

**Exhibit B**

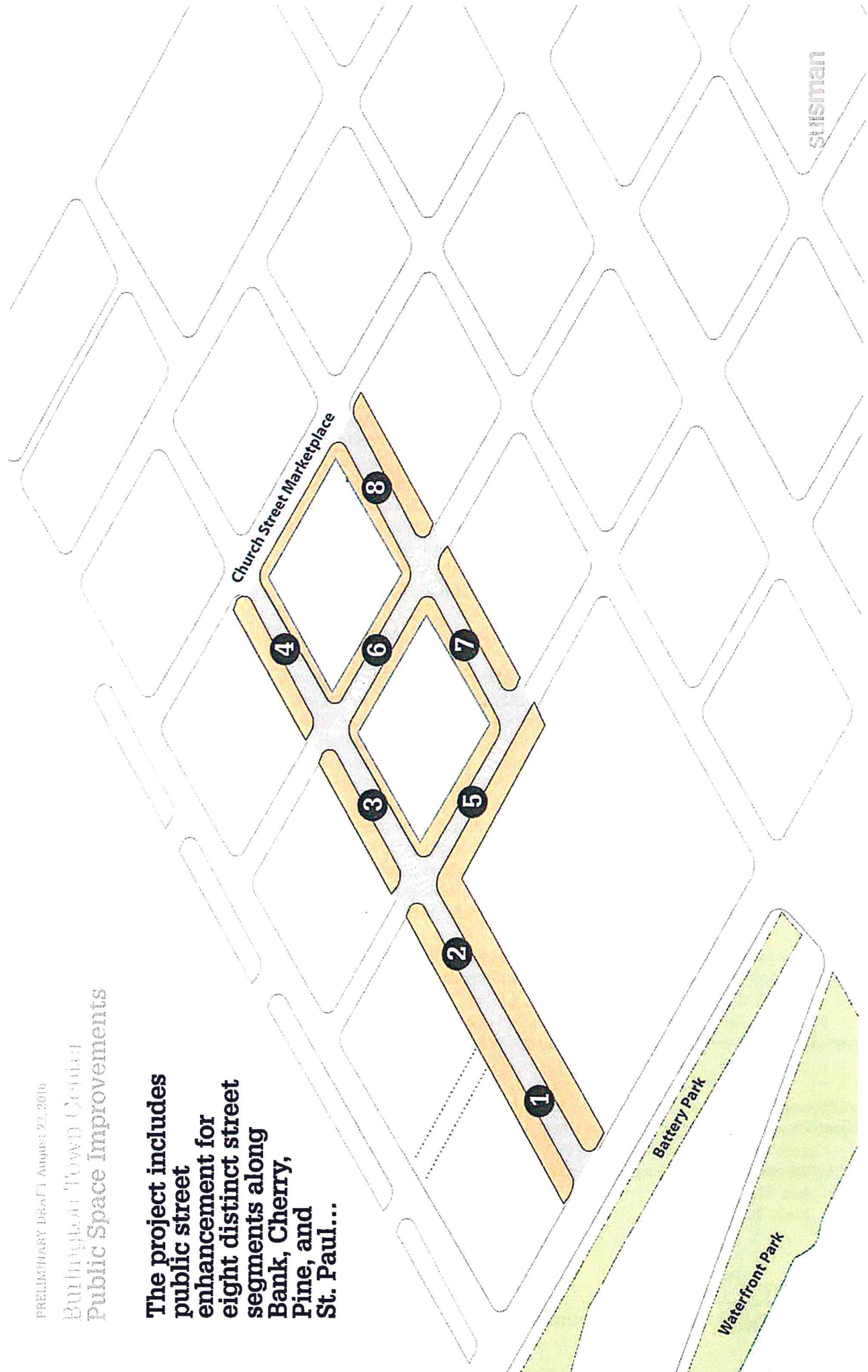
**Plan Depicting Public Improvements and Potential Additional Public Improvements**

*Attached*

PRELIMINARY DRAFT August 22, 2016

## Burlington Town Center Public Space Improvements

**The project includes public street enhancement for eight distinct street segments along Bank, Cherry, and Pine, and St. Paul...**



**Exhibit C**

**Standards and Specifications for Public Improvements**

302 page report entitled “Great Streets BTV, City of Burlington, Downtown Street Design & Construction Standards” last revised July 10, 2017, prepared as a joint project of the Community & Economic Development Office and the Department of Public Works, together with the 231 page Appendix.

**The foregoing is incorporated by reference but not attached.**

**Exhibit D**

**Budget**

*Attached*

Cost Category	Public Improvements (PI)	Additional Public Improvements (API)	Comments
<b>Pre-development Expenses</b>			
Pre-development expenses	\$180,000	\$0	Includes Model and Feasibility report required by CC
<b>Sub-total: Pre-Development Expenses</b>	<b>\$180,000</b>	<b>\$0</b>	
<b>Design Costs</b>			
Full Scope of Design Costs (Incl. Civil and Architectural)	\$518,881	\$631,503	
<b>Sub-total: Design Costs</b>	<b>\$518,881</b>	<b>\$631,503</b>	
<b>Soft Costs Construction</b>			
Environmental Services	\$288,267	\$350,835	
Residential Engineer Services	\$345,921	\$421,002	
Force Account Labor - Supervising CM	\$144,134	\$175,418	
Contingency	\$116,748	\$142,088	15% of soft costs construction
<b>Sub-total: Soft Construction Costs</b>	<b>\$895,070</b>	<b>\$1,089,343</b>	
<b>Hard Construction Costs</b>			
	Carried in PC Hard Costs Budget	Same	
Foundation Work			
Hard Construction Costs	\$3,723,736	\$5,784,313	
Hard Construction Costs - utilities	\$816,775	\$922,737	
Demolition to structures within ROW	\$937,500	\$0	
Environmental Remediation	\$287,336	\$309,651	
Third Party Construction	TBD	TBD	
Contingency	\$681,077	\$1,006,058	15% of hard construction costs
<b>Sub-total: Hard Construction Costs</b>	<b>\$6,446,423</b>	<b>\$8,022,759</b>	
<b>Financing Costs (Note that City costs - including design cost, \$900,000 related costs, public art costs - should all be backed out of the amount of BTC's loan and associated borrowing costs)</b>			
	\$1,830,725	\$0	Interest carry cost is not broken down between PI and API is assumed for 2 years only at a rate of 7.5% on a \$20,729,000 loan. The total value of the loan will ultimately be less certain costs like the City related costs.
Performance bond cost	\$109,250	\$0	
Insurance Costs	\$142,500	\$0	
Loan Broker Fee	\$131,190	\$0	
Loan Fee to Lender	\$218,500	\$0	
Loan closing costs	\$286,500	\$0	
Legal and other expenses associated with securing loan to support public improvements	\$100,000	\$0	
<b>Sub-total: Financing Costs</b>	<b>\$2,718,665</b>	<b>\$0</b>	
<b>Other Costs</b>			
Public Art	\$218,000	\$0	Public Art and Related Costs are not broken down between PI and API.
Related Costs of City	\$903,000	\$0	
Third Party Rights or Land Acquisition	TBD	TBD	
<b>Sub-total: Other Costs</b>	<b>\$1,121,000</b>	<b>\$0</b>	
<b>Total TIF Expenditures for PI + API (without Other Costs)</b>	<b>\$10,759,040</b>	<b>\$9,743,605</b>	
<b>Other Costs</b>	<b>\$1,121,000</b>	<b>\$0</b>	
<b>Total Expenditures for PI + API (with Other Costs)</b>	<b>\$11,880,040</b>	<b>\$9,743,605</b>	
<b>Combining PI + API Expenses</b>		<b>\$21,623,644</b>	
<b>Total TIF Not to Exceed Amount</b>		<b>\$21,800,000</b>	
<b>Remaining TIF funds available above budget</b>		<b>\$176,356</b>	

**LEGEND:**

This is an initial budget, and it will be modified as plans and specifications develop. Cost may be moved from one category to another in the final budgeting process. All costs will require backup documentation to be eligible for reimbursement. The budget modification process is subject the terms in the Development Agreement.

**Exhibit E**

**Form of Agreement Memorializing the Terms of Section 4(d)**

*Attached*

## Memorandum of Agreement

This Memorandum of Agreement (“Memorandum”) dated \_\_\_\_\_, 2017 is made by and between the **City of Burlington**, a Vermont municipal corporation (the “City”) and **BTC Mall Associates LLC**, a Delaware limited liability company (“Owner”). Each is referred to individually as a “Party” and collectively as the “Parties.”

### Background

A. Owner owns the real property numbered 49 Church Street, Burlington, Vermont, Parcel No. 044-4-004-000 which is improved with a retail shopping mall known as “Burlington Town Center”, and the real property numbered 75 Cherry Street, Burlington, Vermont, Parcel No. 044-4-033-000, which is improved with a parking garage (together, the “Property”), which Owner acquired by Special Warranty Deed dated December 16, 2013 and recorded in Volume 1239 at Page 621 of the City of Burlington Land Records.

B. The Parties have entered into a Development Agreement (the “Agreement”) dated \_\_\_\_\_, 2017, with respect to Owner’s redevelopment of the Property with a project more particularly described therein (the “Project”). Capitalized terms used in this Memorandum and not defined shall have the meanings given in the Agreement.

C. Certain elements of the Project are described and referred to in the Agreement as the “Private Improvements”, certain elements of the Project are described and referred to in the Agreement as the “Public Improvements” and certain elements of the Project are described and referred to in the Agreement as the “Additional Public Improvements”.

D. The Agreement contemplates that the City will incur municipal bond debt within its Waterfront Tax Increment Financing District (the “Waterfront TIF District”) to finance certain costs associated with the Public Improvements and the Additional Public Improvements; specifically, the Agreement contemplates that the City will use such municipal bond debt to (1) directly pay for or reimburse itself for certain costs in connection with the Public Improvements and the Additional Public Improvements and (2) reimburse Owner for certain costs incurred by Owner in connection with the Public Improvements and the Additional Public Improvements (collectively, the “TIF Costs”), and the Agreement acknowledges that the tax increment generated by the Private Improvements must be sufficient to service the debt incurred by the City to pay the TIF Costs.

E. To ensure that the tax increment generated by the Private Improvements will be sufficient to service the debt incurred by the City to pay the TIF Costs, the Agreement authorizes the City to establish a minimum assessed value of the Property upon completion of the Project so that sufficient tax increment is generated to pay the debt service on the municipal bonds, in the manner described therein and memorialized by this Memorandum.

The foregoing recitals and the following information accurately reflects the agreement between the Parties contained in the Agreement with respect to the matters described above:

1. The Parties acknowledge that the tax increment generated by the real property owned by Owner numbered 101 Cherry Street, Burlington, Vermont and identified as Parcel No. 044-4-004-001, which is improved with a four story mixed-use (retail/office) building, is also (i.e., in addition to the Property) legally permitted to contribute to the payment of debt service on the municipal bonds issued to finance the City's payment of the TIF Costs under and in accordance with the Agreement.
2. The City will assess the Property and 101 Cherry Street using the normal assessment procedure required by applicable state law, provided that if the City finds it necessary to ensure that the total tax increment generated by the Private Improvements, by those portions of the Property that are not part of the Project, and by 101 Cherry Street is sufficient to pay the debt service on the municipal bonds issued to finance the City's payment of the TIF Costs under and in accordance with the Agreement, the City shall establish the minimum assessed value of the Property so that sufficient tax increment is generated to pay the debt service on the municipal bonds, and the City shall provide Owner with documentation that reasonably substantiates the assessed value of the Property established by the City for such purposes.
3. Any such minimum assessment of the Property shall only be in effect during the period of municipal bond repayment and only while necessary to ensure the total tax increment generated by the Private Improvements is sufficient to pay the debt service on the municipal bonds.
4. Owner agrees not to appeal the minimum assessment of the Property in an effort to reduce it below the value established by the City pursuant to the agreement memorialized by this Memorandum, and Owner shall pay property taxes based upon at least that minimum assessed value during the period of municipal bond repayment regardless whether any portion of the Property is owned by an entity that is statutorily exempt from property taxation or that is subject to statutorily limited or reduced property taxation. The Owner's agreement to pay such property taxes and not to appeal such assessment during the period of municipal bond repayment is hereby established as a covenant binding upon Owner and its successors and assigns running with title to the Property until such time as the municipal bonds shall have been paid in full.
5. This Memorandum shall be executed by the Parties and recorded in the City of Burlington land records and is intended to provide notice to third parties of the agreements contained in the Agreement and described herein. A copy of the Agreement is maintained at the offices of each Party, including at City Hall, Burlington, Vermont. The agreement memorialized by this Memorandum shall be a contractual covenant binding upon Owner and its successors and assigns, running with the title to the Property regardless of the tax exempt status of the owner of any portion of the Project or Property. This Memorandum is not intended to amend or modify the terms and conditions of the Agreement. To the extent that the terms and conditions of this Memorandum differ from the terms and conditions of the Agreement, the terms and conditions of the Agreement shall govern and prevail.

*Signature Page to Follow*



In Witness Whereof, this Memorandum is executed by the duly authorized officers or representatives of the Parties as of the date first set forth above.

BTC Mall Associates LLC

By: BDM Associates LLC, Its Manager

\_\_\_\_\_  
Witness By: \_\_\_\_\_  
Name: Donald Sinex  
Title: Manager

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

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, in said County and State, this \_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared Donald Sinex, to me known, being the Manager of BDM Associates LLC, being the Manager of BTC Mall Associates LLC, and he acknowledged this instrument, by him signed, to be his free act and deed individually and on behalf of the entities on which he acted.

Before me \_\_\_\_\_  
Notary Public  
Commission Expires: 2/10/19

City of Burlington

\_\_\_\_\_  
Witness By: \_\_\_\_\_  
Miro Weinberger, Mayor

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

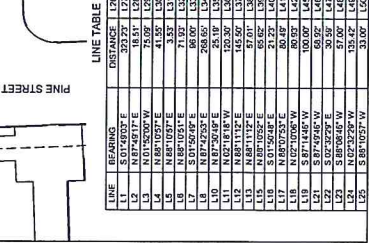
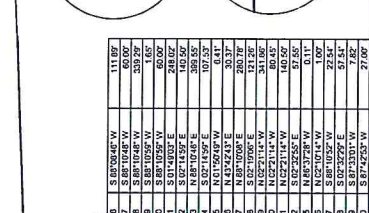
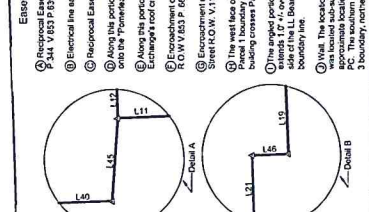
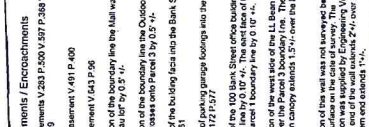
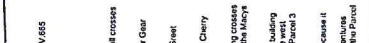
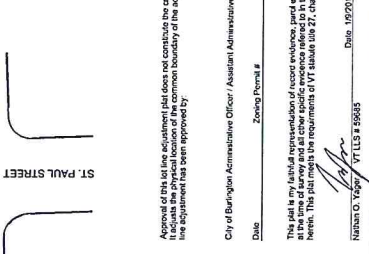
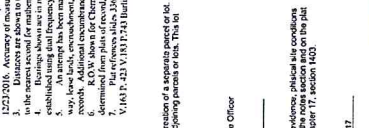
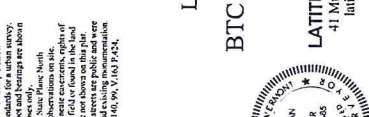
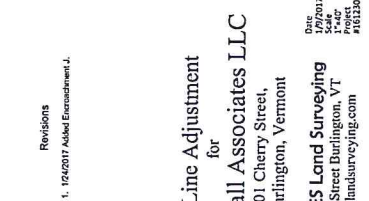
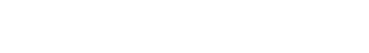
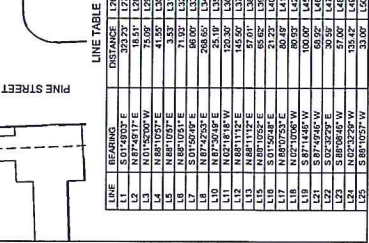
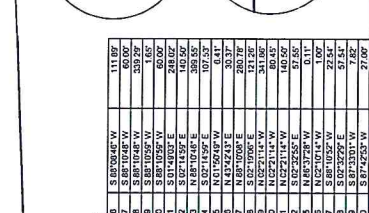
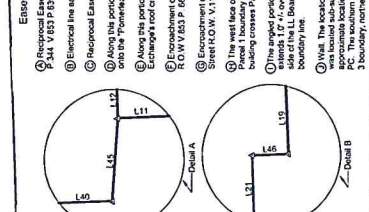
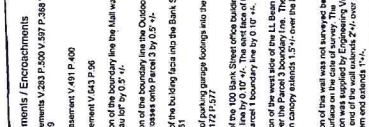
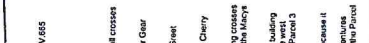
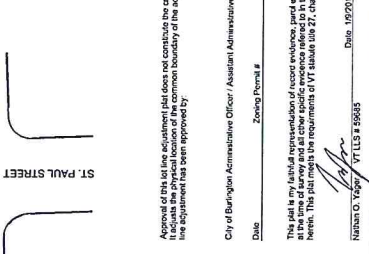
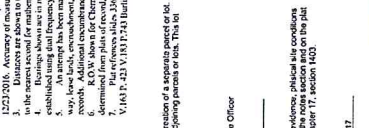
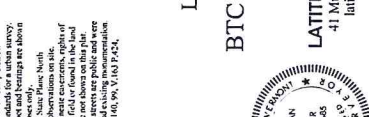
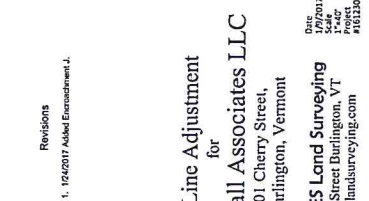
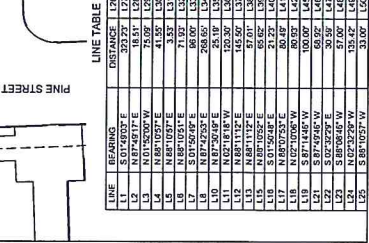
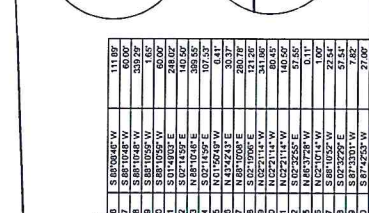
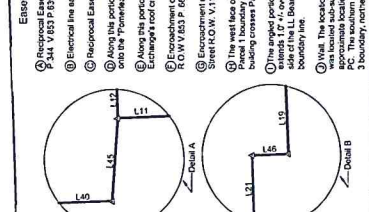
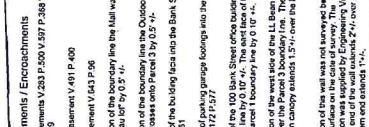
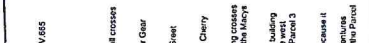
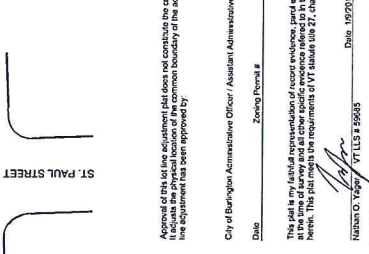
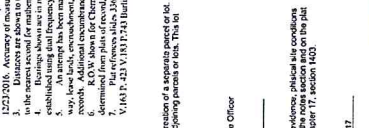
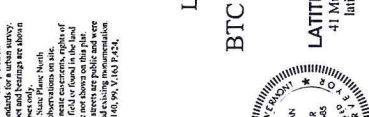
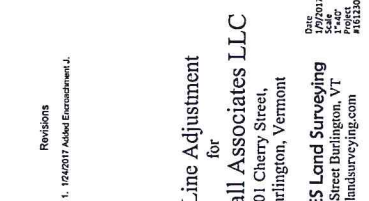
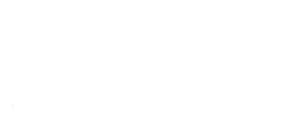
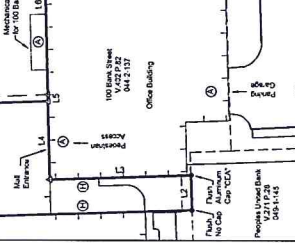
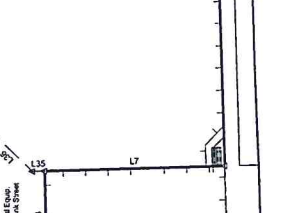
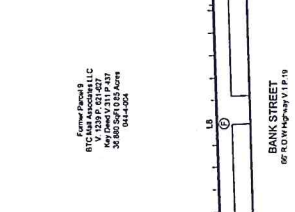
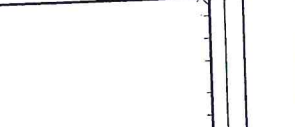
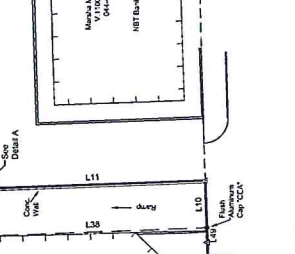
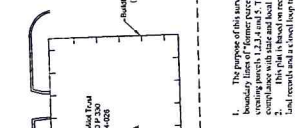
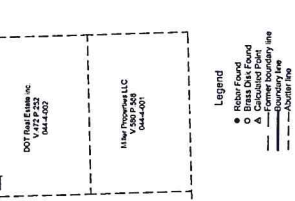
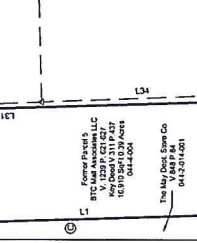
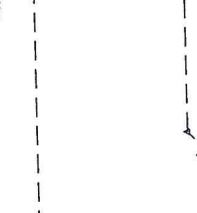
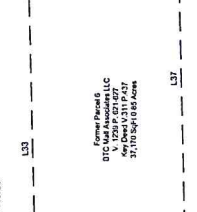
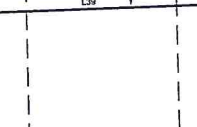
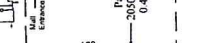
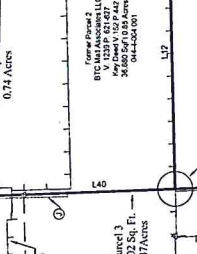
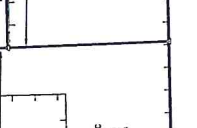
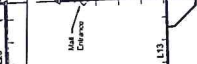
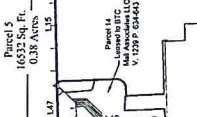
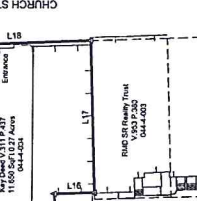
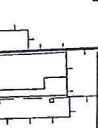
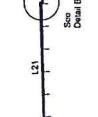
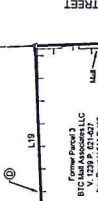
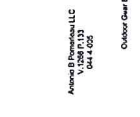
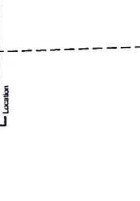
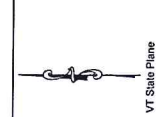
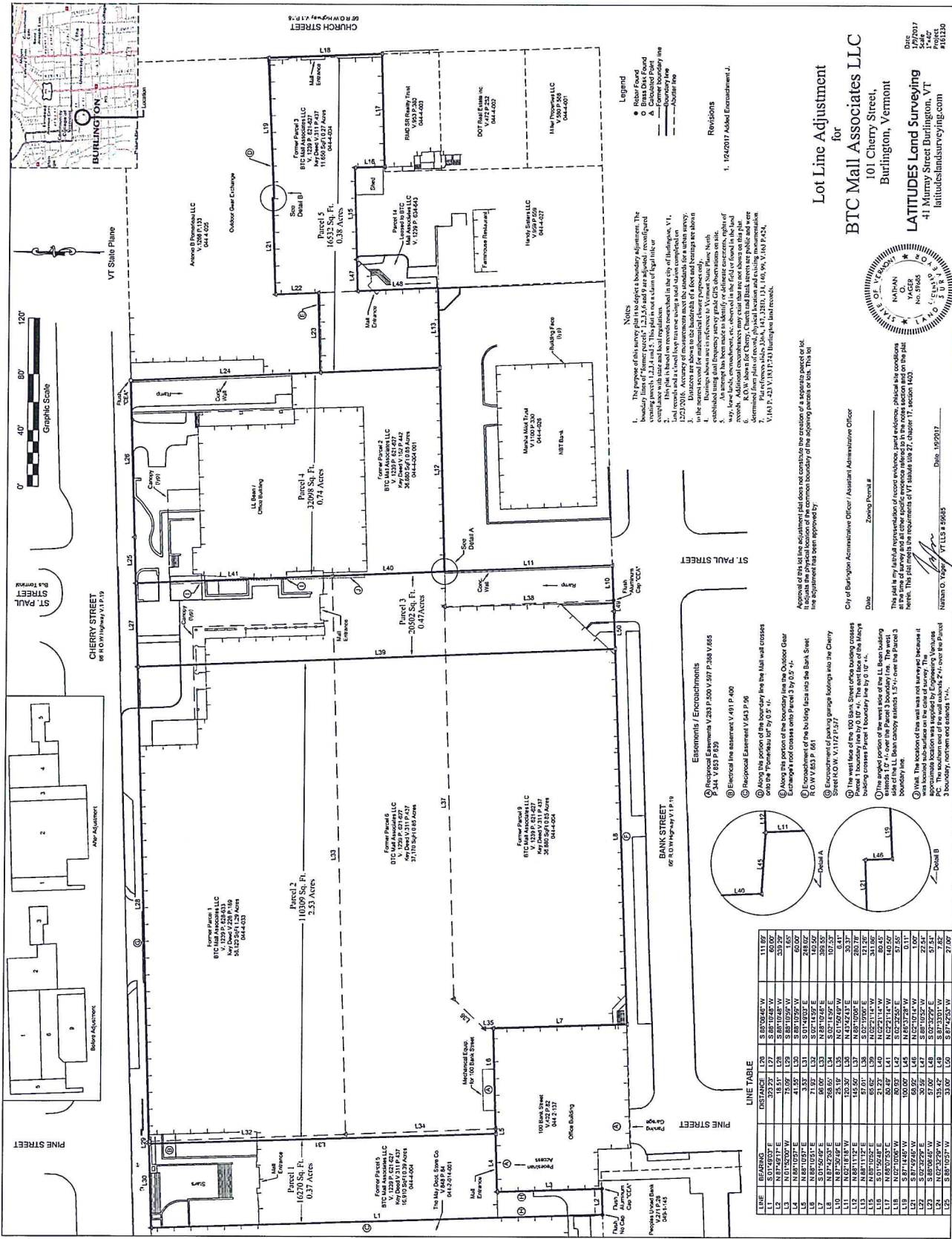
At Burlington, in said County and State, this \_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared Miro Weinberger, to me known, being the Mayor of the City of Burlington, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of the City of Burlington.

Before me \_\_\_\_\_  
Notary Public  
Commission Expires: 2/10/19

**Exhibit F**

**Survey entitled “Lot Line Adjustment for BTC Mall Associates LLC, 101 Cherry Street, Burlington Vermont, by LATITUDES Land Surveying, dated January 9, 2017 and recorded in Map Slide 533B of the City of Burlington Land Records.**

*Attached*



**Exhibit G**

**Form of Stormwater Memorandum of Understanding**

*Attached*

MEMORANDUM OF UNDERSTANDING AND AGREEMENT  
FOR STORMWATER SYSTEM OPERATION AND MAINTENANCE

This Memorandum of Understanding and Agreement For Stormwater System Operation and Maintenance (“Agreement”) dated \_\_\_\_\_ is entered into by and between the **City of Burlington**, a Vermont Municipal Corporation, acting by and through its Department of Public Works (the “City”), and **BTC Mall Associates LLC**, a Delaware limited liability company (“Owner”) and its successors or assigns. Each is referred to individually as a “Party” and collectively as the “Parties.”

Background

A. The redevelopment (the “Project”) of the real property numbered 49 Church Street, Burlington, Vermont, which is improved with a retail shopping mall known as “Burlington Town Center”, and the real property numbered 75 Cherry Street, Burlington, which is improved with a parking garage (collectively, the “Property”, which Owner acquired by Special Warranty Deed dated December 16, 2013 and recorded in Volume 1239 at Page 621 of the City of Burlington Land Records), included the construction of a stormwater system consisting of catch basins with sumps, manholes, underground piping, a pre-treatment forebay, underground storage and attenuation tanks, and sand filters, all of which discharge stormwater by a controlled outlet and bypass structure to the municipal storm sewer system that discharges to Lake Champlain (the “Stormwater System”).

B. The Project received authorization to discharge stormwater via the Stormwater System in accordance with Vermont General Permit 3-9015 from the Vermont Agency of Natural Resources, Department of Environmental Conservation (the “Agency”) by Permit Number 7760-9015 issued on June 5, 2017 (the “Permit”), which requires the annual inspection and certification of the Stormwater System and the payment of annual fees.

C. Approximately \_\_\_\_ sq. ft. of impervious surface area is drained by the Stormwater System.

D. A portion of the Project consists of the construction of new streets and sidewalks that will be transferred to the City. It is the City’s policy to assume operation and maintenance responsibility for stormwater systems within the right-of-way of accepted city streets. Upon the City’s acceptance of such streets and sidewalks, the City will own \_\_\_\_ sq. ft., or \_\_%, of the impervious surface area drained by the Stormwater System and Owner will own \_\_\_\_ sq. ft., or \_\_%, of such impervious surface area.

E. In connection with Owner’s conveyance of the streets and sidewalks to the City, the City has agreed to become a co-permittee of the Permit on the condition that Owner enter into this Agreement in order for the Parties to agree upon their respective obligations with respect to the maintenance, repair and replacement of the Stormwater System and with respect to their obligations as co-permittees of the Permit.

Now, therefore, in consideration of the foregoing and other good and valuable consideration, and meaning and intending to be bound hereby, the City and Owner hereby covenant and agree as follows:

1. The Parties agree that they will be co-permittees under the Permit.

2. Owner shall be solely responsible for the maintenance, repair and replacement of the underground piping, pre-treatment forebay, sumps, underground storage and attenuation tanks, and sand filters that comprise elements of the Stormwater System, including any and all costs related thereto, and Owner shall be solely responsible for the maintenance of all components of the Stormwater System located on property owned by Owner (including the Property), including any and all costs related thereto.

3. The City shall be solely responsible for the maintenance (cleaning), repair and replacement of the catch basins and manholes located within the right-of-way for Pine Street or within other land or easements owned by the City that comprise elements of the Stormwater System, including any and all costs related thereto. The City will not seek to recover from the Owner any costs incurred by the City to maintain such catch basins and manholes other than the standard stormwater fee generally assessed by the City to owners of property with impervious surfaces.

4. Owner shall be responsible for the payment of all fees and costs to the Agency arising out of the Permit, including but not limited to permit application fees, renewal fees, administrative processing fees, fines or penalties assessed by the Agency under the Permit. Notwithstanding the foregoing, in accordance with its pro-rata share of impervious surface area covered by the Permit, Owner shall pay \_\_\_% of the annual operating fee required by the Permit, and the City shall pay \_\_\_% of the annual operating fee required by the Permit. Owner shall initially pay the annual operating fee to the Agency and the City shall reimburse Owner for the City's share of the annual operating fee within thirty (30) days of its receipt of an invoice therefor together with backup documentation substantiating the invoiced amount.

5. Owner shall, on behalf of both Parties, manage and coordinate the Parties' compliance with the obligations of the Permit and the laws, rules and regulations pursuant to which the Permit has been issued, and Owner is hereby authorized, and Owner agrees, to do or cause to be done all matters required for Permit compliance on behalf of the Parties except as otherwise set forth in this Agreement. Without limiting the foregoing, Owner shall engage a licensed and qualified engineer to perform the inspections required by the Permit, to file the reports required by the Permit and to file applications to renew the Permit prior to its expiration, and except as set forth in this Agreement shall engage such contractors as may be necessary to perform any maintenance or construction work that may be required for the Stormwater System to be in compliance with the requirements of the Permit and the laws, rules and regulations pursuant to which the Permit has been issued.

6. Each Party shall be responsible for performing any work resulting or arising from its negligence, willful misconduct, failure to abide by the Permit conditions or failure to comply with applicable law, and each Party shall be responsible for paying any fines or penalties which may be assessed against the Parties by the Agency resulting or arising from its negligence, willful misconduct, failure to abide by the Permit conditions or failure to comply with applicable law, provided that the City's liability under this provision is limited to the extent that compliance is the City's obligation or responsibility under this Agreement.

7. The Parties agree that conformance with any future changes to the Permit or amendments to the Permit shall be the responsibility of the Owner. If new or amended Permit requirements require changes, upgrades or alterations to the Stormwater System, Owner shall perform any such changes, upgrades or alterations to the Stormwater System, and the City agrees to work cooperatively with Owner so it can maintain Permit compliance and conform the Stormwater System to future conditions of the Permit or any Permit amendments. Notwithstanding the foregoing, so long as the City shall have agreed in advance to the scope of work, cost and manner of performance associated with any changes, upgrades or alterations to the Stormwater System required by the Permit or future amendments thereto, then each Party shall pay its share of the costs thereof in accordance with its pro-rata share of impervious surface area covered by the Permit, meaning that Owner shall pay \_\_\_% of the cost of such required changes, upgrades or alterations, and the City shall pay \_\_\_% of the cost of such required changes, upgrades or alterations. Owner shall initially pay the cost of such required changes, upgrades or alterations and the City shall reimburse Owner for the City's share of the cost within thirty (30) days of its receipt of an invoice therefor together with backup documentation substantiating the invoiced amount.

8. With regard to any claims for injury to or death of persons (including employees and agents of the Parties) or damage to property which are caused by or are claimed to have been caused by or arising from the maintenance, reinstallation, replacement, relocation, removal or maintenance of the Stormwater

System, each Party shall indemnify, defend, protect and save the other harmless from all such claims when caused in whole or in part by the negligence or willful misconduct of such Party, its employees, agents or contractors, except to the extent caused by the gross negligence or willful misconduct of the other Party, its employees, agents or contractors

9. This Agreement presumes that each Party will fully perform all of the conditions outlined above. If, after an inspection is completed, it is determined that repairs and/or maintenance are required, or if either Party asserts that the other is in breach of this Agreement for a failure to comply with a stated condition(s), then the first party shall give written notice to the second party of the breach with request for a written correction plan to be submitted within ten (10) business days of the original notice date. The second party shall submit a plan that includes the necessary work to be performed with a deadline for completion that takes unfavorable weather conditions into account. A failure to complete the planned correction(s) as outlined, shall be considered a default of the party's obligations under this Agreement. In the event of a failure by Owner to perform its maintenance responsibilities as noted above, the City may, if it determines that it is necessary, enter onto the Property in order to perform or complete the obligation that is in default. Owner agrees that the City shall have permission to enter onto the Property to perform the obligations, and to assess all costs of such completion to Owner, include reasonable attorney's fees and other costs.

10. This Agreement shall be effective until the expiration of the Permit, and shall be automatically renewed for the term of any successor permit. Any amendments to this Agreement must be in writing, signed by the party to be charged and acknowledged. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, and shall run with title to the Property.

*Signature Page to Follow*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

BTC Mall Associates LLC

By: BDM Associates LLC, Its Manager

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name: Donald Sinex  
Title: Manager

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

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, in said County and State, this \_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared Donald Sinex, to me known, being the Manager of BDM Associates LLC, being the Manager of BTC Mall Associates LLC, and he acknowledged this instrument, by him signed, to be his free act and deed individually and on behalf of the entities on which he acted.

Before me \_\_\_\_\_  
Notary Public  
Commission Expires: 2/10/19

City of Burlington

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name:  
Title:

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, in said County and State, this \_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared \_\_\_\_\_, to me known, being the \_\_\_\_\_ of the City of Burlington, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of the City of Burlington.

Before me \_\_\_\_\_  
Notary Public  
Commission Expires: 2/10/19



## Exhibit H

### **Right of First Offer**

1. Right of First Offer. If the City shall desire to sell or transfer the new sections of St. Paul Street or Pine Street (meaning, Pine Street between Bank and Cherry Streets or St. Paul Street between Bank and Cherry Streets, each of which is referred to herein as the “City’s Property”) for cash consideration, the City shall first offer to sell the City’s Property to Owner (the “Right of First Offer”) in accordance with the following: (i) the City shall deliver to Owner a written notice specifying the Sale Terms (as hereinafter defined) (the “Sale Notice”) upon which the City desires to sell or transfer the City’s Property; and (ii) Owner shall then have the right to purchase the City’s Property on such Sale Terms (or such other terms as the City and Owner may mutually agree), and on the terms set forth below, by notifying the City in writing of its exercise of the Right of First Offer delivered not later than ten (10) days after Owner’s receipt of the Sale Notice from the City (“Notice of Acceptance”).

2. Owner’s Obligation if Right Exercised. If Owner timely exercises the Right of First Offer, then Owner shall have the right and obligation to purchase the City’s Property upon the Sale Terms (or such other terms as the City and Owner may mutually agree) no later than sixty (60) days following Owner’s delivery of the Notice of Acceptance. The City agrees that if Owner timely exercises the Right of First Offer, Owner may assign its purchase right to a newly formed entity owned or controlled by Owner for the purpose of owning the City’s Property. The purchase and sale of the City’s Property shall occur in accordance with the following provisions:

a. Unless otherwise agreed, and subject to extension as provided below, the closing for the transfer of title and possession of the City’s Property and for payment of the Purchase Price shall be no later than sixty (60) days after Owner’s delivery of the Notice of Acceptance.

b. At the closing, the City shall deliver to Owner, against Owner’s payment of the purchase price, a Warranty Deed, Vermont Property Transfer Tax Return, and such other closing documents, duly executed and, if appropriate, acknowledged by the City, all as the City’s counsel determines to be reasonably required to convey marketable title to Owner. Owner shall pay the applicable Vermont Property Transfer Tax.

c. Marketable title as used herein shall be defined with reference to the Vermont Record Title Act (27 V.S.A. §601, et seq.), Vermont case law and the Vermont Title Standards then in effect.

3. Waiver or Rejection; Expiration. If Owner rejects the Right of First Offer, does not timely exercise the Right of First Offer or does not satisfy the requirements of the Sale Terms (as defined below), then the City shall have the right to sell the City’s Property to a bona fide third-party free and clear of any claim by Owner for a price in excess of ninety percent (90%) of that set forth in the Sale Terms, and upon such other terms and conditions as are set forth in the Sale Terms. In connection with any such sale pursuant to this Right of First Offer, the Closing Date of the sale must take place within one (1) year after the later to occur of (i)

## FINAL VERSION

Owner rejecting the Right of First Offer, (ii) failing to timely exercise the Right of First Offer or (iii) failing to satisfy the requirements of the Sale Terms (the “Marketing Period”). In any such instance, Owner shall execute such instruments as the City may reasonably request to evidence its waiver and release of the Right of First Offer. The City may also record a copy of its certified mail registration of the Sale Notice as presumptive evidence of its compliance with the requirements of this provision as a further or alternative means of evidencing Owner’s waiver and release of the Right of First Offer. In the event that the City, in its sole discretion, desires to accept an offer from a prospective third party purchaser during such Marketing Period to purchase the City’s Property at a price less than ninety percent (90%) of the price set forth in the Sale Terms, then the City must once again deliver a Sale Notice to the Owner, and the provisions of Sections 1 and 2 above and the first sentence of this Section 3 shall apply.

4. Sale Terms. As used herein, the term "Sale Terms" shall mean: the purchase price; terms of payment of the purchase price (including any deposits); contingencies including, for example, due diligence, inspection or financing contingencies; closing date; settlement costs; expenses and adjustments; conditions upon which the proposed transfer is predicated, including the transferee’s post-closing use and development of the property; and any other terms a commercially reasonable seller and buyer of real property would include in connection with the consummation of the sale and purchase of real property, taking into account that the seller is a municipality that may value a public benefit more highly than cash consideration.

5. Exceptions. The Right of First Offer shall not apply to a sale or transfer by the City to: (i) a governmental entity; or (ii) any financing institution as security for any loan or other obligation of the City.

FINAL VERSION

**Exhibit I**

**Form of Labor Compliance Certificate**

*Attached*

4849-1707-8351, v. 1

**Certification of Compliance with Labor Standards**

Whereas, BTC Mall Associates, LLC (“Owner”) and the City of Burlington (the “City”) have entered into a Development Agreement dated October \_\_, 2017 (the “Development Agreement”) in connection with the redevelopment of the Burlington Town Center property (the “Project”).

Whereas, as material consideration for the City’s entry into the Development Agreement, Sections 5(b)(vii) and 5(b)(viii) of the Development Agreement require that Owner “shall hire contractors and subcontractors who pay appropriate wages, properly classify employees, obey labor laws, participate (where applicable) in formal apprenticeship training programs, and provide employer funded health and retirement benefits.”

Whereas, the undersigned is an authorized agent of \_\_\_\_\_ (the “Contractor”), which has been hired as a contractor or subcontractor in connection with the Project.

Now, therefore, in recognition and consideration of the foregoing, the Contractor hereby certifies under oath as follows:

1. At all times in connection with the Project, the Contractor:
  - Pays and shall pay appropriate wages;
  - Properly classifies and shall properly classify employees;
  - Obeys and shall obey labor laws;
  - Participates and shall participate (where applicable) in formal apprenticeship training programs; and
  - Provides and shall provide employer-funded health and retirement benefits.
2. A copy of this Certification shall be posted in the workplace(s) or other location(s) where Contractor’s Project employees work.
3. Contractor will provide verification of an employee’s compensation, produce payroll or health insurance enrollment records, or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the City’s Chief Administrative Officer, within ten (10) business days from receipt of a request by the City.
4. Contractor will cooperate in any investigation conducted by the Office of the City Attorney with respect to Contractor’s compliance with the contents of this Certification.
5. Contractor will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this Certification.

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

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

Subscribed and sworn to before me:

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

\_\_\_\_\_  
Notary Public  
My Commission Expires: 2.10.19