.

Attachment D

Certification of Compliance with the City of Burlington's Livable Wage Ordinance

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:

\_\_\_\_\_

Notary

ATTACHMENT F

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

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

Dated at \_\_\_\_\_, Vermont this \_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_

Duly Authorized Agent

Subscribed and sworn to before me: \_\_\_\_\_

Notary