

1
2 **Resolution Relating to**
3
4

RESOLUTION
~~Councilors Dober,~~
Sponsor(s):
~~Blais, Berezniak, License Com.~~

Introduced: 09/26/11
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

5
6 AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT
7 TO MAINTAIN TABLES AND CHAIRS ON A
8 PORTION OF THE CITY'S RIGHT-OF-WAY WITH
9 DOBRA TEA
10
11

12
13 **CITY OF BURLINGTON**

14 In the year Two Thousand Eleven.....
15 Resolved by the City Council of the City of Burlington, as follows:

16
17 That WHEREAS, WINGTAO, LLC d/b/a DOBRA TEA of Burlington, Vermont (hereinafter
18 DOBRA TEA) is an establishment doing business in a commercial building located at 80 Church
19 Street in the City of Burlington, Vermont; and

20 WHEREAS, DOBRA TEA desires to place 4 tables and 12 chairs in the public right-of-
21 way in front of its establishment at 80 Church Street; and

22 WHEREAS, DOBRA TEA wishes to enter into a License Agreement with the City for
23 such tables and chairs; and

24 WHEREAS, the placement of the respective tables and chairs has been reviewed and
25 approved by the Department of Public Works with conditions to address public safety concerns;
26 and

27 WHEREAS, the Charter of the City of Burlington, Sec. 48XLIX and the Code of
28 Ordinances Sec. 27-32 require authorization by the City Council for such use of a public
29 thoroughfare for periods in excess of thirty (30) days;

30 NOW, THEREFORE, BE IT RESOLVED that this City Council hereby authorizes
31 DOBRA TEA to place 4 tables and 12 chairs on a portion of the public right-of-way adjacent to
32 its establishment at 80 Church Street as indicated in and pursuant to its License Agreement upon
33 entering into the License Agreement in substantially the form attached hereto; and

35 **Resolution Relating to**

AUTHORIZATION TO ENTER INTO LICENSE
36 AGREEMENT TO MAINTAIN TABLES AND
37 CHAIRS ON A PORTION OF THE CITY'S
38 RIGHT-OF-WAY WITH DOBRA TEA
39

40 BE IT FURTHER RESOLVED that Mayor Bob Kiss be and hereby is authorized to
41 execute a License Agreement, in substantially the form attached, on behalf of the City of
42 Burlington for a term commencing on the date of execution of the License Agreement and
43 terminating on April 30, 2012.

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46

47 lb/c: Resolutions 2011/License Agree for Encumbrance – DOBRA TEA #2, 80 Church St. (Tables & Chairs) 2011
48 9/21/11

LICENSE AGREEMENT FOR TABLES AND CHAIRS
WITH DOBRA TEA
2011-2012 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 WINGTAO, LLC d/b/a DOBRA TEA, a commercial establishment located at 80 Church Street, Burlington, Vermont (hereinafter DOBRA TEA or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way adjacent to 80 Church St.; and

WHEREAS, DOBRA TEA stated on its application (attached hereto as Exhibit A) that it wishes to place 4 tables and 12 chairs on the sidewalk area in front of the building at 80 Church Street; and

WHEREAS, DOBRA TEA has stated in its permit application that there are no physical barriers around the tables and chairs and they will cover a 100 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;

WITNESSETH:

The CITY and DOBRA TEA enter into the following License Agreement:

1. TERM

The CITY grants to DOBRA TEA (hereinafter LICENSEE) a license to place 4 tables and 12 chairs on the public right-of-way for a term commencing as of the date of execution of this Agreement and terminating on April 30, 2012 or sooner as provided herein.

2. LOCATIONS

LICENSEE may use and maintain tables and chairs on the public right-of-way (hereinafter referred to as the premises) for the consumption of food and beverage. Licensee must ensure that the sidewalk area is kept clear and at all times there is a 5 ft. right-of-way for pedestrian traffic. The tables and chairs are to be located up against the building. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

- a. LICENSEE shall maintain the tables and chairs in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the tables and chairs and any damage to the tables and chairs is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the tables and chairs, 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 tables and chairs 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 tables and chairs 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 immediately 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 tables and chairs. 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 tables and chairs 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 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 is 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 placement of the tables and chairs.

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

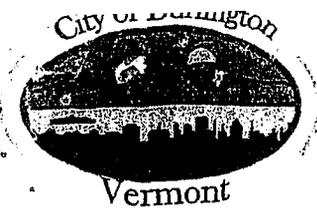
By: _____
Bob Kiss, Mayor
Duly Authorized

WINGTAO, LLC d/b/a
DOBRA TEA

Witness

By: _____
Duly Authorized

lb/c: NAF 2011/License Agree for Encumbrance – DOBRA TEA #2, 80 Church St. (Tables & Chairs) 2011
9/15/11



OFFICE OF THE CLERK/TREASURER

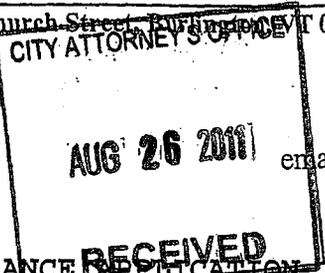
City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142



email: smeehan@ci.burlington.vt.us

80 Church St

NEW ENCUMBRANCE APPLICATION

EFFECTIVE FROM MAY 1ST TO APRIL 30TH OF EACH YEAR

DATE: 8/24/11 CONTACT PERSON: Nina Beck

DBA NAME: Dobra Tea SIGNATURE: [Signature]

PHONE: 802 355-1841

COMPANY: Wingtao LLC FAX: -

MAIL TO: PO Box 8555 Burlington VT 05402 E-MAIL: wingtao@myfairpoint.com

Permission is requested to allow the encumbrance in the following area and manner (please describe fully physical barriers around area i.e. trees, grates, parking meters, etc.). You must also provide a sketch, photo or blueprint of what you are proposing. Attach an additional sheet if needed for description.

Description: 25' x 8' area of sidewalk for 4 tables + 8 chairs

Total square feet used outdoors: (\$1.00 per square foot) 100

PLEASE ATTACH:

- 1. Certificate of Liability Insurance with certificate 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.
2. Check for the square feet fees: \$100.00
3. Check for application fee: \$25.00

For clerk office use only: Amount received \$ 125 on 8/24/11
Check # 2878
Sent to Attorney: 8/26/11





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 05/01/2011 - 04/30/2012

ATTENTION: RON GORE, BURLINGTON DEPARTMENT OF PUBLIC WORKS

DBA NAME: DOBRA TEA

DATE: Wednesday, August 24, 2011

COMPANY: WINGTAO LLC

PHONE: 802-355-1841

LOCATION: 80 CHURCH ST.

FAX:

MAILING ADDRESS: NINA BECK
 P.O. BOX 8555

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: 25' x 9' 4 TABLES / 12 CHAIRS
25' x 9'

4. A 100 square foot placement of ~~20~~ 25 X 5' AREA OF SIDEWALK FOR 4 TABLES AND 8-10 CHAIRS at 80 CHURCH ST.

DEPARTMENT OF PUBLIC WORKS

Approved? Yes
 No

THIS WILL ALLOW A 5' PEDESTRIAN WALKWAY

Explain: REVISED SIDEWALK AREA - 25' x 9'

Signature Ron Gore

Date: 08-25-11

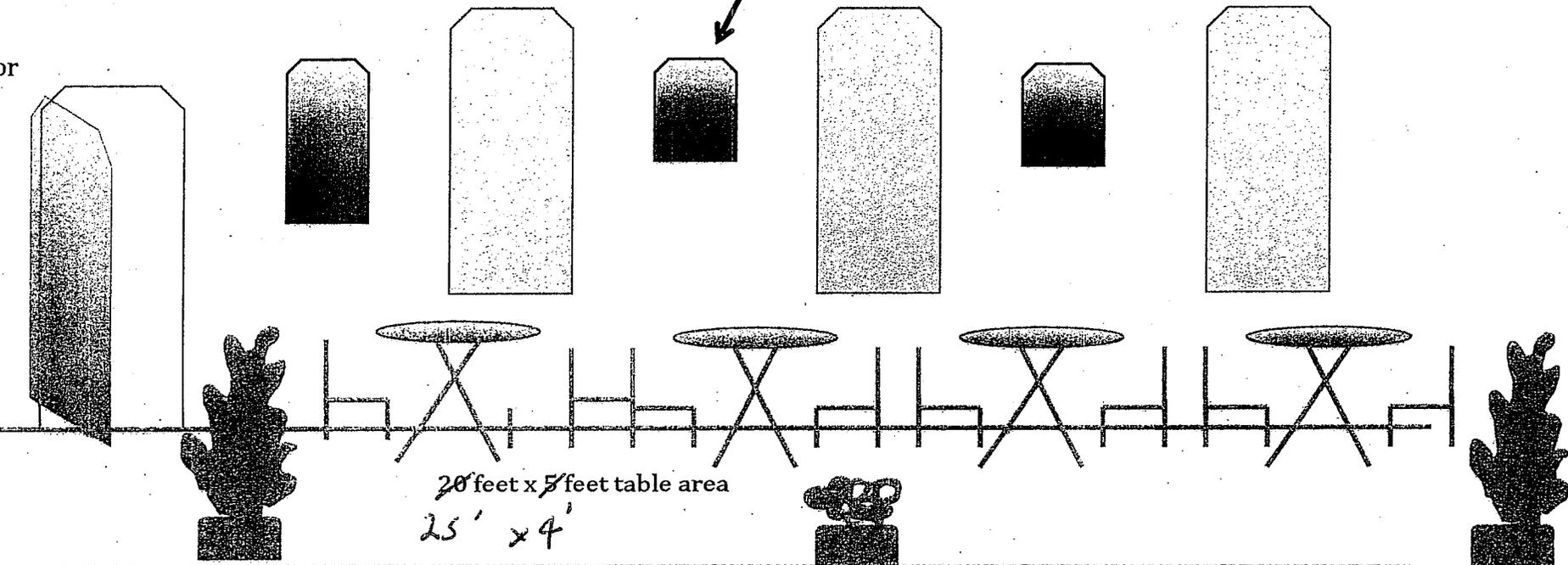
DOBRA TEA

Existing sign →

Existing wall hangings

Existing windows

Door



20' feet x 5' feet table area
25' x 4'

5 foot sidewalk clearance



CERTIFICATE OF LIABILITY INSURANCE

OP ID JL

DATE (MM/DD/YYYY)

08/26/11

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 Laberge Insurance Agency, Inc. PO Box 628 Middlebury VT 05753 Phone: 802-388-2772 Fax: 802-388-0535	CONTRACT NAME: Nina R. Beck
	PHONE (A/C, No, Ext): 802-355-1841 FAX (A/C, No):
	EMAIL ADDRESS: wingtao@myfairpoint.net
	PRODUCER CUSTOMER ID #: WINGT-1
INSURED Wingtao, LLC. DBA Dobra Tea 88 Central Avenue South Burlington VT 05403	INSURER(S) AFFORDING COVERAGE
	INSURER A: The Travelers Insurance Co.
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

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	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		NEW POLICY	09/12/11	09/12/12	EACH OCCURRENCE \$ 2000000
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 2000000 GENERAL AGGREGATE \$ 4000000 PRODUCTS - COMP/OP AGG \$ 4000000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$ \$
	UMBRELLA LIAB						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			NEW POLICY	09/12/11	09/12/12	<input checked="" type="checkbox"/> WORKERS COMPENSATION LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 100000 E.L. DISEASE - EA EMPLOYEE \$ 100000 E.L. DISEASE - POLICY LIMIT \$ 500000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Coffee and Tea House with 4 outdoor tables with 12 chairs. Insurer will give 30 days notification to Additional Insured/Certificate Holder in the event of cancellation.

CERTIFICATE HOLDER

CANCELLATION

City of Burlington 149 Church Street Burlington VT 05401	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE James S. Laberge
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