

1
2 **Resolution Relating to**
3
4

RESOLUTION

Sponsor(s): Councilors Shannon,
Bushor, Paul: Bd. of Finance

Introduced: 11/26/12

Referred to: _____

7 **AUTHORIZATION TO EXECUTE MEMORANDUM OF AGREEMENT**

8 **Re: WATERFRONT ACCESS NORTH PROJECT- BED EASEMENT**

Action: Passed

Date: 11/26/12

Signed by Mayor: _____

11
12 **CITY OF BURLINGTON**
13

14 In the year Two Thousand Twelve.....

15 Resolved by the City Council of the City of Burlington, as follows:

16
17 That WHEREAS, as a part of the Waterfront Access North Project, the undergrounding of the overhead
18 utilities within the project area require that a section of poles and wires be removed north of the project
19 area on the eastern side of the railroad tracks below Lakeview Terrace and reconnected at the far northern
20 end of the Urban Reserve to the existing service going over North Avenue to the McNeil Plant near the
21 railroad tunnel; and

22 WHEREAS, to accomplish this the Burlington Electric Department (BED) needs an easement
23 from the city; and

24 WHEREAS, on Tuesday, November 13, 2012, the Board of Finance unanimously recommended
25 City Council approval of a resolution to authorize execution of a Memorandum of Agreement (see
26 attached) by and between the City and BED authorizing said easement.

27 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes Mayor Miro
28 Weinberger to execute the attached Memorandum of Agreement on behalf of the City, subject to the prior
29 review and approval of the City Attorney.
30

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement made this _____ day of _____ 2013, between the City of Burlington and the City of Burlington Electric Department.

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

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

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

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

Said right-of-way and easement, being fifty feet (50') in width, twenty five feet (25') on each side of the centerline of the **asbuilt location** of the overhead primary electric lines. Said centerline of the overhead primary electric lines begin at the GRANTEE'S existing pole numbered 2756; thence running in a southerly direction a distance of approximately one hundred and sixty six feet (166') to GRANTEE'S new H-Frame structure (H1); thence continuing in a southerly direction a distance of approximately one hundred and eighty five feet (185') to GRANTEE'S new H-Frame structure (H2); thence running in a southwesterly direction a distance of approximately two hundred feet (200') to GRANTEE'S new H-Frame structure (H3); thence running in a westerly direction a distance of approximately one hundred and forty seven feet (147') to GRANTEE'S existing pole numbered 2779. Also from the aforementioned new H-Frame structure (H3) a distance of approximately one hundred and fifty-five feet (155') in a southwesterly direction to GRANTEE'S existing pole numbered 2778.

Said aforementioned right-of-way and easement is more particularly depicted on a Burlington Electric Department Drawing C374100, entitled "ROW & EASEMENT – FROM P2756 BY RR TUNNEL – TO LAKE ST. EXTENSION/BIKEPATH" last revised 3/21/13 and recorded in the City of Burlington Land Records at Map Hanger _____.

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

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

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

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

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

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

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this _____ day of _____, 2013.

CITY OF BURLINGTON

IN THE PRESENCE OF:

By: _____
Duly Authorized Agent

Witness

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS:

At _____, in said _____ County, this _____ day of _____ 2013, personally appeared _____, Duly Authorized Agent for the City of Burlington and acknowledged that the signing of this document was his/her free act and deed of the City of Burlington.

Before me, _____ Notary Public
Commission Expires; _____

BURLINGTON ELECTRIC DEPARTMENT

IN THE PRESENCE OF:

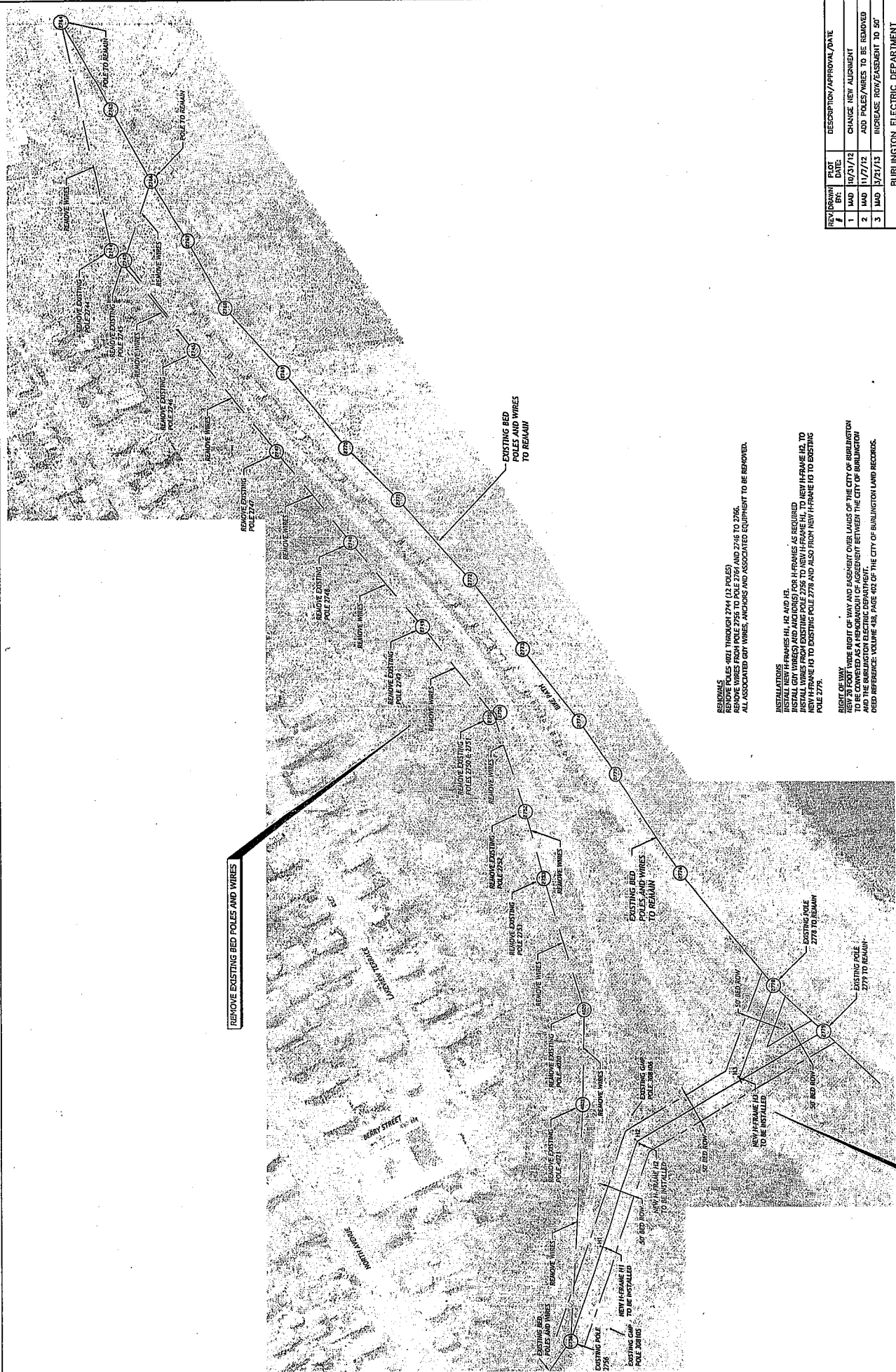
By: _____
Duly Authorized Agent

Witness

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS:

At _____, in said _____ County, this _____ day of _____ 2013, personally appeared _____, Duly Authorized Agent for the Burlington Electric Department and acknowledged that the signing of this document was his/her free act and deed of the Burlington Electric Department.

Before me, _____ Notary Public
Commission Expires; _____



REMOVALS
 REMOVE POLES 1021 THROUGH 2741 (12 POLES)
 REMOVE WIRES FROM POLE 276 TO POLE 2767 AND 2768 TO 2766
 ALL ASSOCIATED GUT WIRES, HOOKUPS AND ASSOCIATED EQUIPMENT TO BE REMOVED.

INSTALLATIONS
 INSTALL NEW H/F FRAMES H1, H2 AND H3
 INSTALL CITY WIRES AND ANCHORS FOR H-FRAMES AS REQUIRED
 REMOVE EXISTING POLE 2778 AND 2779 TO NEW H/F FRAME H1, H2
 AND 2779 TO NEW H/F FRAME H3
 REMOVE EXISTING POLE 2778 AND 2779 FROM NEW H/F FRAME H3 TO EXISTING POLE 2775.

RIGHT OF WAY
 15' TO 20' FOOT WIDE RIGHT OF WAY AND EASEMENT OVER LANDS OF THE CITY OF BURLINGTON
 BETWEEN THE CENTERLINE OF THE CITY OF BURLINGTON
 AND THE BURLINGTON ELECTRIC DEPARTMENT.
 DEED REFERENCE: VOLUME 438, PAGE 402 OF THE CITY OF BURLINGTON LAND RECORDS.

REV/DRAWN #	BY	DATE	DESCRIPTION/APPROVAL/DATE
1	MAJ	10/31/12	CHANGE NEW ALIGNMENT
2	MAJ	11/7/12	ADD POLES/WIRES TO BE REMOVED
3	MAJ	3/21/13	INCREASE ROW/EASEMENT TO 50'

BURLINGTON ELECTRIC DEPARTMENT

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

DRAWN BY: AJN
 DATE: 10/6/10

CHECKED BY: DATE: 10/6/10

DWG. NO.: C3740100
 SHEET 1 OF 1

