

**LICENSE AGREEMENT FOR A ROOFLINE CORNICE  
OVERHANGING THE SIDEWALK WITH SHOELESS KONSTRUCTION  
2013-2014 SEASON**

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and Shoeless Konstruction, a business having an office in Burlington, Vermont (hereinafter SHOELESS KONSTRUCTION or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way in front of the property occupied by CHAMPLAIN APARTMENTS located at 142-144 No. Champlain St. as depicted on the attached "Site Plan/Roof Plan; and

WHEREAS, SHOELESS KONSTRUCTION stated on its application (attached hereto as Exhibit A) that it wishes to maintain a building with a portion of the roofline cornice overhanging the public right-of-way directly in front of 142-144 No. Champlain St. as shown on the attached Site Plan/Roof Plan (hereinafter "cornice"); and

WHEREAS, SHOELESS KONSTRUCTION has stated in its permit application that the cornice is situated 3 stories above the street and sidewalk right-of-way and it will cover a 76 sq. ft. area; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H :

The CITY and SHOELESS KONSTRUCTION enter into the following License

Agreement:

1. TERM

The CITY grants to SHOELESS KONSTRUCTION (hereinafter LICENSEE) a license to maintain a roofline cornice situated 3 stories high overhanging the street and sidewalk right-of-way for a term commencing as of the date of execution of this Agreement and terminating on April 30, 2014 or sooner as provided herein.

2. LOCATION

LICENSEE shall maintain a cornice overhanging the public right-of-way (hereinafter referred to as the premises) as described in the Site Plan/Roof Plan attached. The cornice must be exactly as described and placed as approved by the Department of Public Works. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

- a. LICENSEE shall maintain the cornice in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the cornice and any damage to the cornice is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the cornice, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.
- c. The cornice shall be placed in accordance with all conditions set by the Department of Public Works and shall not impede the CITY'S ability to maintain the road, sidewalk, parking meters or greenbelt.

d. The cornice shall not cause an obstruction or inconvenience to members of the public using the sidewalk, parking meters or street.

e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way.

4. LICENSE FEE

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable on or before May 1 of each year to the Burlington City Clerk's Office. **Failure to pay the annual fee shall result in the immediate revocation of the license.**

5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the cornice. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the cornice and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. INSURANCE

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the CITY is named as an additional insured and shall be given 15 days written notification prior to cancellation of such insurance for nonpayment of premium and 45 days notice for any other reason. The certificate shall be attached to this Agreement as Exhibit D and the endorsement shall be attached as Exhibit E.

c. The certificate of insurance shall be provided annually on or before its stated expiration. It is the responsibility of LICENSEE to ensure that a current certificate of insurance and endorsement are on file with the CITY at all times. **Failure to furnish a current certificate of insurance and endorsement will result in immediate revocation of this license.**

#### 7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

#### 8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, prior to placement of the cornice.

#### 9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition

imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

12. This License Agreement supersedes all other License Agreements executed for this location.

DATED at Burlington, Vermont this \_\_\_\_\_ day of \_\_\_\_\_,

2013.

CITY OF BURLINGTON

\_\_\_\_\_  
Witness

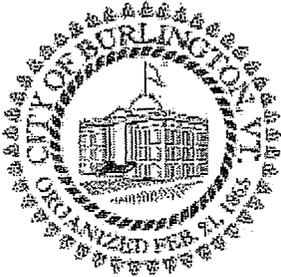
By: \_\_\_\_\_  
Miro Weinberger, Mayor  
Duly Authorized

SHOELESS KONSTRUCTION

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
John Stuart McGowan,  
Duly Authorized

1b/c: GM 2013/License Agree for Encumbrance – Shoeless Konstruction, 142-144 No. Champlain St. Apts. (Roofline Cornice Overhang)  
4/30/13



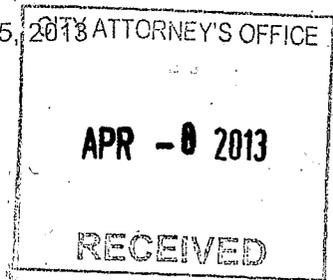
OFFICE OF THE CLERK AND TREASURER  
 149 CHURCH STREET  
 BURLINGTON, VT 05401  
 Voice (802)865-7000  
 FAX (802)865-7014  
 TTY (802)865-7142  
 Amy Bovee (802)865-7019  
 Ron Gore (802)865-7562

**Encumbrance Application / Renewal**

Effective 04/30/2013 - 04/30/2014

JOHN STUART MCGOWEN  
 JOHN STUART MCGOWEN  
 107 INTERVALE AVE

DATE: Tuesday, February 5, 2013  
 PHONE: (802)598-7576  
 FAX:  
 EMAIL:



DBA NAME: JOHN STUART MCGOWEN

COMPANY: SHOELESS KONSTRUCTION

LOCATION: 142-144 NORTH CHAMPLAIN ST.

Permission is requested to allow/continue the encumbrance in the following area and manner (please describe fully, including size and physical barriers around area i.e. trees, grates, parking meters, etc with photos, diagrams, blueprints; may reference prior application):

Placement of Encumbrance: ROOF OVERHANGING SIDEWALK

Conditions: Keeping public ways clear

Total Square Feet (\$1.00 per SF): 76

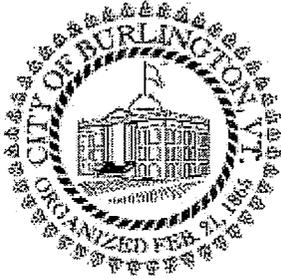
**PLEASE ATTACH:**

1. Certificate of Liability Insurance with holder as the: "CITY OF BURLINGTON, CLERK/TREASURER'S OFFICE ENCUMBRANCE APPLICATION DEPT., 149 CHURCH ST., BURLINGTON, VT 05401"
2. Endorsement to Insurance Policy outlining the Cancellation Policy
3. Endorsement to Insurance Policy listing the City as Additional Insured
4. Sketch, Photo, or Blueprint of what you are proposing.
5. Check for the square feet fees (\$1 per square foot) + \$25 Application fee 107

Signature John Stuart McGowen Date 3/11/13  
 JOHN STUART MCGOWEN

For office use only: Amount received \$ 101 on 3/11 Check # 10761  
 Sent to Attorney:

*Exhibit A*



OFFICE OF THE CLERK AND TREASURER  
 149 CHURCH STREET  
 BURLINGTON, VT 05401  
 Voice (802)865-7000  
 FAX (802)865-7014  
 TTY (802)865-7142  
 Amy Bovee (802)865-7019  
 Ron Gore (802)865-7562

**Encumbrance DPW Approval Form**

Effective 05/01/2013 - 04/30/2014

ATTENTION: RON GORE, BURLINGTON DEPARTMENT OF PUBLIC WORKS

DBA NAME: JOHN STUART MCGOWEN                      DATE: Wednesday, March 13, 2013  
 COMPANY: SHOELESS KONSTRUCTION                      PHONE: (802)598-7576  
 LOCATION: 142-144 NORTH CHAMPLAIN ST.                      FAX:  
 MAILING ADDRESS: JOHN STUART MCGOWEN  
 107 INTERVALE AVE

**RACKS / RAMPS / STAIRS / TABLES / CHAIRS ETC**

1. Racks, ramps, sidewalks encumbrances should be located on private property, if possible. In the opinion of the City Building Inspector, is there an available alternative location for the ramp on private property?    Yes     No

2. Will there be sufficient width for plows and pedestrian access if racks, ramp, sidewalk, tables & chairs encumbrances are added on the sidewalk?    Yes     No

3. Additional Comments: ROOF OVER HANG ABOVE SIDEWALK  
APPROX 4 FEET

4. A 76 square foot placement of ROOF OVERHANGING SIDEWALK at 142-144 NORTH CHAMPLAIN ST.

**DEPARTMENT OF PUBLIC WORKS**

Approved?    Yes   
                   No

Explain: RENEWAL - PART OF BUILDING

Signature Ron Gore

Date: 03/09/13

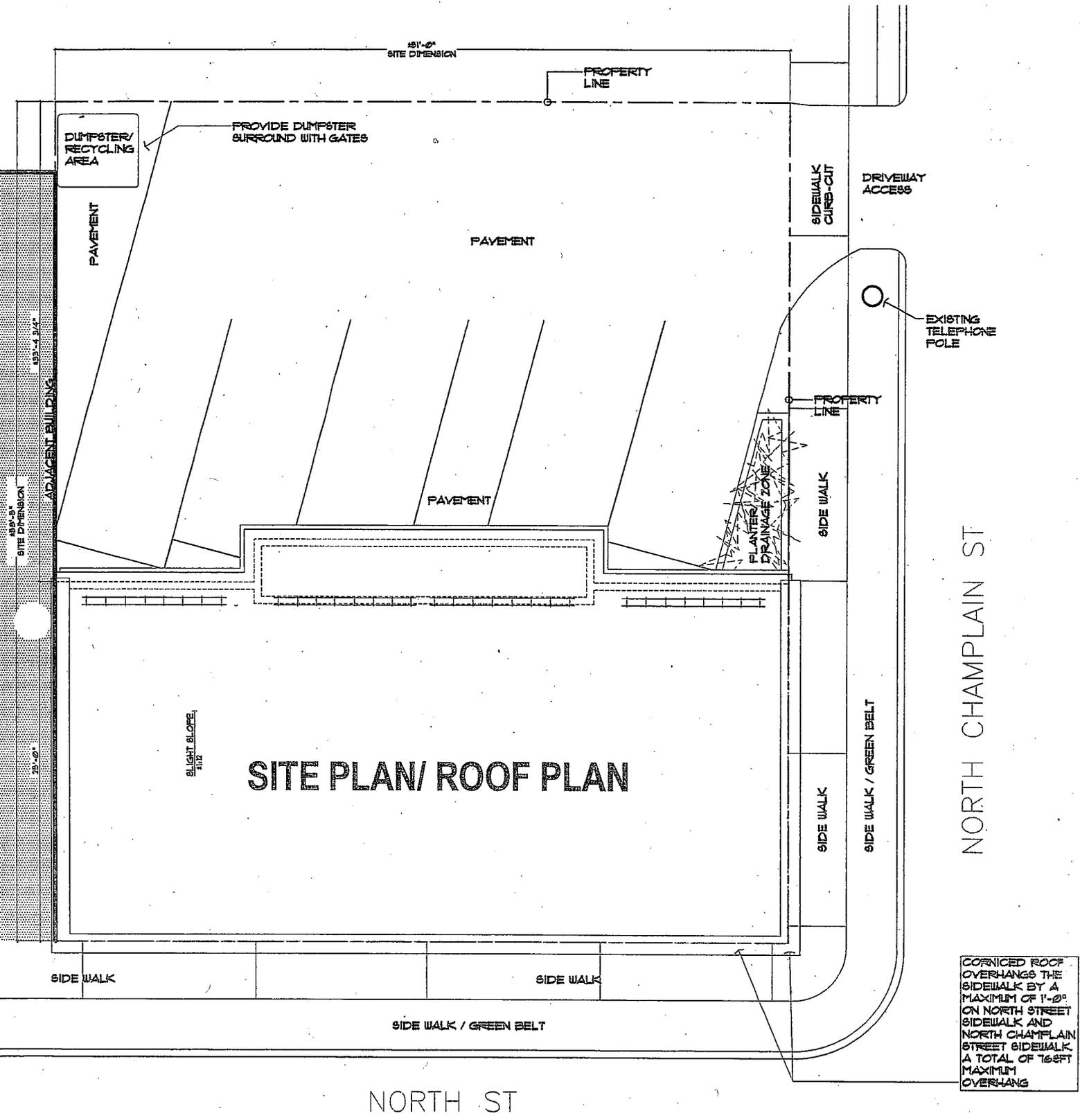
*Exhibit B*

**Encumbrance Description:**

The 142-144 No Champlain Street Apartments are being built on the same footprint of the existing building that burned down previously. It is a corner lot located on the corner of North Street and North Champlain Street.

The foundation is being built with a 'turned in' footing to make sure not to disrupt the sidewalk, although the building is being built up to the edge of the property line/ sidewalk edge. The portion that will overhang the sidewalk is the roof cornice located 3 stories high. This is similar to the surrounding buildings and should have no interference with pedestrian flow or plow vehicles. The amount overhanging should be very similar to what was already there. Some window trim and or lower trim and building details may overhang a small amount, as it will be built up to the sidewalk edge; yet it will be with-in the width of the overhang of the roof/cornicing above. The overhang will occur on the North street side and the North Champlain street side with a maximum overhang width of 1'-0" with a total of no more than 76sft overhanging the sidewalk. See attached plan.

**Total Maximum Encumbrance: 76sft**



142-144 NO. CHAMPLAIN ST  
 NOTE: THIS IS NOT A SURVEY.  
 PROPERTY LINES INDICATED ARE  
 BASED ON THE TOWN OF  
 WASHINGTON TAX MAPS

Exhibit C



# CERTIFICATE OF LIABILITY INSURANCE

OP ID: CR

DATE: (MM/DD/YYYY)

02/19/13

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER T.S. Peck Insurance 41 IDX Drive Suite 135 So. Burlington, VT 05403 T.S. Peck Ins. Agency	802-865-8000	CONTACT NAME:	
	802-863-7889	PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		PRODUCER CUSTOMER ID #:	MCGOW-1
		INSURER(S) AFFORDING COVERAGE	
INSURED John McGowan & Joan Watson 105 Intervale Ave Burlington, VT 05401		INSURER A:	Granite Mutual Insurance Co.
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	
		NAIC #	
		14095	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR LTR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X	BP31013501	04/29/12	04/29/13	EACH OCCURRENCE	\$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					PERSONAL & ADV INJURY	\$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					GENERAL AGGREGATE	\$ 4,000,000
	AUTOMOBILE LIABILITY					PRODUCTS - COMP/OP AGG	\$ 2,000,000
	<input type="checkbox"/> ANY AUTO						\$
	<input type="checkbox"/> ALL OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per person)	\$
	<input type="checkbox"/> HIRED AUTOS					BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
	UMBRELLA LIAB						\$
	<input type="checkbox"/> OCCUR						\$
	EXCESS LIAB						\$
	<input type="checkbox"/> CLAIMS-MADE						\$
	DEDUCTIBLE						\$
	RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N	N/A			E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Property location: 142-144 No. Champlain St, Burlington, VT 05401  
 The City of Burlington is named as additional insured with regard to general liability.

CERTIFICATE HOLDER	CANCELLATION
CITYBUR	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
City of Burlington Clerk/Treasurer's Office Encumbrance Application Dept 149 Church St Burlington, VT 05401	AUTHORIZED REPRESENTATIVE T.S. Peck Ins. Agency <i>Maggie Mullin</i>

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ACORD 25 (2009/09)

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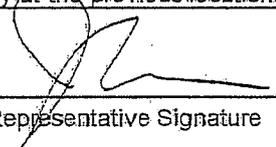
*Exhibit D*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLICY CHANGES

Policy Change  
Number 8

POLICY NUMBER  BP31013501	POLICY CHANGES EFFECTIVE  02/19/2013	COMPANY  GRANITE MUTUAL INSURANCE CO.
NAMED INSURED  JOHN MCGOWAN		AUTHORIZED REPRESENTATIVE  T.S. PECK INSURANCE
COVERAGE PARTS AFFECTED  BUSINESSOWNERS		
CHANGES		
ADDED CITY OF BURLINGTON AS ADDITIONAL INSURED - FORM VB2026 THE FOLLOWING FORMS HAVE BEEN ADDED TO THE POLICY: VB2026 (09/04)      ADDL INS-DESIGNATED PERSON/ORG		
PREMIUM ADJUSTMENT		
ADDITIONAL PREMIUM	RETURN PREMIUM	NEW ANNUALIZED PREMIUM
\$ 0	\$ 0	\$ 38,812
REMOVAL PERMIT	If Covered Property is removed to a new location that is described on this Policy Change, you may extend this insurance to include that Covered Property at each location during the removal. Coverage at each location will apply in the proportion that the value at each location bears to the value of all Covered Property being removed. This permit applies up to 10 days after the effective date of this Policy Change; after that, this insurance does not apply at the previous location.	

  
 Authorized Representative Signature

*Exhibit E*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY

WHO IS AN INSURED as defined in form BP 00 06 is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.

SCHEDULE

Name of Person or Organization:

CITY OF BURLINGTON  
CLERK/TREASURERS OFFICE  
149 CHURCH ST  
BURLINGTON, VT 05401

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## VERMONT CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART  
BUSINESSOWNERS COVERAGE PART  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL CRIME COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY COVERAGE PART

A. The CANCELLATION Common Policy Condition is replaced by the following:

### CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

2. Cancellation of Policies in Effect for Less than 60 Days.

If this policy has been in effect for less than 60 days and this policy is not a renewal of a policy we issued, we may cancel this policy by:

- a. Giving the first Named Insured at least 15 days' notice prior to the cancellation date for nonpayment of premium or substantial increase in hazard; or
- b. Mailing or delivering the first Named Insured at least 45 days' notice prior to the cancellation date for any other reason.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than nonpayment of premium, written notice must be sent by certified mail.

3. Cancellation of Policies in Effect For 60 Days or More

If this policy has been in effect for 60 days or more, or if this is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- a. Nonpayment of premium;

b. Fraud or material misrepresentation affecting this policy or in the presentation of claims under this policy;

c. Violation of any provisions of this policy; or

d. Substantial increase in hazard, provided we have secured approval for the cancellation from the commissioner of insurance.

If we cancel this policy for one of the reasons specified in paragraph 3., we will cancel only in the following manner:

- a. By giving at least 15 days' notice before the effective date of cancellation if we cancel for nonpayment of premium; or
- b. By mailing or delivering at least 45 days' notice before the effective date of cancellation if we cancel for any other reason.

Written notice of cancellation, including the reason for cancellation, will be mailed or delivered to the first Named Insured at the first Named Insured's last mailing address known to us.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than nonpayment of premium, written notice must be sent by certified mail.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Any WHEN WE DO NOT RENEW Condition is deleted.

The following Conditions are added:

1. WHEN WE DO NOT RENEW

a. We may elect not to renew this policy by mailing, by certified mail, or delivering written notice of nonrenewal to the first Named Insured's last mailing address known to us. We will mail or deliver this notice at least 45 days before the:

- (1) Expiration of the policy; or
- (2) Anniversary date of this policy if this policy has been written for a term of more than one year.

b. This provision does not apply:

- (1) If we have indicated a willingness to renew;
- (2) In case of nonpayment of premium;
- (3) If you do not pay any advance premium required by us for renewal; or

(4) If any property covered in this policy is insured under any other insurance policy.

2. RENEWAL

a. If we:

- (1) Elect to renew this policy; and
- (2) Have the necessary information to issue a renewal policy,

we will confirm in writing at least 45 days before it expires our intention to renew this policy; and the premium at which this policy will be renewed.

b. If we do not comply with the provisions of paragraph a., you will have renewal coverage. The renewal coverage will be at the rates:

- (1) In effect under the expiring or expired policy; or
- (2) In effect on the expiration date, that have been approved by the Commissioner;

whichever are lower.

This renewal coverage will be on a pro rata basis and will continue for 45 days after we confirm renewal coverage and premium. If you accept this renewal policy, this paragraph b. does not apply.