

STATE OF VERMONT
CITY COUNCIL OF THE CITY OF BURLINGTON

In Re: Champlain Parkway
Project MEGC-M5000(1)
City of Burlington
County of Chittenden

The above-referenced matter came on for hearing before the City Council of the City of Burlington on May 21, 2018 at 7:00 p.m., following a site visit held on the same day at 5:30 p.m.

Upon consideration of the highway condemnation provisions contained in 19 V.S.A. Chapter 5 and 7, evidence and information presented by the City of Burlington (the "City") and project consultants, and the evidence and statements presented by other interested parties, the City Council sets forth its Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. The City proposes to complete a project formerly known as the "Southern Connector" and now called the "Champlain Parkway" in the City's Sound End.
2. The Champlain Parkway, also referred to herein as the "Parkway" or the "Project" is a proposed two-lane highway that would connect I-189 and U.S. Route 7/Shelburne Street to Lakeside Avenue, then follow Lakeside Avenue east and Pine Street north, terminating at Main Street in the City of Burlington.
3. The Parkway is depicted on a set of plans entitled "Proposed Improvement, Cities of Burlington and South Burlington, County of Chittenden, Burlington MEGC-M5000(1), (Southern Connector / Champlain Parkway)," dated April 18, 2018, Sheets 1 through 105 (the "Plans"). The Plans have been introduced by the City as **Exhibit 1**. *(Recorded and Shelved - see clerk) 6/6/18 RW#*
4. A set of descriptions ("Rights Descriptions") of the outstanding property interests necessary to complete the Project as described in the Plans has been introduced by the City as **Exhibit 2**. *(Recorded and attached hereto) 6/6/18 RW#*
5. The Parkway was subject to previous condemnation proceedings in which land and numerous rights were acquired. Moreover, the Vermont Agency of Transportation ("VTrans"), acting on the City's behalf, has worked to negotiate transfer of other land and rights. This proceeding addressed only the properties from which property rights were not obtained through previous necessity proceedings or negotiations.
6. The City of Burlington sent written notice of the site examination and necessity hearing by certified mail to interested persons at least 30 days prior to the hearing and by formal sheriff/constable service at least 12 days prior to the hearing to those who did not acknowledge and accept certified mail service. Notice was also sent to the City of Burlington Planning Commission c/o the Planning Department and was posted in the City of Burlington Clerk's

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Office and the Department of Public Works. Notice was also published in the *Burlington Free Press* and *Seven Days* on May 9, 2018.

7. Copies of the City Council's Citation/Notice, certified mail receipts reflecting the original certified mail notifications along with FedEx delivery confirmations where they were used, acceptances of service from individual property owners, proofs of service by sheriff or constable, and proof of publication have been introduced by City Staff as **Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, and Exhibit 7**, respectively.

8. The following City Council members and other persons appeared at the Site Visit on May 21, 2018:

City Councilors

Sharon Bushor
Richard Deane
Ali Dieng
Chip Mason
Karen Paul
Adam Roof
Joan Shannon
Max Tracy
Kurt Wright

Others

Andrea Proulx
Jim Shields
Abby Hogan
Chris Recchia
Jonathan Rose
Chapin Spencer
Norman Baldwin
Barbara Wynroth
Barbara McGrew
Tony Redington
Elizabeth Gribleoff
Bruce Melvin
John Benson
Katie Jickling
Judith Dillon
Bob Ramsden
Charlie Messing
Brian Dunkiel
Miro Weinberger
Richard Haesler
Kirsten Merriman Shapiro
Dale Gozalkowski

9. The following City Council members and other persons appeared at the Necessity Hearing on May 21, 2018:

City Councilors

Sharon Bushor
Richard Deane
Ali Dieng
David Hartnett

Others

Norman Baldwin
Frank Kochman
Judith Dillon
Cindy Hill

Jane Knodell
Chip Mason
Karen Paul
Adam Roof
Joan Shannon
Max Tracy
Kurt Wright

Barbara Wynroth
Kelly Devine

10. The following exhibits were entered into the record of this proceeding:
 - a. Exhibit 1 – Proposed Improvements, Cities of Burlington and South Burlington, County of Chittenden, Burlington MEGC-M5000(1), Southern Connector/Champlain Parkway, Sheets 1-105.
 - b. Exhibit 2 – Descriptions of property interests required to be condemned in order to complete the Project in accordance with the Plans.
 - c. Exhibit 3 – Citation/Notice issued by City Council
 - d. Exhibit 4 – Certified Mail Return Receipts
 - e. Exhibit 5 – Acceptances of Service
 - f. Exhibit 6 – Proof of Sheriff Service
 - g. Exhibit 7 – Proof of Publication of Citation/Notice
 - h. Exhibit 8 – Cooperative Agreement between State of Vermont Agency of Transportation and the City of Burlington for Advancement of Municipal Project Southern Connector/Champlain Parkway MEGC-M5000(1)/108 and Amendments #1-4.
 - i. Exhibit 9 – 2009 FHWA Record of Decision (identifying alternatives that had been considered).
 - j. Exhibit 10 – Findings of Fact, Conclusions of Law and Order Approving Application #4C0438-17 (Champlain Parkway) (Vermont Nat'l Res. Bd, Dist. 4 Env'tl. Comm'n Apr. 27, 2012)
 - k. Exhibit 11 – 2011 RSG Traffic and Safety Analysis
 - l. Exhibit 12 – 2013 CHA Traffic Study
 - m. Exhibit 13 – Champlain Parkway Assessment of Aesthetic Impacts, by Jean E. Vissering, Landscape Architect (March 2011)

- n. Exhibit 14 – Letter from Brendan B. O’Shea, Vermont Agency of Agriculture to Douglas Campbell, Stantec (July 6, 2010)

Findings of Fact

11. Based on the comments—verbal and written—of City Staff, public comments, and the exhibits presented at the hearing, the City Council makes the following findings of fact:

I. Purpose of the Project

12. As the City has grown from its late 18th century beginnings, its transportation infrastructure has not kept pace with development, resulting in a number of highway deficiencies. One of the most prominent deficiencies has been the evolution of a citywide street pattern with few north/south travel routes that are continuous.

13. This deficiency is particularly pronounced in the southern end of the City, on streets that carry traffic between the U.S. Route 7 (Shelburne Street) interchange on I-189 and the downtown area. The intersection of two Principal Arterial highways, I-189 and U.S. Route 7, as a focal point of traffic moving north and south, to and from the Burlington City Center District (“CCD”) and points east.

14. Shelburne Street is the northerly extension of U.S. Route 7 into Burlington. As it proceeds to the north at the intersection of St. Paul Street and South Union Street, Shelburne Street carries four lanes of traffic, plus turning lanes, for approximately two thirds of the distance between the I-189 interchange and the CCD.

15. The traffic volume on this section of Shelburne Street are on the order of 24,000 vehicles per day (two-way) based on VTrans Transportation Data Management System traffic data for 2011 and 2016. This section of Shelburne Street is also heavily developed with commercial properties, most of which have direct access to U.S. Route 7; therefore, traffic wishing to proceed into the CCD or through the City is heavily congested.

16. Motorists wishing to avoid the traffic on Shelburne Street often divert from this primary thoroughfare onto the local street network to bypass the congestion. This leads to greater congestion on local streets, including St. Paul Street, South Union Street, and South Winooski Avenue, which are smaller facilities in residential areas not suitable for high levels of through-traffic.

17. For example, both St. Paul Street and South Union Street are two-lane residential streets which begin at the Y-intersection at the northern end of Shelburne Street. South Union Street is narrower than St. Paul Street, does not provide direct access to the CCD, and is restricted to one-way, northbound traffic between King Street and Main Street. South Winooski Avenue, which diverges from St. Paul Street, is also a narrow, residential street, limited by one-way traffic restrictions.

18. As a result, St. Paul Street carries the majority of traffic between Shelburne Street and the CCD. However, St. Paul Street does not have adequate capacity for the traffic it is forced to carry.

19. Pine Street provides a continuous and direct route from the southern end of the City to the CCD. Beginning at its southern end at Queen City Park Road and continuing north to Flynn Avenue, Pine Street is a two-lane residential street. North of Flynn Avenue, however, the character of the area changes. With the exception of Jackson Terrace Apartments and the Champlain Elementary School, Pine Street is lined with commercial businesses and light industrial uses between Flynn Avenue and Kilburn Street. As Pine Street continues north to Main Street and the CCD, the area returns to a high-density residential neighborhood.

20. Therefore, Pine Street is highly desirable as an additional north-south route providing access between the CCD and points south.

21. The problem is that Pine Street has no efficient connection to the two principal arterials, I-189 and U.S. Route 7. Pine Street is only accessible by traffic migrating to and from Shelburne Street over local, residential streets such as Home Avenue, Lyman Avenue, Ferguson Avenue, Flynn Avenue, Birchcliff Parkway, Locust Street, and Howard Street. These local streets are not intended, nor do they have the capacity, to carry the volume of traffic diverted from the arterial or collector systems.

22. Moreover, the existing street pattern encourages the use of neighborhood streets by trucks due to the lack of alternative routings. This mix of traffic has created conflict and access concerns in the vicinity of the C-2 section neighborhoods and the King Street/Maple Street neighborhood, located at the northern end of Pine Street. These conditions have caused congestion and resulted in safety and neighborhood concerns throughout the southwestern quadrant of the City.

II. Project History/Consideration of Alternatives

23. The Parkway has a long history of review and study, dating back to the 1960s. Numerous local and state-sponsored transportation analyses have been conducted, evidencing a long-term recognition of a transportation deficiency and a meticulous, detailed effort to respond to that deficiency.

24. In 1965, the Vermont Department of Highways (VTrans' predecessor) published a study recommending construction of a Burlington Belt Line that would have consisted of a four-lane freeway running the entire length of the City. Ultimately, the City determined that the full Belt Line was too large and disruptive to pursue, but the City was still interested in improving access to the CCD (then known as the "Central Business District") from the south, and continued to consider building a section of the Belt Line from I-189 to Main Street.

25. In 1974, a consultant to the City proposed a four-lane, undivided street with at-grade intersections. A section of new road way was proposed to connect I-189 with Pine Street north of Flynn Avenue. Pine Street would then be widened and a new roadway would diverge from Pine Street at Pine Place and connect with the southern end of Battery Street. This new conceptual design was renamed the Southern Connector.

26. In 1976, the Federal Highway Administration ("FHWA"), in consultation with VTrans, agreed to prepare an Environmental Impact Statement ("EIS") in accordance with the

National Environmental Policy Act (“NEPA”) to address the latest proposal. Review under NEPA was necessary because of the federal funding involved in the Project.

27. In connection with efforts to prepare a Draft Environmental Impact Statement (“DEIS”), geotechnical borings were extracted in areas adjacent to the Pine Street Barge Canal. Those borings encountered traces of oil, leading the Environmental Protection Agency (“EPA”) to suggest further environmental analysis.

28. A Final Environmental Impact Statement (“FEIS”) was completed in July 1979 and approved by FHWA.

29. In the late 1980s, under the authority of the FEIS, the C-1 section¹ of the project was nearly completed. However, during project development, coal gasification waste was recorded at the Pine Street Barge Canal site. Due to the presence of that waste, and the potential for further contamination, the site was proposed for inclusion on EPA’s first National Priorities List (“NPL”) of hazardous waste sites. The site then became known as the Pine Street Barge Canal Superfund Site.

30. Development of a remediation plan for the Pine Street Barge Canal Superfund Site delayed further construction of the C-2 and C-6 sections, and the C-1 section has never been opened to the public.

31. During the late 80s, VTrans began studying interim routing alternatives for the Project that would bypass the Pine Street Barge Canal Superfund Site, while providing an interim facility to address the short-term purpose and need of the Project. This effort identified alternatives using Lakeside Avenue and Pine Street as the primary transportation corridor.

32. In January 1995, VTrans and FHWA began preparing a Supplement Environmental Impact Statement (“SEIS”) focused on documenting the impacts associated with an interim routing of traffic around the Pine Street Barge Canal Superfund Site.

33. In February 1997, VTrans prepared a Final Supplemental Environment Impact Statement (“FSEIS”) in which it selected a preferred interim alternative which would route traffic around the Pine Street Barge Canal Superfund Site. FHWA issued a Record of Decision approving the selected interim alternative in August 1997.

34. In March 2002, in response to public comments, the City formalized its efforts to modify the 1979 selected alternative and the 1997 selected interim alternative to blend the roadway design into the surrounding neighborhoods. Specifically, the roadway typical section would be reduced from a four-lane roadway to a two-lane roadway, and the City and VTrans agreed to formally abandon the C-8 section through the Pine Street Barge Canal Superfund Site and designate the C-1 section, C-2 section, and C-6 section as the permanent alignment for the Project.

¹ See Part III.A below for a detailed description of each of the three contract sections (referred to as the C-1, C-2, and C-6 sections) of the Project.

35. In August 2003, the City, VTrans, and FHWA began to develop a new Supplemental EIS to facilitate and accomplish the modifications to the Project.

36. In October 2005, VTrans recommended that the City consider an alternative that would consist of the C-1 and C-2 sections only, with improvements on Lakeside Avenue to Pine Street. This alternative would consider minor operational improvements within the existing Pine Street right-of-way from Lakeside Avenue to Main Street.

37. The following month, the City Council passed a resolution supporting evaluation of VTrans's recommended alternative.

38. Over the next several years, the City, VTrans, and FHWA circulated another set of Draft and Final Supplemental Environmental Impact Statements for public and agency comment. The Draft SEIS was submitted in October 2006 and the Final SEIS was submitted in September 2009.

39. Finally, on January 13, 2010, FHWA issued a Record of Decision ("ROD") identifying the Selected Alternative. The City introduced a copy of the ROD into the record of this hearing as **Exhibit 9**. The ROD summarizes all the various design alternatives that the City, VTrans, and FHWA had considered over the years, and addresses the relative strengths and weaknesses of each as well as the reasons FHWA chose the Selected Alternative. The current design of the Project is based on FHWA's 2009 Selected Alternative. The alternatives considered included:

- a. A "no-build" alternative, in which no further construction would occur. This alternative would not satisfy the purpose or need for the project.
- b. A solution that would improve transportation systems in the city but without further construction but This option ultimately was not considered a reasonable response to the problems identified in the purpose and need.
- c. The original, four-lane design that would pass through the Pine Street Barge Canal area and connect with Battery Street. This option was considered a "null" alternative because it was the Selected Alternative from the 1979 Final Environmental Impact Statement and was therefore the operative alignment until the new selection process. It was rejected due to excessive environmental impacts and complexities arising out of the Barge Canal area.
- d. A two-lane version of the original design passing through the Pine Street Barge Canal. This option would mitigate somewhat the environmental concerns of the four-lane design, but many of the same impacts and complexities would remain.
- e. A version that would incorporate the already-constructed C-1 section, construct a new C-2 section to be known as the Champlain Parkway from Home Avenue to Lakeside Avenue, and a C-6 section that would result in improvements to Pine Street, including new turning lanes and improvements to the northern end of Pine Street to address traffic issues there. Further detail about its design is included below.

- f. Construction of only the C-1 and C-2 sections. This would involve reconstruction of the C-1 section as a two-lane roadway, and construction of a two-lane version of the C-2 section from Home Avenue to Lakeside Avenue. Unlike the selected alternative, however, this alternative did not incorporate improvements to the north end of Pine Street and was rejected because it would result in unacceptable levels of traffic in the area of Maple and King Street.
- g. Construction of C-1, C-2, and C-6 sections with one-way street patterns. This alternative would include construction of the C-1 section and the C-2 section, reconstruction of Pine Street from Lakeside Avenue to Pine Place, and construction of a new roadway from the southern end of South Champlain Street to Pine Street in the vicinity of Pine Place. Pine Street would become one-way northbound between Kilburn Street and Main Street. South Champlain Street would become one-way southbound between Main Street and Pine Street. Maple Street (eastbound) and King Street (westbound) would form a one-way pair between Battery Street and Pine Street. The need to provide only one travel lane within the existing curblines would allow for dedicated bicycle lanes and on-street parking lanes. The South Champlain Street extension would impact Curtis Lumber's current business operations and facility located on Pine Street. The former Burlington Street Department property would also be impacted. The alternative was not selected because of the right-of-way, socioeconomic, historic area and railyard impacts, and complexities it would create.

III. Attributes of the Project

A. General Description

40. The purpose of the Project is to improve access from the vicinity of the interchange of I-189 and U.S. Route 7/Shelburne Street to the Burlington City Center District ("CCD") and the downtown waterfront area, and to improve circulation and safety on local streets in the Project area, alleviate capacity overburdens, and provide traffic relief in the southwestern quadrant of the City.

- 41. The main components of the Parkway are:
 - a. Reconstruction of the southernmost section of the Parkway to reduce the roadway width to accommodate two lanes of travel and transition from I-189 to a city street.
 - b. Construction of a new roadway between Home Avenue and Lakeside Avenue for one lane of motorized vehicular travel in each direction with turning lanes and traffic signals at major intersections.
 - c. Full-depth reconstruction of Lakeside Avenue from the intersection of the Parkway to Pine Street.
 - d. Resurfacing of Pine Street.

- e. Construction of a new shared-use path in two locations: along the northern side of the Parkway between Shelburne Street and Pine Street, and from Home Avenue to Lakeside Avenue along the eastern side of the Parkway, the northern side of Lakeside Avenue, and the western side of Pine Street at its terminus at the Pine Street and Kilburn Street intersection.
- f. New and reconstructed sidewalks along the eastern side of Pine Street from Lakeside Avenue to Main Street, and along the western side of Pine Street, from the terminus of the shared-use path to Main Street.
- g. Exclusive pedestrian phases with pedestrian-activated signals for pedestrian crossings at all intersections with traffic signal controls.
- h. Replacement of four-way stop signs with new traffic signals at the intersections of Pine Street with Maple Street and King Street.
- i. New stormwater infrastructure in various locations throughout the Parkway to ensure that there will be no net loading of pollutants to the receiving waters as a result of the Parkway.

42. In October 1998, and pursuant to 19 V.S.A. § 10c(e), the City and VTrans entered into a Cooperative Agreement for the Parkway detailing cost-sharing and other obligations. A copy of the Cooperative Agreement, along with four executed amendments, has been introduced into the record by the City as **Exhibit 8**.

43. The Cooperative Agreement provides that the City and VTrans are to work cooperatively to secure the “acquisition of lands or rights outside of the existing municipal rights-of-way” required for the Parkway. In an attached Right-of-Way Agreement, VTrans agreed to take the lead in attempting to secure land and rights by option agreement. In the event all necessary rights were not acquired, however, the City was responsible for securing those land and rights through condemnation.

44. The Parkway is to be funded primarily with 98% federal and state funds, and 2% City funding.

45. The Parkway has been divided into several construction contracts, representing sections or portions of the entire project. These sections are referred to as the C-1, C-2, and C-6 sections and are described as follows:

- a. The C-1 Section consists of reconstruction of the I-189/Shelburne Street (U.S. Route 7) interchange, and construction of the Parkway to approximately Home Avenue for a length of approximately 0.6 miles. This section was previously constructed as a four-lane roadway, but never opened to traffic. Its current design calls for a two-lane highway serving as a transition from the end of I-189 to the rest of the Parkway.
- b. The C-2 Section begins at the northern end of the C-1 Section, near Home Avenue, and extends northerly for a length of approximately 0.7 miles, as far as

Lakeside Avenue. A four-lane concept for this portion of the project was previously designed, and the right-of-way acquisition limits that corresponded to that design have been acquired.

- c. The C-6 Section begins at the end of the C-2 Section (there are no C-3, C-4, or C-5 sections) at Lakeside Avenue, and proceeds easterly along Lakeside Avenue to Pine Street. It then runs along Pine Street northerly to the intersection with Main Street.

B. Scenic/Recreational Attributes

46. Aesthetic impacts of the Project were examined in detail in connection with Act 250 land use permitting proceedings in 2011. The City has introduced a copy of its expert report on project aesthetics into the record as **Exhibit 13**.

47. In general, aesthetic impacts will be mostly positive throughout the project right-of-way. The Parkway includes a new, continuous shared-use path from the existing bike path at Home Avenue all the way to Kilburn Street, resulting in improved recreational opportunities along most of the length of the Parkway.

48. Moreover, landscaping and roadway improvements will improve the appearance of much of the Parkway right-of-way, which again, primarily sits in the location of existing road.

49. New pocket parks will be incorporated into the intersection of the Champlain Parkway at Flynn Avenue.

50. One area where adverse aesthetic impacts may result is the segment of the Parkway from Home Avenue to Flynn Avenue, where a new roadway is to be constructed and will be visible from approximately 15 homes in this area. However, greenbelts along both sides of the Parkway and tree plantings in the area will reduce visual impacts in that area, and new recreational opportunities are provided by the shared-use path.

C. Safety Considerations

51. Traffic and safety studies were completed by project consultants in connection with Act 250 proceedings in 2011 and 2013. Copies were introduced into the record by the City as **Exhibits 11** and **12**. As those studies indicate, the Parkway includes a variety of safety improvements associated with changes and enhancements to traffic patterns, geometric design, traffic control, and Complete Streets features.

52. The Parkway will result in significant diversion of traffic away from local neighborhood streets.

53. Traffic calming improvements (including bulbouts, intersection tables, and corner radius improvements) are included at various locations. The speed limit on the Parkway in advance of Home Avenue has been decreased to 25 miles per hour.

54. The Parkway includes a variety of new pedestrian and bicycle accommodations, including new or improved sidewalks, shared-use paths, on-road bicycle accommodations, transit shelters, and crosswalk and mid-block crossing enhancements.

55. The Parkway will provide a number of traffic control system improvements as well, including coordinated traffic signal systems, emergency vehicle preemption, transit signal priority, and exclusive pedestrian phasing.

56. Improved street lighting will be included at various locations along the Parkway.

57. The Parkway will also include highway-railroad grade crossing improvements at Home Avenue, Flynn Avenue, Sears Lane, Maple Street and King Street.

D. Utility Upgrades

58. Municipal sewer and water are being replaced at Home Avenue, Flynn Avenue, Sears Lane, and Lakeside Avenue to avoid conflicts with the new roadway construction as well as to provide long-term replacement of existing lines that range in age from 50-100 years so that the new roadway is not impacted by failures of old aged utilities underneath it. Also, at each of these crossings aerial power and communications lines will be installed underground in concrete-encased duct banks so that there will be no aerial overhead crossings of power and communication lines.

E. Environmental Issues

59. The project involves a comprehensive stormwater management plan that provides treatment at various locations for both the new impervious areas as well as treatment for a certain amount of existing impervious area. The proposed improvements are estimated to reduce the current sediment load to Lake Champlain by over 5,000 pounds per year. The City has received both construction and operational stormwater permits for the project.

60. As is the case with any major highway project, construction activities could result in temporary noise increases along affected roadways. Actual noise levels and duration would depend on the type and extent of each construction activity. Time of day restrictions on construction activity may be used to mitigate construction noise effects in the vicinity of residential areas in accordance with the City of Burlington's noise ordinances.

61. No air pollution permits are needed for the Parkway, nor will it produce any industrial or process emissions. The only air pollution sources will be the vehicles using the Parkway. Air quality impacts during the construction period would include emissions of carbon monoxide (CO), nitrogen oxide (NO_x), non-methane hydrocarbons (NMHC), and particulate matter from diesel- and gasoline-powered construction machinery. Emissions from this equipment may result in temporary elevated ambient concentrations of these pollutants for short periods of time in the vicinity of the equipment but is not expected to have an impact outside the construction area.

62. Moreover, with the Parkway constructed, there will be a decrease in the average air pollution exposure per residence within the transportation network. About twice as many

residences (including those in the King and Maple Street neighborhoods at the northern end of the Project) will see a decrease in air pollution as will see an increase in air pollution. Also, air pollution concentrations will be reduced around the Champlain Elementary School once the project is constructed.

63. Construction of the Parkway will impact only one significant (i.e., Class II) wetland and associated buffer zone. The City has obtained a permit from the Agency of Natural Resources, however, finding that the Parkway as proposed will not result in any undue, adverse impacts to the protected values and functions of that wetland, and the City is required to take precautionary measures to protect the wetland during construction. The City is also working with the U.S. Army Corps of Engineers to obtain appropriate permits for other, non-jurisdictional wetlands that may be affected.

64. In coordination with the Vermont Department of Environmental Conservation (“DEC”), the City and VTrans have pre-characterized soils that will be encountered during construction and are developing a corrective action plan (“CAP”) that will dictate appropriate soil management criteria. Soils within the Parkway will be managed in accordance with the DEC-approved CAP. The CAP will outline which soils can be reused, which should be disposed of offsite, and how soils should be handled within the Parkway project area during and after construction.

65. The Parkway right-of-way does not contain any soils capable of supporting or contributing to an economic or commercial agricultural operation. The City introduced a letter from the Vermont Agency of Agriculture confirming this fact as **Exhibit 14**.

Findings of Fact Based on Public Comments

66. Based upon comments of individuals attending the public hearing, the City Council makes the following additional findings:

- a. Barbara Wynroth spoke at the public forum and expressed a general concern that the Parkway as a whole was not necessary.
- b. Kelly Devine of the Burlington Business Association expressed the Association’s general support for the Project.
- c. Attorney Frank Kochman spoke on behalf of interested party HowardCenter, Inc. (“Howard Center”). He stated that he was asserting Howard Center’s objection to necessity to preserve its rights in the event that ongoing negotiations between VTrans and the Howard Center did not result in an agreement regarding Howard Center’s property (parcel 217). He did not offer any specific concerns relating to the necessity of the Parkway.
- d. Attorney Judith Dillon spoke on behalf of her client, Fortieth Burlington, LLC, which owns property located at 128 Lakeside Avenue. Lakeside Avenue is located adjacent to an existing right-of-way, and no property interests are to be taken during this proceeding from this property. Attorney Dillon stated that her client was entitled to individualized notice of the site visit and hearing, and that

because the City did not provide such individual notice any action taken by the City Council would be null and void. Attorney Dillon also expressed concern about the timing of the City Council's preparation of the formal notice of the proceeding. Attorney Dillon also stated that there has been no evidence demonstrating necessity for the project, and that necessity for the project in its entirety is required by the statute, not just the need for specific land for the project.

- e. Attorney Cindy Hill said that she represents the Pine Street Coalition, a group of individuals who live, work, and enjoy neighborhoods around Pine Street. She agreed with and adopted all of Attorney Dillon's comments as her own for her clients.

CONCLUSIONS OF LAW

1. The City has complied with all statutory requirements concerning warning, notification, and conduct of a public hearing and examination of affected property for determining the public good, necessity, and convenience for the Champlain Parkway.

2. In determining whether the public good, necessity, and convenience require the Champlain Parkway as detailed above in the Findings of Fact and as depicted on the Plans, the City Council is to be guided by the definition of necessity set forth in 19 V.S.A. § 501(1).² Under this statute, necessity is defined as

a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by expense or convenience to the condemning party. Necessity includes a reasonable need for the highway project in general as well as a reasonable need to take a particular property and to take it to the extent proposed. In determining necessity, consideration shall be given to the:

- (A) adequacy of other property and locations;
- (B) quantity, kind, and extent of cultivated and agricultural land which may be taken or rendered unfit for use, immediately or over the long term, by the proposed taking;
- (C) effect upon home and homestead rights and the convenience of the owner of the land;
- (D) effect of the highway upon the scenic and recreational values of the highway;

² This necessity standard from § 501(1) is incorporated in the municipal condemnation standard by 19 V.S.A. § 740(b).

- (E) need to accommodate present and future utility installations within the highway corridor;
- (F) need to mitigate the environmental impacts of highway construction; and
- (G) effect upon town grand lists and revenues.

3. “Necessity” has been described by the Vermont Supreme Court as something less than absolute necessity. In other words, necessity “does not mean an imperative, indispensable or absolute necessity but only that the taking be reasonably necessary to the accomplishment of the end in view under the particular circumstance.” *Cersosimo v. Town of Townshend*, 139 Vt. 594, 597 (1981).

4. The City Council must also consider public safety in determining whether necessity exists. *See State v. Hazen*, 126 Vt. 46, 51 (1966) (“Safety is critical but perfection is not required to justify the necessity of the taking.”). “Where the volume and nature of traffic is such that public safety requires under the circumstances that the road be constructed, or reconstructed, at a given location, a reasonable necessity exists, and a taking of land is justified, if reasonable in light of all the concurring circumstances.” *State Highway Bd. v. Jackson*, 129 Vt. 288, 297-98 (1971).

5. In rendering its decision, the City Council makes the following conclusions as to the statutory factors:

a. Adequacy of other property and locations.

As outlined above, the current Project design and the right-of-way location are the result of decades of planning and consideration by local, state, and federal authorities. Numerous studies and analyses have been conducted by the City to determine the most appropriate Parkway route, taking into account traffic, safety, aesthetic, environmental, and a host of other considerations, and numerous Environmental Impact Statements have been prepared addressing potential alternatives.

Most of the Project lies largely within existing highway rights-of-way and placing the Project in the currently selected right-of-way will not necessitate the taking of anything more than temporary and permanent easements. The City has no trouble concluding that the current design reflects the most appropriate—and, in fact, optimal—location for the Parkway in view of the purposes and needs outlined in the findings of fact above.

b. Quantity, kind, and extent of cultivated and agricultural land which may be taken or rendered unfit for use, immediately and over the long term, by the proposed taking.

No cultivated or agricultural land will be taken as part of the Project.

c. Effect upon home and homestead rights and the convenience of the owner of the land.

No homestead rights will be taken in order to complete the Project. The rights necessary to construct the Project are in the nature of easements. The location of the easements is generally adjacent to the existing highway right-of-way and in fact, the vast majority of the Project is located within existing rights-of-way.

The property interests that need to be acquired for the Project generally consist of temporary construction easements and permanent easements for necessary improvements and construction of a shared-use path. Certain of these easements will result in an aesthetic change to the property but the easements will not materially interfere with or impact any homestead rights.

d. Effect of the highway upon the scenic and recreational values of the highway.

Overall, the Project will create an improved aesthetic throughout the Project area. The Project includes a new, continuous shared-use path through most of its length, resulting in increased recreational opportunities. Landscaping and roadway improvements will improve the appearance of the existing corridor, and new pocket parks will be incorporated at the new intersection of the Champlain Parkway and Flynn Avenue. Undergrounded utilities and new lighting will create a more harmonious streetscape throughout much of the Project. Greenbelts and tree planting will help to mitigate any adverse aesthetic effects in the Home Avenue to Lakeside Avenue segment, where a new roadway is to be constructed.

The City Council concludes that the Project supports and will enhance scenic and recreational values in the Project corridor.

e. Need to accommodate present and future utility installations within the highway corridor.

As noted in the Findings of Fact above, the plans for the Parkway include a number of utility improvements and replacements such that the newly-constructed roadway is not compromised by existing old age utilities in the Project corridor. Also, undergrounding of utilities along a portion of the Project corridor, improved lighting in all areas, and upgrades to municipal sewer and water facilities at Home Avenue, Flynn Avenue, Sears Lane, and Lakeside Avenue. The City Council concludes that the utility improvements associated with the Project are sufficient to support present and future utility needs within the Project corridor.

f. Need to mitigate the environmental impacts of highway construction.

As outlined above, the Project involves significant environmental improvements in the form of new stormwater infrastructure and decreases in air pollution (as a result of diversion of traffic) from the most sensitive areas. Steps are being taken to control and mitigate adverse impacts resulting from construction, in the form of stormwater and wetlands permitting, and a CAP to address handling of project soils.

The City Council concludes that the Project will result in an overall environmental improvement compared with existing conditions. To the extent the Project creates any new environmental impacts, the impacts have been adequately mitigated.

g. Effect upon town grand lists and revenues.

The Project is consistent with the City's efforts to support and promote economic growth. Because no structures will be condemned and only (again, mostly temporary) easement interests will be condemned for use by the Project, and because the Project is to be funded primarily with federal and state funds, there will be little if any impact on the City's grand list or tax rate resulting from the condemnation. In fact, the City Council expects the Parkway to act as an economic driver that will help to raise tax revenues. Therefore, the City Council concludes that the Project will most likely have a positive impact on grand list value and overall revenues.

6. The City Council must also consider the "greatest public good and the least inconvenience and expense to the condemning party and to the property owner." 19 V.S.A. § 501(1). The City Council concludes that the greatest public good is served by completion of the Project in its current form. The need to mitigate traffic and safety concerns on Shelburne Street, Pine Street, local neighborhoods in the Home Avenue area, and to alleviate traffic burdens and congestion on St. Paul and Union Streets and South Winooski Avenue has been evident for decades, and the current design of the Parkway represents the most viable option for addressing those needs. Local, state, and federal authorities have been studying various design options and project layouts for decades as well, and the City Council agrees with outcome of those assessments that the current Project layout is reasonably necessary to satisfy the needs identified above. The design of the Project includes a variety of elements that will improve safety, aesthetics, and recreational opportunities within existing corridors and will represent a significant improvement over the design of existing roadway facilities.

Moreover, the interests to be taken in this proceeding take the form mainly of minor temporary construction easements or permanent easements for improvements related to the Project. None will have a major impact on the property owners or interested persons. Indeed, at the hearing, only one interested person expressed a concern about the property rights to be taken, and that was limited to a general objection meant to preserve his rights while negotiations were ongoing. Therefore, the City Council finds and concludes that the "greatest public good and the least inconvenience to the condemning party and to the property owner" support the taking of the interests identified in **Exhibit 2**.

7. The City Council must also consider that "[n]ecessity includes a reasonable need for the highway project in general as well as a reasonable need to take a particular property and to take it to the extent proposed." 19 V.S.A. § 501(1). As explained above, the City Council concludes that there is reasonable need for the Project in general. The Plans detail temporary and permanent easement interests required to complete the Project, and those interests are detailed in **Exhibit 2**. The City Council is satisfied that, in support of the Project, there is a reasonable need to take the interests described and depicted on the Plans and in **Exhibit 2**.

8. Considering the legal standard for determining necessity set forth above and the facts as found above, the City Council concludes that there is a reasonable necessity to undertake the Champlain Parkway Project as described herein and as set forth on the Plans. The Project meets the necessity requirement set forth in applicable statutes and further refined in case law.

ORDER

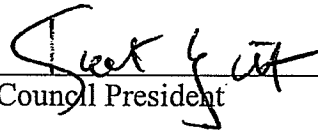
WHEREFORE, it is hereby ordered, adjudged, and decreed:

1. That the lands and rights described in the Plans and Rights Descriptions referred to in these Findings of Fact, paragraphs 3, 4, and 9, and Exhibit 2, are hereby condemned pursuant to Title 19, Vermont Statutes Annotated, Chapter 7.
2. That the Plans mentioned above in Findings of Fact, paragraphs 2 and 9, shall forthwith be recorded in the City of Burlington Land Records and shall constitute the premises survey required by 19 V.S.A. § 710.
3. That the City of Burlington with the assistance of the Agency of Transportation shall proceed forthwith to determine whether any person through whose land this highway improvement passes or abuts is entitled to damages, and, if so, the amount of said damages.
4. That this City Council shall, after all damages are determined and tendered, fix the time for affected property owners to vacate the lands taken for this highway improvement project.

This Order consisting of pages 1 through 17 is approved and issued at Burlington, Vermont this 6th day of June, 2018.

BURLINGTON CITY COUNCIL

By:



Council President

THIS ORDER MAY BE APPEALED PURSUANT TO 19 V.S.A. § 740 AND RULE 74 OF THE VERMONT RULES OF CIVIL PROCEDURE TO THE SUPERIOR COURT, CIVIL DIVISION, CHITTENDEN UNIT WITHIN 30 DAYS AFTER THE ORDER OF THE CITY COUNCIL IS RECORDED IN THE BURLINGTON LAND RECORDS. THE DATE THIS ORDER IS RECORDED IN THE BURLINGTON LAND RECORDS IS 6/6/2018.

Burlington MEGC M 5000(1) – Parcels 51F & 51G

Rights and easements required from the State of Vermont, Lessor and Vermont Railway, Inc., Lessee:

Being part of the same land and premises conveyed to the State of Vermont by the Quit Claim Deed of Rutland Railway Corporation, dated January 1, 1964 and recorded in Book 151, Pages 566-567 of the City of Burlington Land Records and being more particularly described as follows:

Being Parcels 51F and 51G, consisting of permanent easements as shown on right of way detail sheet 1 and right of way layout sheets 20 and 24 of the plans of Transportation Project Burlington MEGC M 5000(1) (“the Transportation Project”) to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A permanent easement to install, construct, maintain and service a shared use path for use by the general public in an area of 586 square feet, more or less, right of and between approximate stations 25+65.74 and 26+37.76 of the Home Avenue centerline of the Transportation Project.

A permanent easement to install and maintain a sidewalk for use by the general public, in an area of 389 square feet, more or less, left of and between approximate stations 20+12.92 and 20+94.25 of the Flynn Avenue centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record, including (but not limited to) the September 19, 1990 Lease Between the State of Vermont, Lessor, and Vermont Railway, Inc., Lessee, which is recorded in the Burlington land records at Book 422, Page 631, having been received for record on October 1, 1990, as amended.

The City’s interest in the property herein conveyed automatically will terminate in the event the property ceases to be used for public purposes, in which event the property will revert to Grantor State of Vermont.

Rights and easements required from HowardCenter, Inc. (f/k/a the Howard Center for Human Services, Inc.), and Merchants Bank, Mortgagee, and Chittenden Trust Company, n/k/a People's United Bank, Mortgagee:

Being a part of the same land and premises conveyed to the Vermont Non-Profit Corporation now known as HowardCenter, Inc. by the following deeds:

1. Warranty Deed from A. O Ferguson and C.W. Scarff, to the Home for Destitute Children, dated March 22, 1884 and recorded in Book 41, Page 260 of the old Land Records of the Town of Burlington;

2. Administrator's Deed from the Estate of Hiram N. Ballard, Administrator, to the Home for Destitute Children, dated December 29, 1883 and recorded in Book 19, Page 367 of the old Land Records of the Town of Burlington;

3. Treasurer's Deed from the United States of America to the Home for Destitute Children, dated July 27, 1867 and recorded in Book 3, Pages 458-459 of the old Land Records of the City of Burlington;

4. Warranty Deed from Fred S. Gore, to the Home for Destitute Children, dated May 15, 1933 and recorded in Book 12, Page 196 of the City of South Burlington Land Records;

5. Quit Claim Deed from Central Vermont Railway, Inc. to the Children's Home, Incorporated, dated September 9, 1959 and recorded in Book 151, Page 220 of the City of Burlington Land Records;

6. Quit Claim Deed from Donald E. Evans and Mary L. Evans to the Children's Home, Incorporated, dated September 11, 1958 and recorded in Book 151, Page 147 of the City of Burlington Land Records; and

7. Quit Claim Deed from George E. Partridge and Beth Partridge to the Children's Home, Incorporated, dated September 8, 1958 and recorded in Book 151, Page 145 of the City of Burlington Land Records.

The Children's Home Incorporated is the successor-in-interest to the Home for Destitute Children. The Baird Center for Children and Families, Inc. is the successor-in-interest to the Children's Home Incorporated. The Baird Center for Children and Families, Inc. merged into the Howard Center For Human Services, Inc., as evidenced by a Certificate of Merger dated July 1, 1994 and recorded in Book 550, Page 116 of the City of Burlington Land Records. The Howard Center for Human Services, Inc. changed its name to HowardCenter, Inc. as evidenced by Articles of Amendment dated April 19, 2007 and filed on April 23, 2007 with the Corporations Division of the Office of the Vermont Secretary of State.

The above-referenced property is more particularly described as follows:

Rights and easements required from HowardCenter, Inc. (f/k/a the Howard Center for Human Services, Inc.), and Merchants Bank, Mortgagee, and Chittenden Trust Company, n/k/a People's United Bank, Mortgagee (continued):

Being Parcel 217, consisting of permanent and temporary easements as shown on right of way detail sheet 1 and right of way layout sheets 12 and 15 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A permanent easement to install, construct, maintain and service a shared use path for use by the general public in an area of 789 square feet, more or less, between and left of approximate station 13+44.48 and right of approximate station 14+52.50 of the established centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, for construction purposes, including the right to cut and dispose of all trees, down timber, stubs, brush, bushes, and debris and install project demarcation fence and erosion control barriers, as necessary and as noted on the project plans and undertake general construction functions: in an area of 526 square feet, more or less, left of and between approximate stations 13+60 and 14+42; in an area of 384 square feet, more or less, right of and between approximate stations 13+79 and 14+25; and in an area of 4 square feet, more or less, left of and between approximate stations 14+55 and 14+61; all stations are of the established centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments: in an area of 72 square feet, more or less, left of and between approximate stations 13+89 and 14+15; in an area of 100 square feet, more or less, left of and between approximate stations 13+93 and 14+12; and in an area of 9 square feet, more or less, left of and between approximate stations 14+29 and 14+42; all stations are of the established centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

A temporary easement to enter upon land of the grantor during the period of construction, to remove a fence, right of and between approximate stations 3+53 and 3+78 of the Pine Street centerline of the Transportation Project.

A temporary easement to enter upon land of the grantor during the period of construction, to remove and reset a fence, right of and between approximate stations 4+21 and 4+47 of the Pine Street centerline of the Transportation Project.

Burlington MEGC M 5000(1) - Parcel 217

Rights and easements required from HowardCenter, Inc. (f/k/a the Howard Center for Human Services, Inc.), and Merchants Bank, Mortgagee, and Chittenden Trust Company, n/k/a People's United Bank, Mortgagee (continued):

The herein-conveyed rights and easements are in addition to those land and easements conveyed to the City of Burlington by the Easement Deed of the Baird Center for Children and Families, Inc., dated December 20, 1989 and recorded in Book 411, Pages 130-133 of the City of Burlington land records, as the same were modified by the Recreation Path Easement Relocation Agreement dated September 12, 2002 and recorded in Book 767, Page 650-653 of the City of Burlington land records.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from Donald Lee Lafontaine and Julie D. Lafontaine, and Academy Mortgage Corporation, Mortgagee:

Being part of the same land and premises conveyed to Donald Lee Lafontaine and Julie D. Lafontaine by the Warranty Deed of Kim S. Bolger (f/k/a Kim S. Sherwood) and Carl A. Bolger, dated July 31, 2014, which is recorded in Book 1255, Pages 125-126 of the City of Burlington land records, and being more particularly described as follows:

Being Parcel 224, consisting of temporary easements as shown on right of way detail sheet 2 and right of way layout sheet 21 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A temporary easement to enter upon land of the Grantors, during the period of construction, to remove fence, right of and between approximate stations 4+06 and 4+33 of the Batchelder Street centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantors, during the period of construction, to install project demarcation fence, right of and between approximate stations 4+13 and 4+35 of the Batchelder Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from Rieley Properties, LLC:

Being part of the same land and premises conveyed to Rieley Properties, LLC by the Quit Claim Deed of Sheldon C. Rieley and S. Scott Rieley, dated February 13, 2003, which is recorded in Book 786, Pages 293-294 of the City of Burlington land records, and being further described as follows:

Being all and the same land and premises conveyed to Sheldon C. Rieley and S. Scott Rieley by the Warranty Deed of Vernita Trotman, dated October 15, 2001 and recorded in Book 701, Pages 301-302 of the City of Burlington land records, and being more particularly described as follows:

Being Parcel 225, consisting of temporary easements as shown on right of way detail sheet 2 and right of way layout sheet 21 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A temporary easement to enter upon land of the Grantor, during the period of construction, to remove trees and a garden, right of and between approximate stations 20+71 and 20+85 of the Morse Place centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments in an area of 9 square feet, more or less, right of and between approximate stations 20+85 and 20+96 of the Morse Place centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

A temporary easement to enter upon land of the Grantor, during the period of construction, to install project demarcation fence, right of and between approximate stations 20+85 and 21+42 of the Morse Place centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from Cumberland Farms, Inc. and Bank of America, N.A.. Mortgagee and State of Vermont (UST notification & permit):

Being a part of the same land and premises conveyed to Cumberland Farms, Inc. by the following instruments:

1. Warranty Deed of Casella Waste Management, Inc. to Cumberland Farms, Inc., dated May 2, 2002, which is recorded in Book 734, Pages 367 and 368;
2. Warranty Deed of the Vermont Justin Corporation to Cumberland Farms, Inc., dated December 30, 1986, which is recorded in Book 352, Pages 227-229;

both of the City of Burlington Land Records, and being more particularly described as follows:

Being Parcel 604, consisting of a permanent easement and temporary easements as shown on right of way detail sheet 4 and right of way layout sheets 28 and 30 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A permanent easement for constructing, maintaining, and servicing a highway, in an area of 1,599 square feet, more or less, located right of and between approximate stations 112+50± and 114+27.45 of the Lakeside Avenue centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, to install project demarcation fence: in an area of 127 square feet, more or less, right of and between approximate stations 112+58 and 112+86 of the Lakeside Avenue centerline of the Transportation Project; and in an area of 392 square feet, more or less, between a point at or near and right of approximate station 113+41 of the Lakeside Avenue centerline of the Transportation Project and between a point at or near and left of approximate station 13+10 of the Pine Street centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to construct a drive, including curb and any associated slope work necessary for the construction of the drive, in an area of 442 square feet, more or less, right of and between approximate stations 112+81 and 113+50 of the Lakeside Avenue centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments in an area of 122 square feet, more or less, between and right of approximate station 113+50 and left of approximate station 14+07 of the Pine Street centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from Group Five Investments, LLC:

Being part of the same land and premises conveyed to Group Five Investments, LLC by the Warranty Deed of Jackson Terrace Apartments, LLC, dated February 29, 2016, which is recorded in Book 1301, Pages 357-360 of the City of Burlington land records, and being further described as follows:

Being Parcel 610, consisting of temporary easements as shown on right of way detail sheet 4 and right of way layout sheets 31 and 32 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easement and/or right is conveyed:

A temporary easement to enter upon land of the Grantor, during the period of construction, to install a turbidity curtain, at or near and left of approximate station 1+49 of the Locust Street centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to install project demarcation fence, in an area of 1,752 square feet, more or less, right of and between approximate stations 21+56 and 27+70 of the Pine Street centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to construct a drive, including any associated slope work necessary for the construction of the drive, in an area of 101 square feet, more or less, right of and between approximate stations 27+73 and 27+95± of the Pine Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from the Maltex Partnership:

Being part of all and the same land and premises conveyed to the Maltex Partnership by the Warranty Deed of G.S. Blodgett Company, Inc., dated July 11, 1984 and recorded in Book 305, Pages 530 - 532 of the City of Burlington Land Records and being more particularly described as follows:

Being Parcel 612, consisting of temporary easements as shown on right of way detail sheet 4 and right of way layout sheets 32 and 33 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

Temporary easements to enter upon land of the Grantor, during the period of construction, for construction purposes, including the right to cut and dispose of all trees, down timber, stubs, brush, bushes, and debris and install erosion control barriers and project demarcation fence as necessary and as noted on the project plans and undertake general construction functions: in an area of 509 square feet, more or less, left of and between approximate stations 25+43± and 26+14±; and in an area of 1,026 square feet, more or less, left of and between approximate stations 27+08± and 29+42±; all stations are of the Pine Street centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments: in an area of 626 square feet, more or less, left of and between approximate stations 25+42± and 26+14±; and in an area of 1,474 square feet, more or less, left of and between approximate stations 27+08± and 29+42±; all stations are of the Pine Street centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from 444 Pine Street Commercial Condominium Owners' Association, Inc., DDC Holdings, LLC, Lessor, and Dealers Dot Com., Inc., Lessee:

Being part of the common elements and limited common elements under the control of 444 Pine Street Commercial Owners' Association, Inc. pursuant to the Declaration of Condominium for 444 Pine Street Commercial Condominium, dated March 8, 2006 and recorded in Book 953, Pages 231- 259 of the of the City of Burlington Land Records and being more particularly described as follows:

Also being part of the same land and premises conveyed to DDC Holdings, LLC, by the following instruments:

1. Warranty Deed from James Edward Company, LLC, dated August 9, 2010, which is recorded in Book 1109, Pages 58-61 (Unit #1); and
2. Warranty Deed from Catamount Holding Co. II, dated April 20, 2007, which is recorded in Book 996, Pages 184-185 (Unit #2);

all of the City of Burlington Land Records, and being more particularly described as follows:

Being Parcel 614, consisting of temporary easements as shown on right of way detail sheet 5 and right of way layout sheets 32, 33 & 34 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

Temporary easements to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments: in an area of 15 square feet, more or less, right of and between approximate stations 27+95± and 28+02 of the Pine Street centerline of the Transportation Project; in an area of 509 square feet, more or less, right of and between approximate stations 30+49 and 32+43 of the Pine Street centerline of the Transportation Project; in an area of 110 square feet, more or less, right of and between approximate stations 33+36 and 34+67 of the Pine Street centerline of the Transportation Project; and in an area of 16 square feet, more or less, right of and between approximate station 35+30 of the Pine Street centerline of the Transportation Project and approximate station 1+37 of the Howard Street centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

Temporary easements to enter upon land of the Grantor, during the period of construction, to install project demarcation fence: in an area of 469 square feet, more or less, right of and between approximate stations 28+00 and 29+92; and in an area of 891 square feet, more or less, right of and between approximate stations 30+50 and 32+80, all stations are of the Pine Street centerline of the Transportation Project.

Rights and easements required from 444 Pine Street Commercial Condominium Owners' Association, Inc., DDC Holdings, LLC, Lessor, and Dealers Dot Com., Inc., Lessee:
(continued)

Temporary easements to enter upon land of the Grantor, during the period of construction, to construct a drive and any associated slope work necessary for the construction of the drive: in an area of 1,612 square feet, more or less, right of and between approximate stations 29+83 and 30+65; and in an area of 155 square feet, more or less, right of and between approximate stations 32+79 and 33+20; all stations are of the Pine Street centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to install a turbidity curtain. at or near and right of approximate station 34+74 of the Pine Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from Derrick H. Davis and Susan M. Conley, Trustees of the Derrick H. Davis Charitable Remainder Trust II:

Being part of the same land and premises conveyed to Derrick H. Davis and Susan M. Conley, Trustees of the Derrick H. Davis Charitable Remainder Trust II by the Quit Claim Deed of Derrick H. Davis, dated December 20, 2001 and recorded in Book 713, Pages 438-440 of the City of Burlington Land Records and being more particularly described as follows:

Reference is hereby made to the above mentioned conveyance and records thereof and to the following instruments of conveyance in aid of a more complete description and further chain of title:

1. Quit Claim Deed of 453 Pine, LLC to Derrick H. Davis, dated December 20, 2001 and recorded in Book 713, Pages 435-437;
2. Quit Claim Deed of 453 Pine Street Associates, Inc. to 453 Pine, LLC, dated December 31, 1997 and recorded in Book 580, Pages 633 and 634; and
3. Warranty Deed of Christine E. Farrell to 453 Pine Street Associates, Inc., dated April 9, 1987 and recorded in Book 360, Pages 586-588;

all of the City of Burlington Land Records, and being more particularly described as follows:

Being Parcel 615, consisting of a permanent easement and temporary easements as shown on right of way detail sheet 5 and right of way layout sheets 33 and 34 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A permanent easement to install, construct, maintain and service a shared use path for use by the general public in an area of 0.13 acres (5,850 square feet), more or less, left of and between approximate stations 29+42± and 35+77± of the Pine Street centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments: in an area of 592 square feet, more or less, left of and between approximate stations 29+42± and 30+45; and in an area of 270 square feet, more or less, left of and between approximate stations 34+96 and 35+65; all stations are of the Pine Street centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

Rights and easements required from Derrick H. Davis and Susan M. Conley, Trustees of the Derrick H. Davis Charitable Remainder Trust II:
(continued)

Temporary easements to enter upon land of the Grantor, during the period of construction, for construction purposes, including the right to cut and dispose of all trees, down timber, stubs, brush, bushes, and debris and install project demarcation fence and undertake general construction functions: in an area of 927 square feet, more or less, left of and between approximate stations 29+42± and 31+01; and in an area of 3,380 square feet, more or less, left of and between approximate stations 31+23 and 35+78±; all stations are of the Pine Street centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, to construct a drive and any associated slope work necessary for the construction of the drive: in an area of 270 square feet, more or less, left of and between approximate stations 30+53 and 31+42; and in an area of 1,365 square feet, more or less, left of and between approximate stations 35+63 and 35+78±; all stations are of the Pine Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.

Rights and easements required from the Maltex Partnership and
People's United Bank, Mortgagee and the Merchants Bank, Mortgagee:

Being part of the same land and premises conveyed to the Maltex Partnership by the Warranty Deed of Vermont Development Credit Corporation, dated May 4, 1984 and recorded in Book 305, Pages 117-118 of the City of Burlington Land Records and being more particularly described as follows:

Being Parcel 616, consisting of permanent easements and temporary easements as shown on right of way detail sheet 5 and right of way layout sheet 34 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A permanent easement to install, construct, maintain and service a shared use path for use by the general public, including a temporary easement during the period of construction to enter upon land of the Grantor to install project demarcation fence, in an area of 3,516 square feet, more or less, left of and between approximate stations 35+77± and 39+11± of the Pine Street centerline of the Transportation Project.

Temporary easements to enter upon land of the Grantor, during the period of construction, to construct a drive, including curb and any associated slope work necessary for the construction of the drive: in an area of 0.16 acres (7,014 square feet), more or less, left of and between approximate stations 35+77± and 36+36; and in an area of 102 square feet, more or less, left of and between approximate stations 38+90 and 39+11±; all stations are of the Pine Street centerline of the Transportation Project.

A temporary easement to enter upon land of the Grantor, during the period of construction, to remove and reset a sign, at or near and left of approximate station 35+95 of the Pine Street centerline of the Transportation Project.

A permanent easement to install and maintain a drain inlet, culvert and manhole, including a temporary easement during the period of construction to enter upon land of the Grantor to install project demarcation fence, left of and between approximate stations 37+07 and 37+12 of the Pine Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.

Burlington MEGC M 5000(1) - Parcel 628

Rights and easements required from Overlake Park, LLC and
The Merchants Bank, Mortgagee:

Being part of the same land and premises conveyed to Overlake Park, LLC, by the Warranty Deed of Bent Partnership, LLP, dated October 20, 2016 and recorded in Book 1319, Pages 139-140 of the City of Burlington Land Records and being more particularly described as follows:

Being Parcel 628 consisting of temporary easements as shown on right of way detail sheet 6 and right of way layout sheet 37 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

Temporary easements to enter upon land of the Grantor, during the period of construction, to construct a drive, including curb and any associated slope work necessary for the construction of the drive: in an area of 39 square feet, more or less, left of and between approximate stations 52+00± and 52+09; and in an area of 230 square feet, more or less, left of and between approximate stations 53+81 and 54+13; all stations are of the Pine Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.

Received for Record at City of Burlington, VT
On Jun 06, 2018 at 04:20P
Beth Anderson, Interim CAO

Rights and easements required from Christopher H. Mason and
New England Federal Credit Union, Mortgagee:

Being part of the same land and premises conveyed to Christopher H. Mason by the Quit Claim Deed of Margaret Delano, dated December 27, 2004 and recorded in Book 900, Pages 679-680 of the City of Burlington Land Records and being more particularly described as follows:

Reference is hereby made to the above mentioned conveyance and records thereof and to the following instruments of conveyance in aid of a more complete description and further chain of title:

Warranty Deed of Josefa M. Strong to Christopher H. Mason and Margaret Delano, dated November 22, 2002 and recorded in Book 767, Pages 682-683 of the City of Burlington Land Records, and being more particularly described as follows:

Being Parcel 622 consisting of temporary easements as shown on right of way detail sheet 6 and right of way layout sheet 35 of the plans of Transportation Project Burlington MEGC M 5000(1) ("the Transportation Project") to be filed in the office of the clerk of the City of Burlington.

In connection with the above parcel the following easements and/or rights are conveyed:

A temporary easement to enter upon land of the Grantor, during the period of construction, to extend slopes and embankments in an area of 87 square feet, more or less, right of and between approximate station 43+68± of the Pine Street centerline of the Transportation Project and approximate station 1+39 of the Pine Place centerline of the Transportation Project.

The City of Burlington may extend the slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of transportation construction. The City of Burlington shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other things of whatever kind or nature from said slope areas.

A temporary easement to enter upon land of the Grantor, during the period of construction, to install project demarcation fence, in an area of 91 square feet, more or less, right of and between approximate stations 43+68± and 44+46 of the Pine Street centerline of the Transportation Project.

The above-referenced land and premises are subject to all leases, easements, rights of way, restrictions, covenants, obligations and municipal, state and other regulatory permits as may appear of record.