

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE VERMONT AGENCY OF TRANSPORTATION,
AND THE VERMONT STATE HISTORIC PRESERVATION OFFICER
REGARDING THE BURLINGTON-WINOOSKI BF RAIZ(2) PROJECT IN
BURLINGTON AND WINOOSKI, VERMONT**

WHEREAS, The Federal Highway Administration (FHWA) proposes to fund Burlington-Winooski BF RAIZ(2) (hereafter known as the Project), pursuant to the Federal-aid Highway Program under U.S. Code Title 23; and,

WHEREAS, FHWA defines the undertaking as the replacement of Bridge No. 150, a structure jointly owned by Burlington and Winooski, that carries US Route 7/US Route 2/Main Street over the Winooski River between Burlington and Winooski, Chittenden County, Vermont; and,

WHEREAS, the Project is being developed and constructed using a “Design Build” contracting approach, which incorporates final design and construction into a single contract; and,

WHEREAS, this Design-Build project has three phases being (1) Project Definition; (2) Preliminary Design and Contractor Procurement; and (3) Final Design and Construction; and,

WHEREAS, while the contractor is ultimately responsible for final design, VTrans maintains a strong role in preliminary design, review of final design plans, environmental coordination, and construction oversight; and,

WHEREAS, the proposed typical will have 11’ travel lanes (two in each direction), 2’ shoulders, a separation barrier to separate vehicles and bicyclists/pedestrians, and approximately 12’ multiuse path on either side, as shown in Figure 1 of this document; and,

WHEREAS, the three general alignments are being considered for the bridge replacement: (1) On-Alignment; (2) Shifted Alignment; and (3) Shifted Alignment – Curved, as shown in Figure 2 of this document; and,

WHEREAS, this is a Design-Build project, not all the Project details could be finalized in the Section 106 project review memorandum and the Stipulations below address how these details will be decided, communicated, and carried out moving forward; and,

WHEREAS, details that are significant in the design of the new bridge and the Section 106 review (bridge railing – traffic barrier, bridge railing – outer pedestrian railing, and bridge lighting) were categorized and presented to the State Historic Preservation Office (SHPO) as a menu of acceptable options, and these approved alternatives are included as Appendix A; and,

WHEREAS, the approved design alternatives will meet the Section 106 requirements, SHPO concurred with the alternatives as part of the Section 106 review memo; and,

WHEREAS, Falls Park and Champlain Park will be temporarily used during project construction and then restored in coordination with the City of Winooski to ensure the parks' conditions will comply with the Winooski Parks and Open Space Master Plan (2020); and,

WHEREAS, VTrans recognizes that the parks are not historic properties, but they are located within the historic setting; and,

WHEREAS, due to the close proximity of construction activities and historic infrastructure, a construction vibration assessment was performed by HNTB, which resulted in three zones of monitoring levels (see Figure 3) that are summarized in a memo dated June 4, 2024, incorporated into the APE, and discussed in the Section 106 memorandum; and,

WHEREAS, the three zones of vibration monitoring include (1) buildings within the 500-ft zone – recommended for consideration, but not necessarily monitoring; (2) buildings wholly or partially within the 150-ft zone that will undergo pre- and post-inspection including photodocumentation; and (3) the 100-ft zone, which will have pre- and post-construction inspection and monitoring during construction; and,

WHEREAS, in a letter dated May 28, 2024, the SHPO concurred with the Area of Potential Effect (APE) associated with the Project and defined at 36 CFR 800.16(d), to account for the three alignments addressed in the Section 106 project memorandum and the associated bridge construction limits, staging, potential vibration impacts, temporary changes in traffic patterns, and impacts to viewsheds; and,

WHEREAS, the Project APE is attached as Appendix B to this MOA; and,

WHEREAS, The University of Vermont Consulting Archaeology Program (UVM CAP) conducted an archaeological resources assessment within the proposed APE and identified five previously recorded historic archaeological sites and one Pre-Contact site within the proposed APE as well as two Pre-Contact sites directly adjacent but outside the APE; and

WHEREAS, FHWA has determined that the only archaeological site directly affected by this project is the Catlin Grist Mill (VT-CH-1297) and FHWA has determined that this site is no longer National Register eligible due to a significant loss of integrity by various means over time; and

WHEREAS, FHWA has determined that this project will not affect any of the significant archaeological sites located within the proposed APE; and

WHEREAS, in accordance with 36 CFR 800.2(d) warned public meetings and meetings with stakeholder groups have occurred throughout the Project process; and Project materials, links to recorded meetings, contact information and additional information have been available on the Project website (<https://www.burlingtonwinooskibridge.vtransprojects.vermont.gov/>), all of which provide opportunity for public comment; and,

WHEREAS, the City of Burlington is a Certified Local Government (CLG) and considered a stakeholder, and has been consulted with as part of the Section 106 process; and,

WHEREAS, FHWA has determined that Bridge No. 150 is listed in the National Register of Historic Places, as a contributing resource to the Winooski Falls Mill Historic District; and,

WHEREAS, FHWA has determined that the undertaking will adversely affect Bridge No. 150 and the Winooski Falls Mill Historic District through demolition and replacement of the structure, which is a centrally located resource in the historic district, and SHPO concurred with FHWA's identification of historic properties and effect finding on December 4, 2024; and,

WHEREAS, FHWA has consulted with SHPO, throughout the project process in the forms of emails, meetings, and draft documents, pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f; and

WHEREAS, FHWA has consulted with VTrans regarding the effects of the undertaking on historic properties and has invited them to sign this MOA; and

WHEREAS, FHWA has consulted with federally recognized tribes that have ancestral interest in Vermont and the tribes that have responded have declined to participate; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, FHWA, VTrans, and SHPO agree that, upon the FHWA's decision to proceed with Burlington Winooski BF RAIZ(2), FHWA shall ensure the following stipulations are implemented to take into account the effects of the Project on historic properties.

STIPULATIONS

On behalf of FHWA, VTrans shall ensure the following stipulations are added to Project contract documents, referenced in final Project plans as Special Provisions, or otherwise implemented:

I. COMMUNICATION BETWEEN VTRANS AND SHPO REGARDING DESIGN AND CONSTRUCTION

- A. VTrans shall present the approved design alternatives (railings, lighting) to the Cities and public for input for the purpose of eliminating some of the menu options and creating a smaller menu of options to be included in the RFP during Phase 2 of the Design-Build process. VTrans shall inform SHPO of final design details for the

bridge alignment, bridge vehicular barrier, bridge pedestrian railing, and bridge lighting prior to the start of construction for each particular design detail.

- B. VTrans shall inform SHPO if the fascia of the new bridge is proposed to extend beyond the upstream/downstream limits defined in the Section 106 letter; SHPO will be given an opportunity to review and comment prior to construction.
- C. Metal railings shall be dark green or black only, and powder coating is recommended. If the selected railing or lighting differs from those discussed in the Section 106 memorandum, VTrans shall notify SHPO, who will have the opportunity to review and comment prior to construction.
- D. VTrans shall notify SHPO of any vibrations exceeding allowable thresholds for buildings that will be actively monitored for vibration during construction as defined in the Section 106, or any damage to historic resources reported to VTrans or identified for buildings that will have pre- and post-construction inspection as defined in this letter.
- E. VTrans shall consult with SHPO regarding appropriate language to be included in the RFP related to the Winooski Falls Park and Champlain Mill Park design.
- F. VTrans shall present Winooski Falls Park and Champlain Mill Park conceptual ideas to the SHPO, the City of Winooski, and the public for comment before the RFP is finalized.
- G. VTrans shall notify SHPO of comments and consultation with the Burlington Certified Local Government. The City of Winooski is in the process of becoming a CLG and will be consulted with as well.
- H. VTrans shall include SHPO contacts in the project email update list to be informed of public meetings. Content of public meetings will be made publicly available on the project website. If SHPO has concerns about content of any meetings, VTrans will be available to provide responses.
- I. VTrans shall include SHPO in the review and approval of the following Mitigation Measures, as described below: II-A Historic Resource Documentation Package; II-C Bridge Plaque Relocation; II-D Interpretive Panels; and II-E National Register Nomination.
- J. If project plans change to include impacts to any of the archaeological sites or sensitive areas, or any areas outside the current limits of the APE, further archaeological evaluation will be required.

II. MITIGATION MEASURES FOR ARCHITECTURAL AND ARCHAEOLOGICAL RESOURCES

VTrans will mitigate all Project-related adverse effects to architectural historic properties per the procedures below.

- A. VTrans shall ensure that Bridge No. 150 is recorded prior to project commencement in accordance with the Vermont Division for Historic Preservation's *Photographic Documentation Requirements for Historic Resources* (August 2023). This documentation must include an elevation drawing and shall be completed by VTrans Historic Preservation Staff or a qualified 36 C.F.R. 61 Architectural Historian. VTrans shall provide a digital copy of the report to the SHPO to be uploaded to the Online Research Center for public access.
- B. VTrans shall develop a marketing plan and ensure that Bridge No. 150 is advertised for sale a minimum of 30 days prior to its demolition or relocation. VTrans shall review all purchase offers and may consult with SHPO. If VTrans selects a successful purchaser, VTrans may include preservation covenants in the transfer deed, upon recommendation of VTrans Historic Preservation Staff. If no successful purchaser is identified, VTrans may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant to standards listed in Stipulation (II-A), above.
- C. The bridge plaques on the existing Bridge No. 150 will be removed with measures to prevent damage. The Fort Frederick plaque will be relocated to an appropriate location at the north end of the bridge in consultation with the Vermont Sons of the American Revolution. The 1928 plaques will be relocated to appropriate locations, whether on site or at an appropriate repository. Their relocations will be completed in consultation with the Cities, VTrans, and SHPO.
- D. Interpretive Panels about the history of Bridge No. 150 will be installed at both ends of the bridge. One panel will focus on Burlington history and the other will focus on Winooski history. The panels will have similar layouts and information about the project.
- E. FHWA/VTrans will complete a Winooski Falls Historic District National Register nomination, as an update to the Winooski Falls Mill Historic District National Register nomination. This documentation shall be completed by VTrans Historic Preservation Staff or a qualified 36 C.F.R. 61 Architectural Historian.

III. POST REVIEW DISCOVERIES

If previously unidentified archaeological sites are discovered during Project construction,

that portion of the Project will stop immediately. The Resident Engineer shall notify the VTrans Archaeology Officer. No further construction shall proceed until the requirements for 36 CFR 800 have been satisfied.

A. If human remains or ceremonial objects are discovered either during archaeological excavation or during construction, the Project will stop immediately, and procedures described in the Vermont Statutes including 13 V.S.A. § 3761, Unauthorized Removal of Human Remains, and 18 V.S.A. § 5212b, Unmarked Burial Sites Special Fund and reporting of Unmarked Burial Sites shall be followed. Coordination between VTrans and the SHPO shall follow the Advisory Council's *Policy Statement on Treatment of Human Remains and Grave Goods*, (1998). All excavation in the vicinity will cease immediately. Remains shall be left in place and protected and will follow the procedure below:

When an unmarked site is first discovered, the discovery shall be reported immediately to a law enforcement agency. If, after completion of an investigation pursuant to section 5205 of this title, a law enforcement agency determines that the burial site does not constitute evidence of a crime, the law enforcement agency shall immediately notify the state archaeologist who may authorize appropriate action regarding the unmarked burial site (18 V.S.A. § 5212b(f)).

B. If the human remains are identified as Native American, then a treatment and reburial plan shall be developed in full consultation with the appropriate Native American group(s) in compliance with the requirements of the Native American Graves and Repatriation Act (NAGPRA).

IV. **MONITORING AND REPORTING**

Every two (2) years following the execution of this MOA until it expires or is terminated, VTrans shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA.

V. **DISPUTE RESOLUTION**

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved, FHWA will:

A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding

the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.

- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.
- C. FHWA's and VTrans' responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VI. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII.

VII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VIII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation XIV. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the Project, FHWA must either (a) execute a MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this PA by the Signatories, its subsequent filing with the ACHP by FHWA as specified in § 800.11(f), and implementation of its terms demonstrate that FHWA has considered the effects of Burlington-Winooski BF RAIZ(2) on historic properties, afforded the ACHP a reasonable opportunity to comment, and satisfied its responsibilities under Section 106 of the NHPA and its implementing regulations.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

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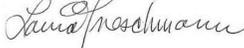
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Randy Warden, Division Administrator

1/30/2025

Date

VERMONT STATE HISTORIC PRESERVATION OFFICER

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Laura V. Trieschmann, Vermont State Historic Preservation Officer

1/30/2025

Date

VERMONT AGENCY OF TRANSPORTATION

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Nick Wark, Right of Way and Environmental Program Manager

1/27/2025

Date

Images and Illustrations

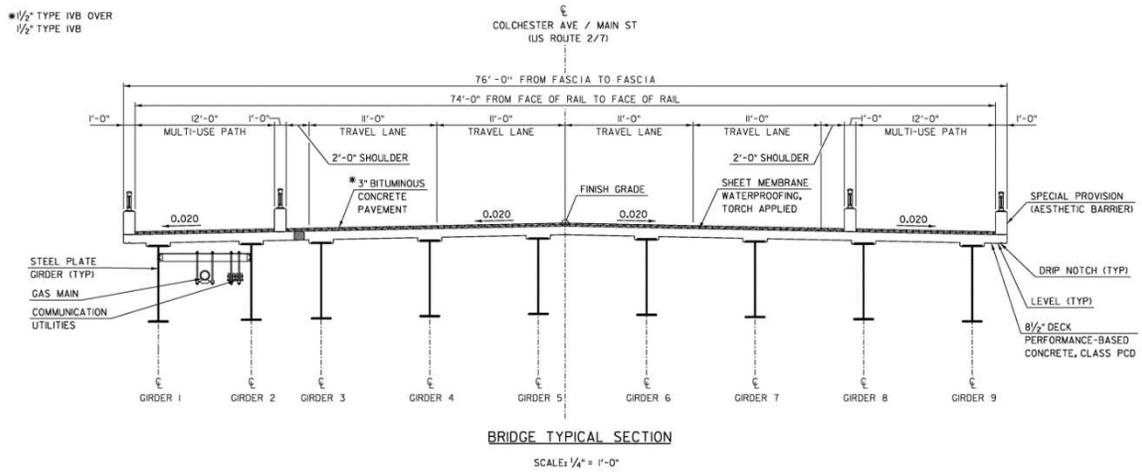


Figure 1: Bridge Typical Section, August 2023 plan set.

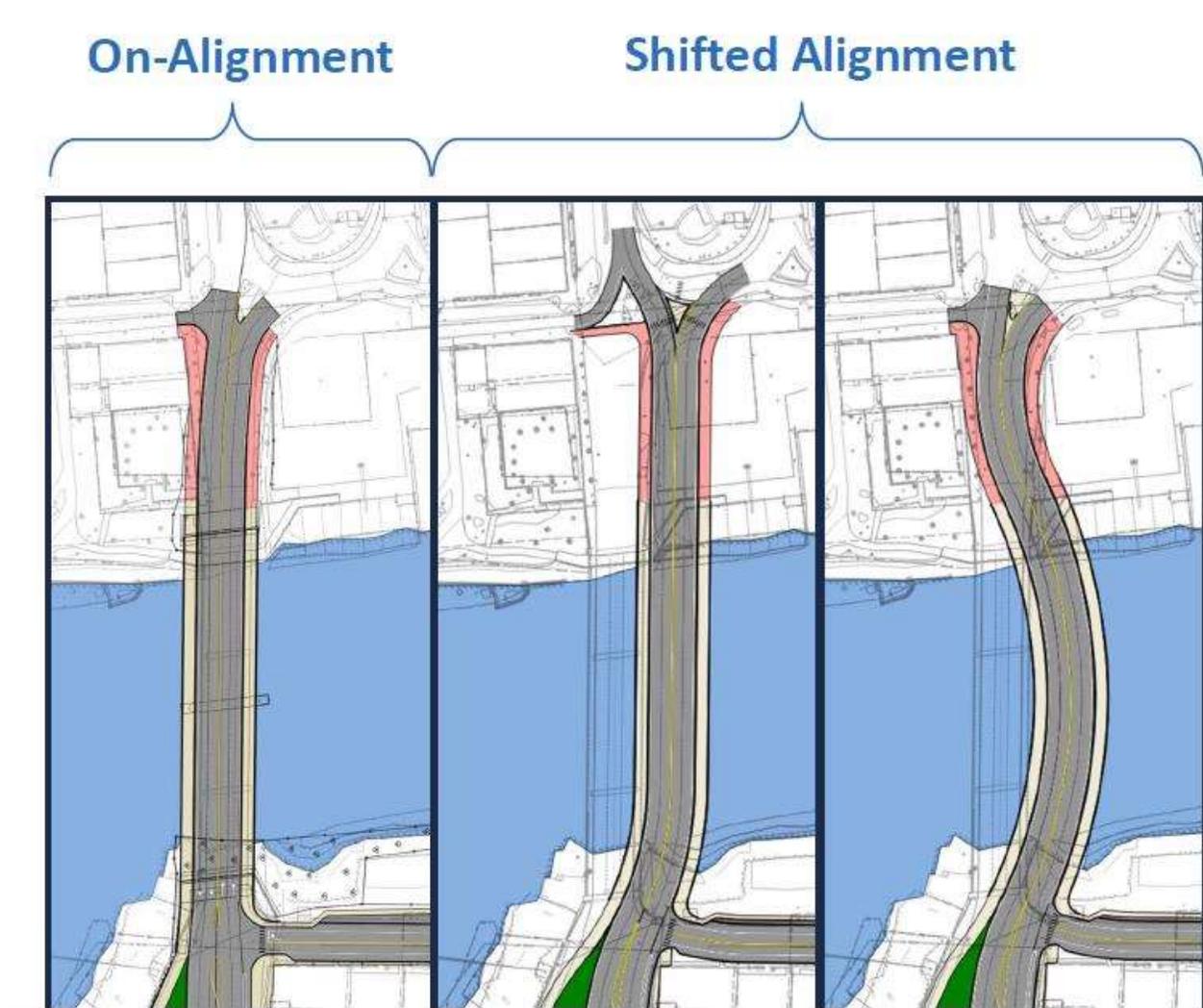


Figure 2: Three alternative layouts for the on-alignment replacement project. Graphic by HNTB.

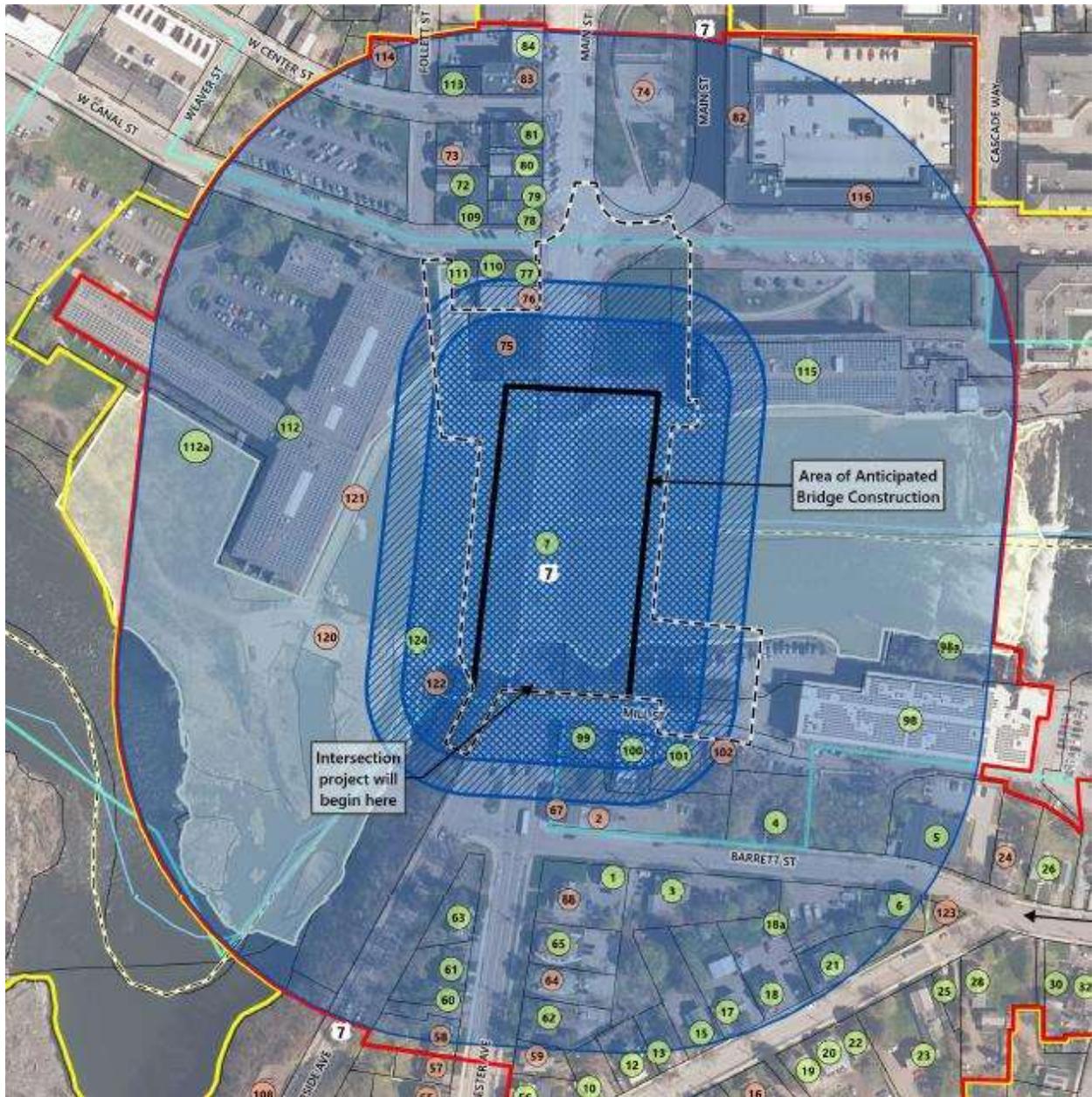


Figure 3: Zones of Potential Perceptible Construction Vibration, prepared by HNTB. These zones are incorporated into the APE Map – Annotated Version.

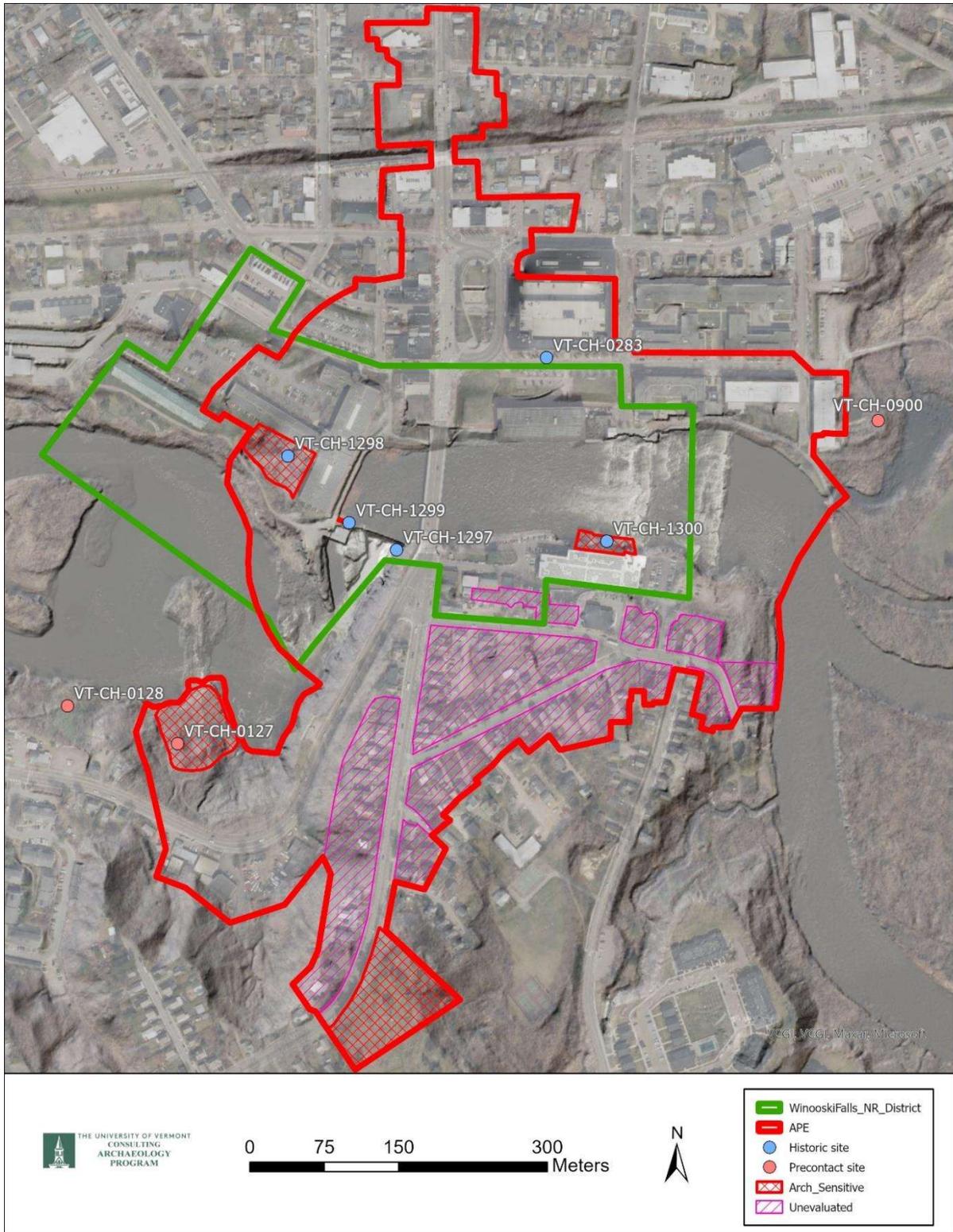


Figure 4: Archaeological sites and sensitive areas within the project APE.