

To: City Council
Mayor Miro Weinberger
From: Don Sinex, BTC Mall Associates LLC
Date: April 27, 2016 **ADDENDUM:** **April 29, 2016**
Re: Redevelopment of Burlington Town Center Mall – Predevelopment Agreement

Thank you for the time you spent reviewing this project during this Monday's City Council meeting, and during three previous City Council public sessions and many executive sessions. As I said on Monday, I believe the public engagement and process over more than 18 months have strengthened this project and the significant public benefits it will offer.

I now ask that you allow the project to move on to the next of several remaining steps by approving the Predevelopment Agreement you have reviewed. I attach proposed revisions to the Predevelopment Agreement designed to respond to concerns raised by you or the public at Monday night's session. These are summarized below.

First, let me address why I believe it is important to move forward now on this preliminary step. As you know, the City's desire for height and density in this location, for better streetscapes, for housing, and for a repurposed and revitalized mall all existed well before we began working on this project. The project team has responded to these desires and to many of the suggestions and comments received from the City, its technical team, and the public. We have changed proposed uses; incorporated features; adjusted design and size; ceded significant property to the City for two streets; committed strongly to offering not only inclusionary housing but also labor conditions that will aid local workers; and affirmed in many other ways our commitment to align this project with the City's goals as set forth in the unanimously-adopted PlanBTV.

Your approval of the Predevelopment Agreement is a preliminary step but a critical one.

Without an indication of City support for the program set forth in the project represented in the agreement, I cannot move forward on attracting institutional investors and lenders or additional prospective tenants. These efforts take an enormous amount of time and resources to arrange, and they are absolutely critical to the eventual success of this project.

Without a vote by the City Council moving this project to the next step, the UVM Medical Center LOI and Champlain College negotiations will evaporate.

UVM Medical Center requires that this project meet specific milestones. We will miss the first milestone, approval of the Predevelopment Agreement, this coming Friday, and the following milestones are now at significant cascading risk given the zoning ordinance and permitting timelines required following the approval of the Predevelopment Agreement. These milestones are not academic – they were designed by the hospital to ensure that it can rely upon this project for its own significant planning. It takes literally months to plan space and fit up requirements; to make arrangements for personnel moves; and to ensure that the approvals the hospital needs are in place before it can occupy new office space. If this project fails to stick to early milestones, the hospital must choose other office space that it knows it can reliably occupy by the time its current leases expire. UVM Medical Center has been willing to take a leap of faith that this

project will move forward because it would allow the hospital to keep jobs in Burlington and in fact bring in a couple hundred jobs from outside the City. But it does not have other Burlington options on which to rely.

Champlain College on Monday night presented to you how 110 units in this project fit into its Master Plan and its commitment to house all of its students in on campus or campus-sponsored housing in Burlington. I heard the concern regarding student housing mix on Monday night and I have lowered the student housing master lease limit in the Predevelopment Agreement to 100 units, reducing the overall percentage of potential Champlain College units in the project accordingly. As you heard on Monday, Champlain College had requested a higher number of units in this project; my ability to successfully conclude a master lease with Champlain will be at risk if a lower number of master lease units is required.

You and your constituents know the housing pressures Burlington faces and the desire of neighborhoods to shed student rentals in favor of families and other residents. All of the housing in this project will be designed and built as apartments; that will be true whether I reach a master lease for student units or not. The project will meet the City's requirements for inclusionary housing; that also will be true whether or not I reach a master lease with Champlain College.

The advantages of a master lease agreement with Champlain College are significant. A master lease would bring certainty to all parties. Champlain has a strong track record of oversight and community care. A master lease would represent substantial progress toward the City's unanimously-adopted Housing Action Plan. The City's goal of moving students from residential neighborhoods will help make housing in those neighborhoods more affordable and available for families and other residents. Finally, and critically from my point of view, a master lease for 100 units also would make institutional lenders and financial partners far more willing to participate in this project, necessary to ensure the redevelopment is successful and brings all the benefits to the City that it promises.

The attached Predevelopment Agreement shows redlined edits related to several issues raised Monday, as follows:

1. A provision has been added noting the LOI milestones discussed above and the consequences of failing to meet those milestones.
2. To add certainty to the Predevelopment Agreement regarding the final Development Agreement negotiations, we have added a provision requiring a Development Agreement to be finalized within 30 days after zoning is in place (because some of the Development Agreement provisions to be negotiated rely upon zoning changes), unless a later date is mutually agreed.
3. We have added a provision to fund a City-sponsored feasibility study in the event we are unable to provide the requested study by the date indicated, and have also added a provision for City expert review of the background qualifications and capacity of the Developer to execute this project.
4. We have added a provision requiring good faith cooperation between the City and Developer to clearly communicate with and assist current tenants and adjacent property owners affected by the project and its construction.

5. We have strengthened the Developer's commitment to build to LEED Gold standards in this project.
6. We have added City review of residential unit placement and unit ownership to the agreement, though it is critical that the owner retain the discretion to make these decisions to ensure a successful, financeable, viable project. It is also quite likely that any potential partner in the inclusionary units would require that the units be planned in a manner that would allow for efficient and effective oversight, management and maintenance. I will meet the standards set forth in the City's ordinance with respect to these units, as I have committed to you publicly and in this Predevelopment Agreement.
7. We have added a requirement that the owner fund the City's commissioning of an appropriate physical 3D model of the project and its surroundings. Please also note that we have posted the computer generated 3D video and the requested sun/shadow animated studies – using the City's own 3D computer model of the downtown – to the City's website. If you review these I believe you will find that the shading caused by this project compared to current conditions will be modest, despite concerns expressed to the contrary.
8. Finally, hearing the concerns of the City's technical team, we have removed the St. Paul Street sky bridge from the project design and permitting, while retaining any rights that an owner may have in the future to seek to construct such access if the need exists.

I believe these changes are responsive to the concerns shared on Monday, to the extent that I can meet them.

I have worked for nearly two years closely with the City administration, its experts, the DAPAC committee, and the City Council itself revising the project and now this Predevelopment Agreement. I am doing so once again by revising the agreement as outlined above. There will be ample time to refine the project even further, making it successful as we work together as a team. This project has received strong support at public meetings and City Council public forums, from civic and nonprofit interests, merchants, businesses, and other community members. I strongly believe that this is a generational opportunity for the City, unparalleled since the decision to enhance Church Street and the Waterfront. The jobs, increased revenues, housing, chance to fix the urban fabric of the City streets, and many other community benefits this project represents should not be missed. It would be very unfortunate for us to lose momentum and support for this project by delaying further the vote on this early step. I implore you to take this action and approve the Predevelopment Agreement. We all know that there are miles to go from here. Without this first step now, I cannot see a successful path for this project.

Date: April 29, 2016

ADDENDUM:

Thank you for your consideration of the amendments outlined above that we offered on April 27th to address your input from last Monday's Council meeting.

Yesterday, we reviewed and accepted additional language designed to further solidify the protections in place for the City, such as making express that financial surety for the private

improvements will be in place prior to construction and clarity that demolition also would not occur until such protections are in place, among other provisions, all as requested by City attorneys following your input at executive session on Wednesday night. I appreciate your attention and collaboration to finalize this document.

I understand that the revised Predevelopment Agreement will be on the agenda for vote consideration Monday May 2nd. For all of the reasons I have expressed, I hope we can move this project forward then.