

AMENDED LICENSE AGREEMENT WITH ICV CONSTRUCTION, INC.

This AMENDED 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 ICV CONSTRUCTION, INC., a Vermont Corporation with its offices in Burlington, Vermont (hereinafter ICV or LICENSEE).

WHEREAS, the CITY owns property, including the street, sidewalk and greenbelt in front of the property at 180 Battery St.; and

WHEREAS, upon City Council authorization, ICV and the CITY entered into a License Agreement dated September 29, 2010 permitting ICV to encumber the sidewalk area in front of 180 Battery St. until April 30, 2011 in order to erect a construction barrier around its construction site at 180 Battery St.; and

WHEREAS, the Parties agree that the September 29, 2010 agreement should be amended to include the licensing of the obstruction of 3 metered parking spaces on Battery Street adjacent to the vehicular access to the construction site; and

WHEREAS, the Parties agree that all the other terms and conditions in the existing September 29, 2010 agreement are incorporated into this amended license agreement and that this new agreement supersedes and replaces the September 29, 2010 agreement;

WHEREAS, the initial application and the current request to obstruct the three metered parking spaces has been reviewed and approved by the Department of Public Works; and

WHEREAS, because these amendments involve obstructions of public thoroughfares for periods in excess of 30 days, the City Council authorized the Mayor to enter into this Amended License Agreement on January 10, 2011, as required pursuant to Charter Sec. 48(49) and Burlington Code of Ordinances § 27-32;

WITNESSETH:

NOW, THEREFORE, in consideration of the above and the mutual covenants the CITY and ICV enter into the following Amended License Agreement:

1. **TERM**

The term of this license agreement shall commence upon full execution of this Agreement and shall continue until April 30, 2011 or sooner as provided herein.

2. **LOCATION**

LICENSEE may use and encumber the sidewalk area in front of 180 Battery St. totaling approximately 1,272 square feet (hereinafter referred to as the PREMISES) for the placement of a construction barrier related to the construction project at 180 Battery St., such obstruction being permitted for the term of the agreement

Furthermore, LICENSEE may temporarily restrict the public's use of three parking meters on Battery Street, one single meter on the south side of the Battery Street Gate and one double meter on the north side of the Battery Street Gate, the purpose of the obstruction being to permit safe access by construction vehicles until April 30, 2011.

A copy of the approved plan is attached hereto; "Architectural Site Plan AO.1" shows the location of the fencing, barriers, and the 3 metered parking space locations to the south and north of the Battery Street Gate to be obstructed from public use.

3. **MAINTENANCE**

a. The PREMISES shall be maintained in accordance with all conditions set by the Department of Public Works attached hereto as Exhibit B.

b. LICENSEE shall take all reasonable precautions to protect the public from potential hazards resulting from this use.

c. Licensee will erect proper signage to redirect pedestrians.

d. Should Licensee fail to maintain the construction barrier or the PREMISES consistent with the building permits issued in conjunction with the construction project, this License Agreement is revocable on notice by the City of a violation, however, Licensee shall have 7 days to cure the problem if the City is notified in writing within 3 days of its intent to cure.

e. LICENSEE shall pick up and sweep debris created by its use of the PREMISES. Licensee shall be responsible for the maintenance and upkeep of the construction barrier and any damage to the construction barrier is solely the responsibility of the Licensee.

f. During the term of this license agreement, the LICENSEE shall not maintain or store any toxic or hazardous waste materials or contaminants upon said premises. The LICENSEE shall defend, indemnify and save the CITY harmless from any claims, causes of actions, penalties, fines or other assessments, or the expense and cost of cleanup arising out of or in connection with said hazardous or toxic materials or contaminants upon said premises caused by the LICENSEE.

g. Licensee shall be responsible for removing, hauling and properly disposing of accumulated snow on the PREMISES.

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 to the Burlington City Clerk's Office prior to issuance of said license. The PARTIES agree that this fee was paid as part of the original obstruction license agreement executed September 29, 2010 and that except for the fee for the obstruction of the three metered parking spaces set forth below no additional fee is owed for this amended agreement.

The fee to obstruct the three metered parking spaces is, pursuant to Burlington Code of Ordinances (BCO) § 27-33, twenty dollars per day (\$20.00/day), per meter. LICENSEE is subject to the provisions of BCO § 27-33 and any other applicable ordinance or regulation.

5. REVOCAION

This License Agreement is immediately revocable should LICENSEE discontinue use of the PREMISES. 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 all equipment and other materials or obstructions placed on the PREMISES. 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 which shall include the provision that the CITY is named as an additional insured and shall be given 30 days written notification prior to cancellation of such insurance. The certificate shall be attached to this Agreement as Exhibit D.

c. It is the responsibility of LICENSEE to ensure that a current certificate of insurance are on file with the CITY at all times. **Failure to furnish a current certificate of insurance 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 use of the CITY'S right-of-way.

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.

DATED at Burlington, Vermont this _____ day of _____,

2011.

CITY OF BURLINGTON

Witness

By: _____
Bob Kiss, Mayor
Duly Authorized

ICY CONSTRUCTION, INC.

Witness

By: _____
Duly Authorized



OFFICE OF THE CLERK AND TREASURER
 149 CHURCH STREET
 BURLINGTON, VT 05401
 Voice (802)865-7000
 FAX (802)865-7014
 TTY (802)865-7142
 Sue Meehan (802)865-7135
 Ron Gore (802)865-7562

Encumbrance Application / Renewal

Effective 05/01/2010 - 04/30/2011

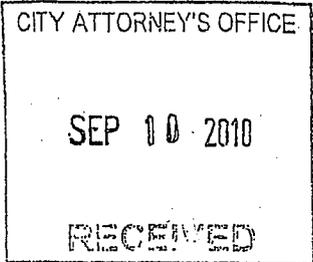
MIKE BROUILLARD
 ICV COSTRUCTION, INC.
 SUITE 401
 BURLINGTON, VT 05401

DATE: Friday, September 3, 2010

PHONE: 802-863-2311

FAX: 802-863-2313

EMAIL:



DBA NAME: ICV COSTRUCTION, INC.

COMPANY: INVESTORS CORPORATION OF VERMONT

LOCATION: 30 MAIN STREET

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: Corner of King & Battery Sts - 8 ft out from curb and 159 ft up King St

Conditions: Keeping public ways clear

Total Square Feet (\$1.00 per SF): 1,272

PLEASE ATTACH:
 Certificate of Liability Insurance with holder as the: "CITY OF BURLINGTON, CLERK/TREASURER'S OFFICE ENCUMBRANCE APPLICATION DEPT., 149 CHURCH ST., BURLINGTON, VT 05401" with a 30 DAY NOTICE FOR CANCELLATION EFFECTIVE MAY 1 TO APRIL 30 OF THE CURRENT YEAR in the amount of \$2 million for the general aggregate and \$1 million for each occurrence. Your insurance agent can fax the certificate to this office at the above number.

Encumbrance Fee	\$1,272.00
Application Fee	\$25.00

Signature Date 9/10/10
 MIKE BROUILLARD

Total \$1,297.00

For office use only: Amount received \$ 1272.00 on 9/3/10 Check # 10226
 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
 Sue Meehan (802)865-7135
 Ron Gore (802)865-7562

Encumbrance DPW Approval Form

Effective 05/01/2010.- 04/30/2011

ATTENTION: RON GORE, BURLINGTON DEPARTMENT OF PUBLIC WORKS

DBA NAME: ICV COSTRUCTION, INC.

DATE: Friday, September 3, 2010

COMPANY: INVESTORS CORPORATION OF

PHONE: 802-863-2311

LOCATION: 30 MAIN STREET

FAX: 802-863-2313

MAILING ADDRESS: MIKE BROUILLARD
 SUITE 401
 BURLINGTON, VT 05401

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: TEMP. BARRIERS DURING CONSTRUCTION

4. A 1,272 square foot placement of Corner of King & Battery Sts - 8 ft out from curb and 159 ft up King St at 30 MAIN STREET

DEPARTMENT OF PUBLIC WORKS

Approved? Yes

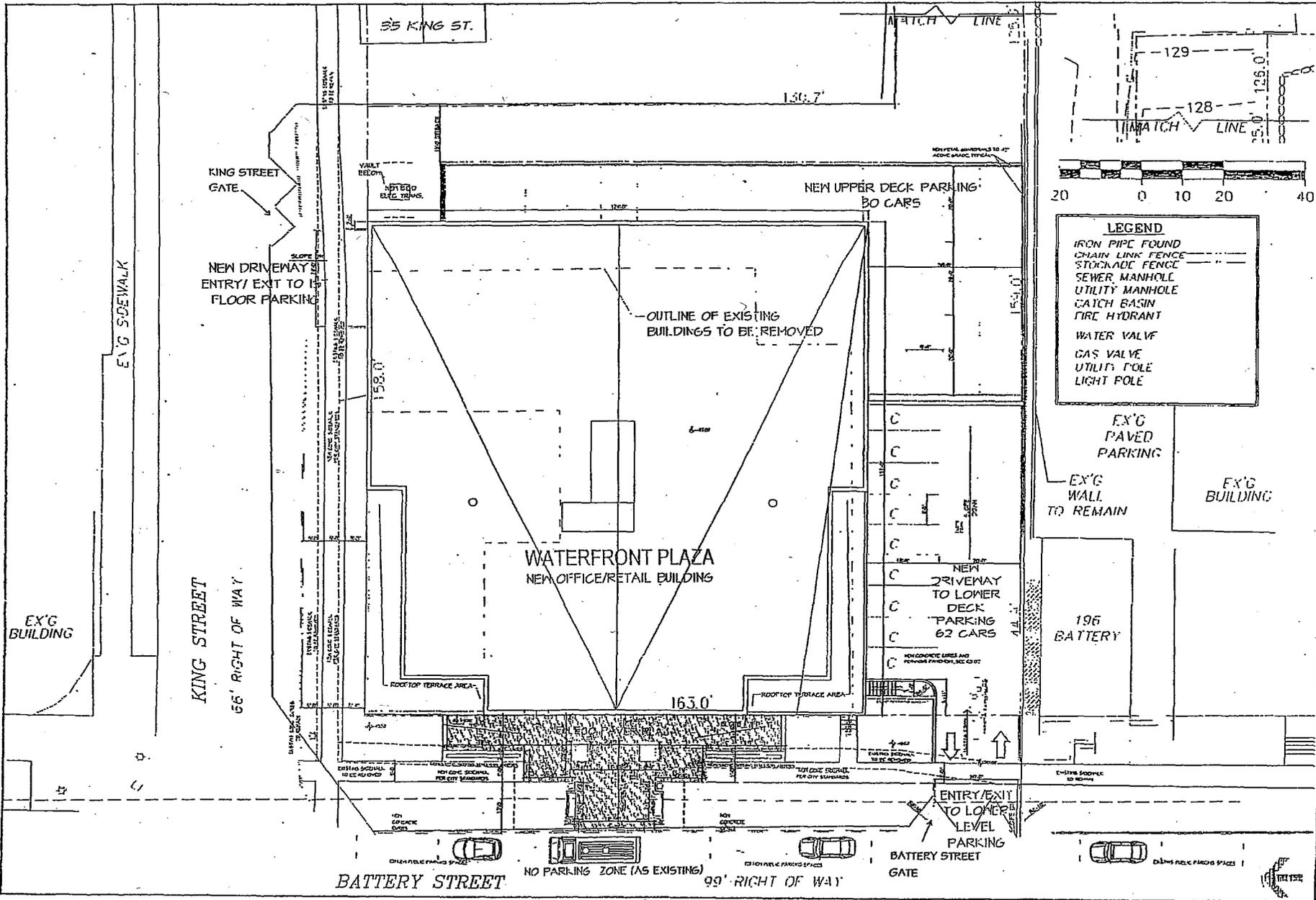
No

Explain: USING EXISTING PARKING SPACE:

Signature Ron Gore

Date: 09.10.10

Exhibit B



LEGEND

- IRON PIPE FOUND
- CHAIN LINK FENCE
- STOCKADE FENCE
- SEWER MANHOLE
- UTILITY MANHOLE
- CATCH BASIN
- FIRE HYDRANT
- WATER VALVE
- GAS VALVE
- UTILITY POLE
- LIGHT POLE

EX'G PAVED PARKING
EX'G WALL TO REMAIN
EX'G BUILDING

196 BATTERY

DATE	REVISION
02/10/00	REVISED ONE SUBMISSION
01/10/00	FINAL PDS SUBMISSION
01/10/00	REVISED ONE SUBMISSION
01/10/00	FINAL PDS SUBMISSION
01/10/00	REVISED ONE SUBMISSION
01/10/00	FINAL PDS SUBMISSION

DATE	REVISION
06/04/00	PRELIMINARY PDS
06/04/00	PRELIMINARY TECH REVIEW
06/04/00	PRELIMINARY PDS SUBMISSION
06/04/00	REVISED ONE SUBMISSION
06/04/00	FINAL PDS SUBMISSION

J. GRAHAM GOLDSMITH ARCHITECTS, P.C.
 1 William Street, Danvers, VT 05440
 13 Elmwood, Manchester, NH 03104

Waterfront Plaza
 Building
 Danvers, Vermont

ARCHITECTURAL SITE PLAN

SCALE: 1/4" = 1'-0"
 DATE: 06/04/00
 DRAWN BY: JG
 CHECKED BY: JG
 TITLE: ARCHITECTURAL SITE PLAN
 SHEET NO.: A0.1

27.4.0.13

ACORD CERTIFICATE OF LIABILITY INSURANCE DATE (MM/DD/YYYY)
08/25/2010

PRODUCER (802)658-4600 FAX (802)658-6191 Smith, Bell & Thompson, Inc. 40 Main St., Suite 500 P.O. Box 730 Burlington, VT 05402-0730	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.												
INSURED ICV Construction, Inc 30 Main Street Burlington, VT 05401	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">INSURERS AFFORDING COVERAGE</td> <td style="width: 20%;">NAIC #</td> </tr> <tr> <td>INSURER A: Cincinnati Insurance Co.</td> <td>10677</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: Cincinnati Insurance Co.	10677	INSURER B:		INSURER C:		INSURER D:		INSURER E:	
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INSURER C:													
INSURER D:													
INSURER E:													

COVERAGES

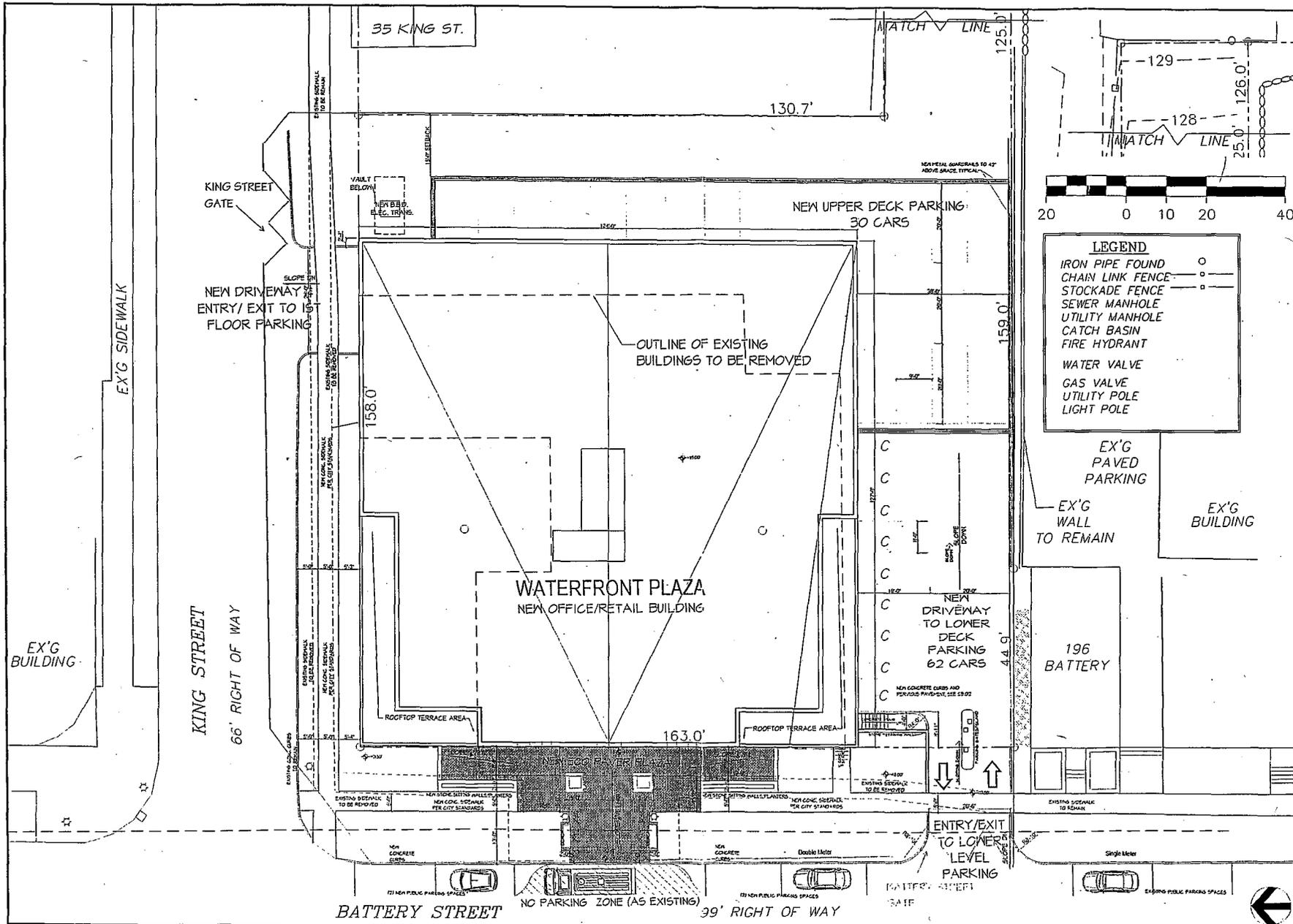
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES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

INSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	CPPCPA0839784	06/08/2010	06/08/2011	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PERSONAL & ADV INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY	CPPCPA0839784	06/08/2010	06/08/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input checked="" type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
	EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
	<input type="checkbox"/> DEDUCTIBLE				\$
	RETENTION \$				\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC1919231-01	06/08/2010	06/08/2011	WC STATU-TORY LIMITS OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$ 500,000
					E.L. DISEASE - POLICY LIMIT \$ 500,000
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Re: 180 Battery Street, Burlington, VT
 City of Burlington is listed as additional insured with reference to general liability.

CERTIFICATE HOLDER City of Burlington City Clerk's Office/Encumbrance Application Division-Attn: Susan Meehan 149 Church Street Burlington, VT 05401	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Nancy Danforth/NDANFO <i>Nancy Danforth</i>
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Each part D



LEGEND

- IRON PIPE FOUND ○
- CHAIN LINK FENCE —○—
- STOCKADE FENCE —□—
- SEWER MANHOLE ○
- UTILITY MANHOLE ○
- CATCH BASIN ○
- FIRE HYDRANT ○
- WATER VALVE ○
- GAS VALVE ○
- UTILITY POLE ○
- LIGHT POLE ○

DATE	REVISION
04/21/04	DESIGN DEVELOPMENT
07/08/04	PRELIMINARY DRB
08/26/04	PRELIMINARY TECH REVIEW
01/12/05	PRELIM DRB SUBMISSION
01/14/05	REVIEW of DRB SUBMISSION
02/17/05	DRB SUBMISSION
04/21/04	REVISED DRB SUBMISSION
05/11/04	FINAL DRB SUBMISSION

Project Name: **Waterfront Plaza**
 Location: **Burlington Vermont**
 Architect: **J. GRAHAM GOLDSMITH ARCHITECTS, P.C.**
 Address: 7 Kilham Street Burlington, VT 05401
 13 Essex Road Montpelier, VT 05602

Waterfront Plaza
ARCHITECTURAL SITE PLAN

SCALE: 1" = 10'
 DATE: 02/05
 DRAWN BY: JWG
 CHECKED BY: JWG
 DATE: 02/05
 SHEET: **A0.1**