

**ROBERT MILLER COMMUNITY AND RECREATION CENTER
LEASE AGREEMENT**

This lease is entered into this _____ day of _____, 2012, by and between the City of Burlington, a municipal corporation organized under the laws of the State of Vermont (hereinafter "Lessor") acting by and through its Parks and Recreation Department ("Parks"), and Frog & Toad Child Care & Learning Center, a private corporation organized under the laws of the State of Vermont with its principal place of business in Burlington, County of Chittenden, and State of Vermont (hereinafter "Lessee").

NOW THEREFORE, in consideration of the mutual agreements contained herein, the parties consent and agree as follows:

1. Name and/or designation of User:

Frog & Toad Child Care & Learning Center

Phone Number of Frog & Toad Child Care & Learning Center 802-864-7150

26 Pinecrest Drive Essex Junction, VT 05452

2. Site Location:

Robert Miller Community and Recreation Center, City of Burlington

130 Gosse Court Burlington, VT 05408

3. Leased Premises:

Within the Lease Agreement, the space leased by the Lessee shall be defined as the "Premises." The Premises shall be comprised of:

- A. 2441 gross square feet including three classrooms (recognized for preschool, toddler and infant use), office space, kitchen, restroom facility, closet, and entry and corridor circulation space as depicted in the drawing package attached hereto referenced as Exhibit A; and
- B. 2325 gross square feet of exterior, fenced play space located west of the facility as depicted in the drawing package attached hereto referenced as Exhibit B.

4. Additional Lessee Use of the Site Location:

Lessee may also use all or part of the gymnasium (up to five hours per week) and all or part of the community room (up to four hours per week) upon the approval of a specific schedule by the Lessor. Gymnasium use shall include access to adjacent public restrooms and community room use shall include access to the Miller Center

AV equipment. AV equipment may be accessed by separate agreement during non-community use times. Use of shared areas must be scheduled in advance with the Miller Center Recreation Coordinator.

5. Type and purpose of use:

To provide educational and recreational programs directly managed by Frog & Toad Child Care & Learning Center.

6. Term of use:

Five years: July 1, 2012 to June 30, 2017.

7. Renewal Option:

The Lessee shall have an option to renew for a five-year term. The Lessee shall provide notice to Lessor within no less than 180 days from the end of the first five year term of the intent to exercise the option for the second five years.

8. Rent Charged:

The annual rent to be paid by the Lessee is outlined below. Rent shall be pro-rated to be paid monthly by the fifth of each month.

YEAR		ANNUAL RENT: BASE RATE	ANNUAL RENT: STARS PENALTY	ANNUAL RENT: STARS INCENTIVE
1	2012-2013	\$30,000	\$33,000	\$27,000
2	2013-2014	\$30,000	\$33,000	\$27,000
3	2014-2015	\$30,000	\$33,000	\$27,000
4	2015-2016	\$30,000	\$33,000	\$27,000
5	2016-2017	\$30,000	\$33,000	\$27,000
6	2017-2018	\$33,000	\$36,300	\$29,700
7	2018-2019	\$33,000	\$36,300	\$29,700
8	2019-2020	\$33,000	\$36,300	\$29,700
9	2020-2021	\$33,000	\$36,300	\$29,700
10	2021-2022	\$33,000	\$36,300	\$29,700
		\$315,000	\$346,500	\$283,500

YEAR		MONTHLY RENT: BASE RATE	MONTHLY RENT: STARS PENALTY	MONTHLY RENT: STARS INCENTIVE
1	2012-2013	\$2,500	\$2,750	\$2,250
2	2013-2014	\$2,500	\$2,750	\$2,250
3	2014-2015	\$2,500	\$2,750	\$2,250
4	2015-2016	\$2,500	\$2,750	\$2,250
5	2016-2017	\$2,500	\$2,750	\$2,250

6	2017-2018	\$2,750	\$3,025	\$2,475
7	2018-2019	\$2,750	\$3,025	\$2,475
8	2019-2020	\$2,750	\$3,025	\$2,475
9	2020-2021	\$2,750	\$3,025	\$2,475
10	2021-2022	\$2,750	\$3,025	\$2,475

9. VT STep Ahead Recognition System (STARS) Penalty & Incentive:

A 10% penalty will be assessed to the monthly rent if the Lessor does not achieve a 3-Star program by the end of year one of operation.

A 10% discount will be awarded beginning the first full month the Lessee achieves and maintains a 5-Star rating.

10. Assignment:

Lessee shall not assign this Lease Agreement without the consent of Lessor which shall not be unreasonably withheld. Such consent shall be granted provided the Assignee is qualified, properly licensed and has the financial ability to meet the Lessee's obligation under the Lease Agreement.

11. Holding Over:

It is agreed and understood that any holding over of Lessee after the termination of this Agreement shall not renew and extend same but shall operate and be construed as a tenancy from month to month. Lessee shall be liable to the Lessor for all loss or damage on account of any such holding over against the City's will after the termination of this Agreement, whether such loss or damage may be contemplated at this time or not. It is expressly agreed that acceptance of the foregoing payment by the Lessor in the event that Lessee fails or refuses to surrender possession shall not operate to give Lessee any right to remain in possession nor shall its constitute a waiver by the City of its right to immediate possession.

12. Insurance and Indemnification:

- A. Lessee covenants and agrees to indemnify and save harmless the Lessor, its officers, agents and employees, their successors and assigns, individually or collectively from and against all liability for any fines, claims, suits, demands, actions or causes of action of any kind and nature including, but not limited to personal injury or death and property damage, in any way arising out of or resulting from any activity or operation of Lessee in, on or about the Premises or in connection with the conduct of Lessee's business activities pursuant to this Agreement. Lessee further agrees to pay all expenses in defending against any claims made against the Lessor. Lessee shall give prompt and timely notice of any claim made or suit instituted which, in any way, directly or indirectly,

contingently or otherwise, affects or might affect the Lessor.

- B. The Lessee shall not be liable for any injury, damage or loss occasioned by the sole negligence or willful misconduct of the Lessor, its agents, officers or employees.
- C. Lessee shall maintain throughout the term of this Lease and/or surrender of its Premises, a policy or policies of general liability insurance providing coverage against all claims and demands for personal injuries to or death of any person, and damage to or destruction of property, occurring on the Premises. The policy shall name Lessor as an additional insured to the extent of its interest. The policy limits shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Additionally Lessee shall maintain separate liability coverage for sexual misconduct in the amount of 1,000,000 each occurrence and \$1,000,000 in the aggregate. All general liability and sexual misconduct insurance policies shall name the Lessor as additional insured and shall provide that the policy may not be modified or cancelled without 30 days prior written notice to Lessor. Lastly, Lessee shall maintain workers' compensation coverage at amounts required by statute and employer's liability coverage in the amount of 500,000/500,000/500,000.
- D. Lessee further agrees that with respect to the above required insurance, the Lessor shall:
 - i. Be provided with sixty (60) days advance notice, in writing, of cancellation or material change.
 - ii. Be provided with Certificates of Insurance evidencing the above-required insurance, prior to the commencement of this Agreement and annually thereafter. Said notices and Certificates of Insurance shall be provided to the Director. The Lessor shall have the right to examine the required insurance policies upon reasonable notice to Lessee.
- E. Special Cause Policy: Lessor shall maintain during the Term of this Lease a policy with special cause of loss coverage in the amount of the replacement cost of all buildings, equipment and other improvements on the Premises, without deduction for depreciation. Lessee shall be responsible for insuring its personal property and betterments located on the Premises against loss, damage or destruction. Additionally, the parties hereby enter into a mutual waiver of subrogation for property damage only.

13. Use of Premises:

The Premises are specifically rented "as is." "As is" shall, for purposes of this agreement, mean that the premises shall be in full accordance with all specifications

re: Exhibit A, attached hereto. In the absence of supplemental amendments to this agreement to the contrary, Lessor is under no obligation to commence tenancy if the premises do not comport with the specifications re: Exhibit A.

Insofar as the Premises are understood by the parties to include an exterior, fenced play area, the Lessee shall be entirely responsible for furnishing this exterior play area with equipment in accordance with State of Vermont Child Care Regulations. Additionally, the Lessee is responsible for all maintenance of this exterior space, except that as a part of this agreement, Lessor hereby agrees to include the mowing of the grass within this fenced play area at intervals consistent with Lessor's mowing of the grass areas at the Site Location generally.

14. Improvements by the Lessor:

- A. In general: City will provide finished floors, doors, walls, ceilings with general lighting to all parts of the Premises.

Fixtures: Any and all leasehold improvements which constitute fixtures will be considered an integral part of the Premises and title to such leasehold improvements rests in the City free and clear of any liens or encumbrances whatsoever. As of the date of this agreement, all items represented in the attached Exhibits A and B are items identified as fixtures belonging to the City.

- B. Any improvements to the space as mandated by regulatory agencies shall be born by Lessor. Lessee shall pay the first \$500 of any one improvement.

15. Improvements by the Lessee:

- A. In general: Lessee shall, without cost to the Lessor, provide and maintain the Premises with all improvements necessary for the operation of such services in a quality, licensed child care operation and which are not provided by the City. All furniture and equipment used in the Premises shall be high quality, safe, fire resistant, durable, attractive in appearance and code compliant.
- B. When the lease expires, for whatever reason, Lessee may remove any of its own improvements as long as the removal of such improvements will not damage the structure and it performs any repairs necessary to the surfaces where the improvements were located. Lessor will be the sole judge of whether Lessee has properly satisfied this term but will make the determination in a reasonable manner.
- C. When the lease expires, regardless of the cause, Lessee will ensure that the Premises are in a satisfactory condition, taking into account normal wear and

tear. Lessor will be the sole judge of whether Lessee has properly satisfied this term but will make the determination in a reasonable manner.

- D. Signs: Lessor has the right to install and maintain appropriate signs announcing its business on the exterior property provided that the design, installation and maintenance of such signs shall be consistent with the permitting and graphic standards of the City and that the Department grants written site and design approval prior to installation.
- E. Interior Furnishings: Lessee shall be entirely responsible for costs associated with the installation of the interior windows in Classroom 2 and carpet in Classroom 1 as depicted in Exhibit A. The Lessee is solely responsible for the installation of any additional interior furnishings outside of the parameters of Exhibits A and B and shall be responsible for meeting permitting and code requirements where applicable. All interior furnishings must be in accordance with State of Vermont Child Care Regulations, comply with city codes and be approved by the Lessor. This includes but is not limited to lofts, cubbies, specialty finishes, specialty lighting, etc.
- F. Tenant Startup Costs: Lessee is responsible for all other startup costs associated with establishing a child care facility. Startup costs may include but are not limited to the costs of fixtures, equipment, pre-opening staffing, marketing, inventory, legal, accounting, relocation expenses, and similar.

16. Utilities:

Lessor anticipates that the utility costs for water and sewer, electricity and gas associated with the lease space will total \$6,000 or less. Lessor will pay for these costs during the first year of Lessee's occupancy. At the conclusion of the first year, both parties will evaluate the Lessee's utility consumption, based on 12.5% (2,441 SF) of the building's total square footage (19,484 SF). If costs exceed the anticipated sum, an action plan will be developed and a surcharge may be imposed upon mutual agreement.

Costs associated with telephone, cable television, security and internet shall be paid by the Lessee.

17. Maintenance: General Janitorial and Repair Duties of City:

- A. Repairs: Lessor shall not be required to make repairs or improvements of any kind at Lessee's Premises if said repairs or improvements are the result of any willful, careless or negligent act of Lessee, its employees, invitees or others under the control of Lessee. Further, Lessor shall not be required to make

repairs or improvements of any kind to the Lessee's Premises except as follows:

1. Structural repairs to the roof, floor and exterior walls and windows.
 2. Lessor is to provide adequate heating *and air conditioning (cooling)* to the Premises including repairs thereto.
 3. The Lessor will make such repairs for which it is responsible as promptly as reasonable under the circumstances and so as not to interfere in the operation of Lessee where possible.
 4. Notice of Premise problems. The Lessee shall furnish the Lessor with prompt written notice of any needed repairs to the facility. A work order for the repairs shall then be provided.
- B. General maintenance and upkeep of the Lessor's interior common use areas and external areas. The Lessor also agrees to keep and maintain in good condition all water and sewer mains, supply mains and electrical power to Lessee's Premises. Lessee agrees to keep and maintain in good condition all service lines used exclusively by Lessee and located within its Premises.
- C. Grounds Maintenance: The Lessor shall be responsible for general grounds maintenance including snow removal, mowing, and trash hauling. Lessor is will normally perform snow removal duties before 7:00 A.M on days Lessee is open for business.

18. Maintenance: General Janitorial and Repair Duties by Lessee:

- A. Janitorial: Lessee shall maintain all of its Premises in a clean, neat and sanitary condition, attractive in appearance.
- B. Repairs: Lessee agrees to maintain and make necessary repairs to the interior of its Premises and to the fixtures and equipment therein including, without limitation, any interior windows, doors, entrances, signs, showcases, floor coverings, interior walls, interior surface, any columns erected by Lessee, partitions and lighting within its Premises. All repairs done by Lessee or on its behalf shall be of first class quality in both materials and workmanship. All repairs shall be made in conformity with the rules and regulations prescribed from time to time by Federal, State or local authorities having jurisdiction over the work in Lessee's Premise. In the Premise, Lessee will be responsible for all routine plumbing, heating and electrical repairs. The Lessor shall be notified prior to the commencement of any such repairs.
- C. Lessor's representatives shall have the right to enter Lessee's Premise to:

1. Inspect the Premise at reasonable intervals during Lessee's regular business hours or at any time in case of emergency to determine whether Lessee has complied with and is complying with the terms and conditions of this Agreement.
2. Perform any and all things which Lessee is obligated to and has failed after reasonable notice to do so, including: maintenance, repairs and replacements to Lessee's Premise.
3. Exercise the City's police power.

If Lessee refuses or neglects to undertake the maintenance, repair or replacements requested by the Lessor, or if the Lessor is required to make any repairs necessitated by the negligent acts or omissions of Lessee, its employees, agents, servants or licensees, the Lessor shall have the right to make such repairs on behalf of and for Lessee. Such work shall be paid for by Lessee within ten (10) days following demand by the Lessor for said payment at the Lessor's standard rates plus any overhead which may be incurred by the Lessor.

19. Trash and recycling:

Lessee will deposit all such trash, garbage and other refuse in a container or containers provided by the Lessor and to be located within 100 feet of the Premises. Lessee agrees to provide and use suitable covered receptacles for all garbage, trash and other refuse in its Premises. Piling of boxes, cartons, barrels or similar items shall not be permitted in a public area.

20. Right of access to the Premises by Lessee and limitations:

Lessee has the right of ingress and egress to and from its Premises over City roadways and common use areas of the Miller Center, subject to any rules or regulations which may have been established or shall be established in the future by the City or the Department. Such rights of ingress and egress shall apply to Lessee's employees, guests, patrons, invitees, suppliers and other authorized individuals.

The rights of ingress and egress likewise shall apply to the transport of equipment, material, machinery and other property. All deliveries of merchandise, including but not limited to daily newspapers and magazines, shall be made at locations designated by the City.

21. Operation of the Premises by Lessee:

- A. Early Childhood Program Compliance: Lessee agrees to maintain a program in compliance with State of Vermont licensing regulations for Early Childhood

Programs. The Lessee shall provide Lessor with copies of all licensing reports within (10) days of all licensing notifications. Licensing reports will ensure that the program continues to satisfactorily meet the quality standards and requirements in scope of services. If, at any time, the program is not in compliance with State regulation, the Lessee will provide Lessor with implementable action plan demonstrating a strategy to regain compliance. The Lessee will have (30) days to regain compliance before the terms of this lease are impacted. The Lessor understands that the confidentiality of Lessee employees and clients will not be compromised.

- B. STARS: Lessee shall participate in the VT STep Ahead Recognition System (STARS) at the 3-star level or higher. The 3-star rating shall be achieved within one year from the time of occupancy. The Lessee shall provide documented proof of accreditation status after the first year of occupancy to ensure three-star accreditation has been achieved. Lessee will continue to provide documentation of retained accreditation status on an annual basis.

*See section 7 for STARS penalties & incentives.

- C. Schedule: Lessee shall maintain a schedule that meets the needs of parents, matching or exceeding the hours and flexibility as follows: 7:30 AM – 5:30 PM, Monday through Friday throughout the year.
- D. Fee Schedule: Lessee shall maintain a fee schedule for all services offered and provide notice to Lessor upon change. Tuition and other fees shall be comparable to those charged by similar child care programs for similar services.
- E. Enrollment/Waiting List: Lessee shall maintain a waiting list when the program is at licensed capacity and enrollment policies with respect to currently enrolled children, siblings, and part-time care. The City expects that Burlington residents will receive priority in enrollment. The waiting list and enrollment policies shall be in writing and available to the City upon request.
- F. Parent Involvement: Lessee shall provide a schedule of opportunities for parental involvement.

22. Taxes, Licenses, Permits:

Lessee shall pay, on or before the due date, all Federal, State and local taxes and fees which are now or may hereafter be levied upon the Premises, or upon Lessee, or upon the business conducted on the premises, or upon any of Lessee's property used in connection therewith, and shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by Lessee.

23. Default by Lessor:

The breach by the Lessor of any of the terms, covenants or conditions of this Agreement to be kept, performed and observed by the City and the failure of the City to remedy such breach for a period of sixty (60) days after written notice from Concessionaire of the existence of such breach has been received by City or, if more than sixty (60) days shall be required because of the nature of such breach, if City shall fail within said sixty (60) day period to commence and thereafter diligently proceed to cure such default.

If termination occurs as a result of the default of the City, Lessee shall be entitled to recover its lost net profit reasonably to be anticipated from its operations hereunder.

24. Default by Lessee:

Each of the following shall constitute an event of default by Lessee:

- A. A failure by Lessee to pay any rent or charges as provided for in this Agreement with such failure continuing for a period of ten (10) days after receipt by Lessee of written notice of such failure.
- B. The failure by Lessee to perform or observe any of the terms, provisions, conditions or covenants herein contained, and on Lessee's part to be performed or in any way observed, if such neglect or failure should continue for a period of thirty (30) days after receipt by Concessionaire of written notice of such neglect or failure, or if more than thirty (30) days shall be required because of the nature of the default, if Lessee shall fail within said thirty (30) day period to commence and thereafter diligently proceed without interruption to cure such default.
- C. If Lessee shall fail to take possession of its Premises.
- D. If Lessee shall abandon all or any part of its Premises or shall discontinue the conduct of its operations in all or any part of its Premises.
- E. If Lessee shall fail to abide by all applicable criminal laws, including statutes, ordinances and rules and regulations of the United States, State of Vermont and the City.

In the event any condition of default shall occur (notwithstanding any waiver, license or indulgence granted by Lessor with respect to any condition of default in any form or instance) Lessor, then, or at any time thereafter, shall have the right, at its election, either to terminate this Agreement by giving at least five (5) days written notice to Lessee at which time Lessee will then quit and surrender the Premises to Lessor, but

Lessee shall remain liable as hereinafter provided, or, to enter upon and take possession of the Premises (or any part thereof in the name of the whole), without demand or notice, and repossess the same as of the Lessor's former estate, expelling Lessee and those claiming under Lessee, forcibly, if necessary, without prejudice to any remedy for arrears of rent or proceedings for breach of covenant and without any liability to Lessee or those claiming under Lessee for such repossession.

Lessor's repossession of the Premises shall not be construed as an election to terminate this Agreement nor shall it cause a forfeiture of rents or other charges remaining to be paid during the balance of the term hereof, unless a written notice of such intention be given to Lessee, or unless such termination is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Lessor because of any default by Lessee, Lessor may at any time after such reletting elect to terminate this Agreement for any such default.

Upon repossession, Lessor shall have the right (whether or not this Agreement shall be terminated) to relet the Premises or any part thereof for such period or periods (which may extend beyond the term of this Agreement) at such rent or rents and upon such other terms and conditions as Lessor may, in good faith, deem advisable. The Lessor agrees that upon repossession it shall make a good faith effort to relet the operation.

In the event that Lessor shall relet, then rentals received by Lessor from such reletting shall be applied: first, to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; second, to the payment of any reasonable cost of such reletting; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of rent hereunder, be less than the rent payable during that month by Lessee hereunder, then Lessee shall pay such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. Lessee shall also pay to Lessor, as soon as ascertained, any costs and expenses incurred by Lessor in such reletting not covered by the rentals received from such reletting of the Premises.

If Lessor shall terminate this Agreement or take possession of the Premises by reason of a condition of default, Lessee and those holding under Lessee, shall no later than fourteen (14) days following such termination or possession remove its goods and effects from the Premises. If Lessee or any such claimant shall fail to effect such removal such property shall become the property of the Lessor without the payment of any amount to Lessee therefore.

If Lessor shall enter into and repossess the Premises for reason of the default of Lessee in the performance of any of the terms, covenants or conditions herein contained, then and in that event Lessee hereby covenants and agrees that Lessee will not claim the

right to redeem or reenter the Premises to restore its operations hereunder and Lessee hereby waives the right to such redemption and reentrance under any present or future law, and hereby further, for any party claiming through or under Lessee, expressly waives its rights, if any, to make payment of any sum or sums of rent, or otherwise, of which Lessee shall have made default under any of the covenants of this Agreement and to claim any subrogation of the rights of Lessee under these presents, or any of the covenants thereof, by reason of such payment.

All rights and remedies of Lessor herein created or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as deemed advisable.

If proceedings shall at any time be commenced for recovery of possession as aforesaid and compromise or settlement shall be effected either before or after judgment whereby Lessee shall be permitted to retain possession of the Premises, then such proceeding shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or to this Agreement.

If the Lessee shall fail to make any payment or perform any act required to be made or performed by it hereunder, Lessor, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make payment or perform such reasonable act on account of and at the expense of the Lessee, and may enter upon the Premises or any part thereof at reasonable times for such purpose and take all such action thereon as, in the opinion of Lessor, may be necessary or appropriate therefore. All payments so made by Lessor and all cost and expenses (including, without limitation, attorney's fees and expenses) incurred in connection therewith or in connection with the performance by the Lessor such act shall constitute Additional Rent hereunder and the same may, at the option of the Lessor be added to any rent then due or thereafter falling due hereunder.

25. Fire and Other Damage:

In the event that structural or permanent portions of the building within the Premises shall be partially damaged by fire or other casualty, Lessee shall give immediate notice thereof to the Department and the same shall be repaired at the expense of the Lessor without unreasonable delay unless Lessor determines that (1) the damage is so extensive that repair or rebuilding is not feasible, or (2) the damage resulted from a negligent act or omission of Lessee, its officers, agents, employees, contractors, visitors or licensees in which case there shall be no suspension or termination of this Agreement or of Lessee's obligation to pay in full all charges, notwithstanding any other provisions hereunder to the contrary. Lessee acknowledges that if it is found that the damage resulted from a negligent act or omission of Lessee, its officers,

agents, employees, contractors, visitors or licensees the Lessor's insurer may elect to exercise its subrogation rights.

From the date of such casualty until said area is repaired, monthly payments hereunder shall, except as hereinabove provided, abate in such proportion as the part of the area thus destroyed or rendered untenable bears to the areas assigned and the Minimum Annual Guarantee owed by Lessee shall be adjusted accordingly.

However, if an area shall be so slightly injured in any such casualty as not to be rendered unfit for occupancy, the rent hereunder shall not cease or be abated during any repair period. In the event that the damage to an area should be so extensive as to render it untenable, the rent for such area shall, except as hereinabove provided, cease until such time it shall again be put in repair, but in the event of the area being damaged by fire or other casualty to such an extent as to render it necessary in the exclusive judgment of the Lessor not to rebuild the same, then, at the option of the Lessor, and upon notice to Lessee, this Agreement as it applies to said area shall cease and come to an end, and the rent hereunder shall be apportioned and paid up to date of such damage. If the Lessor elects to rebuild said areas, the Lessor shall notify Lessee of such intention within thirty (30) days of the date of the damage, otherwise, the Agreement as it applies to said area shall be deemed canceled and of no further force or effect.

The Lessor's obligations to rebuild or repair as provided herein shall in any event be limited to restoring said area to substantially the condition that existed prior to the commencement of improvements by Lessee and shall further be limited to the extent of the insurance proceeds available to Lessor for such restoration. Lessee agrees that if the Lessor elects to repair or rebuild as provided herein, then Lessee will proceed with reasonable diligence and at its sole cost and expense to rebuild, repair and restore its signs and fixtures provided or installed by Lessee, in or about the Premises in a manner and to a condition at least equal to that which existed prior to its damage or destruction.

In the event Lessor elects not to repair or rebuild as provided herein, and in the event that the damage or loss is covered by insurance secured by Lessee, Lessee shall immediately pay over to Lessor the portion of the insurance proceeds as described below and this Agreement shall then be terminated. Lessee's obligation to remit insurance proceeds to Lessor shall be limited to the value of the fixtures and equipment owned by the Lessor, except where damages resulted from the act omission or negligence of Lessee in which case proceeds will be paid over to Lessor in accordance with the provisions contained herein.

26. Force Majeure:

Neither the Lessor nor the Lessee shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, act of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control, and the party experiencing force majeure shall give immediate notice to the other party identifying the nature of such force majeure and when it began. The party experiencing force majeure shall take immediate action to attempt to remove such causes of force majeure as may occur from time to time and its operations under this Agreement shall be resumed immediately after such cause has been removed, provided that neither party shall be required to settle any labor dispute except upon terms that party deems acceptable. The suspension of any obligations under this section shall not cause the term of this Agreement to be extended and shall not affect any rights accrued under this Agreement prior to the commencement of the force majeure. The party giving notice of the force majeure shall also give notice of its cessation.

27. Severability:

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is agreed that the remainder of the Agreement shall not be affected thereby.

28. Incorporation of Exhibits:

All exhibits referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

29. Interpretation:

The language in all parts of this Agreement shall in all cases be construed simply according to its fair meaning and not strictly construed against the Lessor.

The individuals executing this Agreement warrant that they have full authority to execute this lease on behalf of the entity for whom they are acting herein.

30. Applicable Law:

This agreement shall be governed by the laws of the State of Vermont.

31. Compliance:

In general: Lessee shall comply with all present and future laws, ordinances, orders, directives, rules and regulations of the United States of America, the State of Vermont, the City of Burlington and their respective agencies, departments, authorities or commissions which may either directly or indirectly affect Lessee or its operations at the premises.

32. Relationship of Parties:

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto. It is understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of Lessor and Lessee.

33. Non-Discrimination:

Lessee, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, and (2) that in the construction of any improvements on, over or under said land and the furnishings of services hereon, no person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

That in the event of breach of any of the above non-discrimination covenants, Lessor shall have the right to terminate this Agreement and to re-enter and repossess said premises and facilities thereon, and hold the same as if said Agreement had never been made or issued.

34. Acceptance of Fees:

No acceptance by Lessor of rentals, fees, charges or other payments in whole or in part, for any period or periods after a default of any of the terms, covenants, and conditions hereof to be performed, kept or observed by Lessee, shall be deemed a waiver of any right on the part of the Lessor to terminate this Agreement for any subsequent violation by Lessee.

35. Non-waiver of Rights:

No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.

36. Notices:

Notices required herein may be given by registered or certified mail by depositing the same in the United States mail in the continental United States, postage prepaid. Any such notice so mailed shall be presumed to have been received by the addressee seventy-two (72) hours after deposit of same in the mail. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices to the parties shall be delivered as follows:

To Lessor: Mari Steinbach, Director
City of Burlington Parks and Recreation Department
645 Pine Street, Suite B Burlington, VT 05401
802-864-0123

To Lessee: Tiffany Bergeron, Owner
Frog & Toad Child Care & Learning Center
26 Pinecrest Drive Essex Junction, VT 05452
802-864-7150

37. Captions:

The headings of the several articles of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

38. Entire Agreement:

The Agreement is the entire and only agreement between the parties and supersedes all prior understandings and practices between the parties.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the day and year first above written.

In the presence of:

Frog & Toad Child Care & Learning Center

Witness

Duly Authorized Agent

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At _____, this ____ day of _____, 2012,
_____, duly Authorized Agent of Frog & Toad Child Care &
Learning Center, personally appeared, and he/she acknowledged this instrument, by
him/her sealed and subscribed, to be his/her free act and deed and the free act and
deed of Frog & Toad Child Care & Learning Center.

Before me, _____

Notary Public

Commission Expires: _____

In the presence of:

City of Burlington, Vermont

Witness

Miro Weinberger, Mayor
Duly Authorized Agent

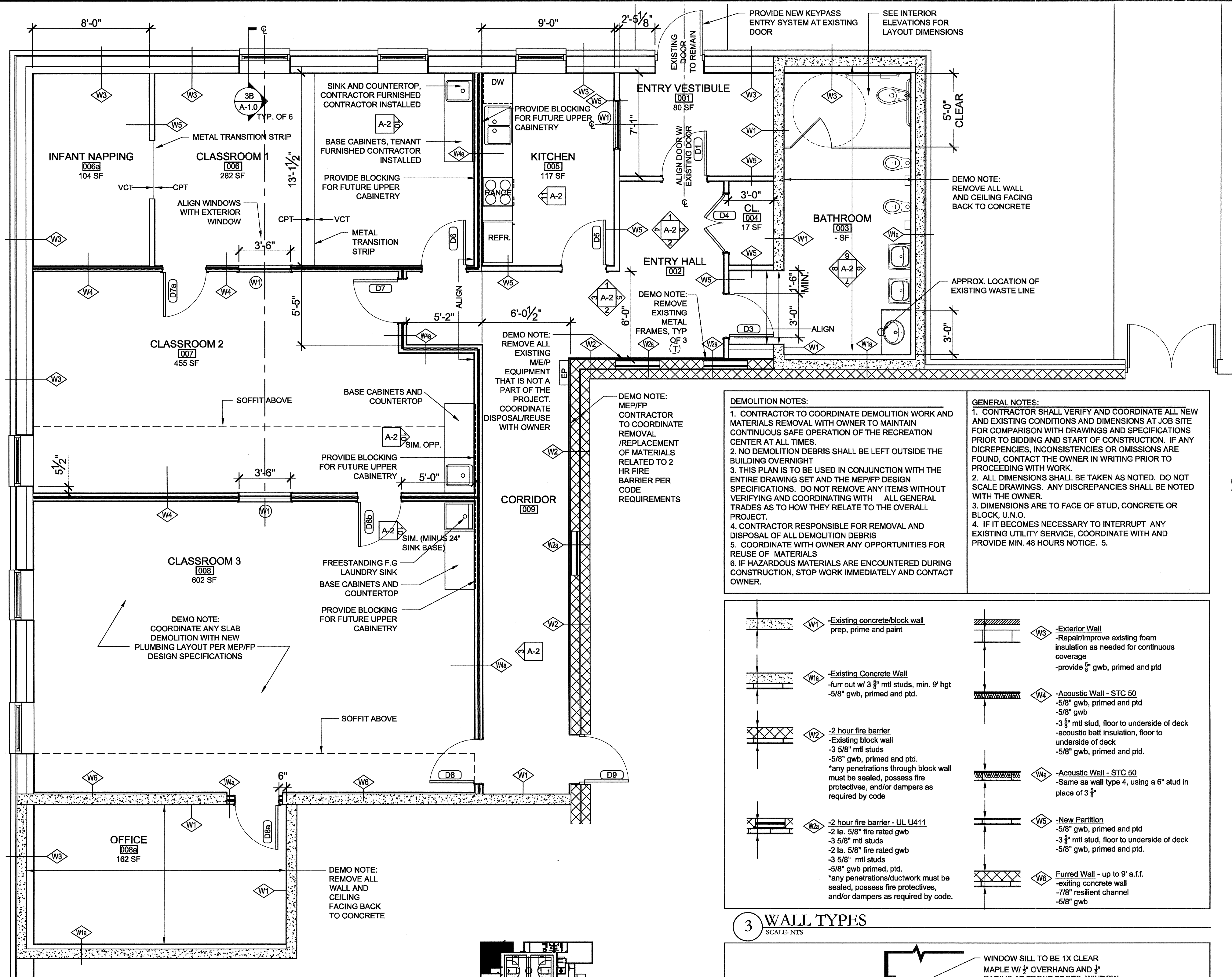
STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County and State, this ____ day of _____, 2012,
personally appeared Robert Kiss, duly Authorized Agent of the CITY OF BURLINGTON,
the signer and sealer of the above written instrument, and acknowledged the same to
be his free act and deed, and the free act and deed of CITY OF BURLINGTON.

Before me, _____

Notary Public

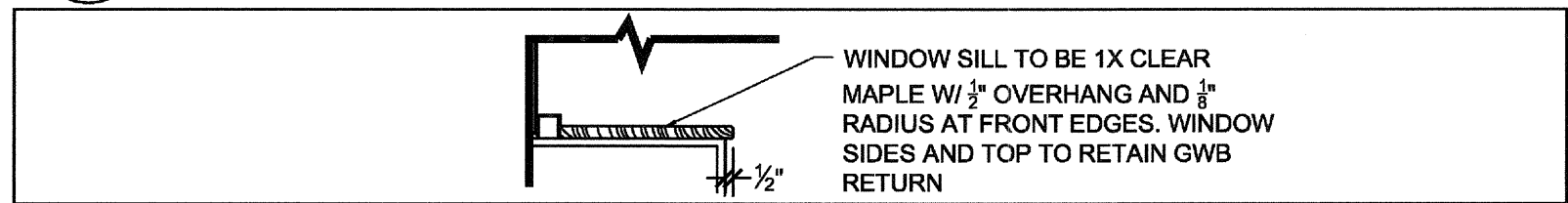
Commission Expires: _____



1 FLOOR PLAN
SCALE: 1/4" = 1'-0"

KEY PLAN

3 WALL TYPES
SCALE: NTS



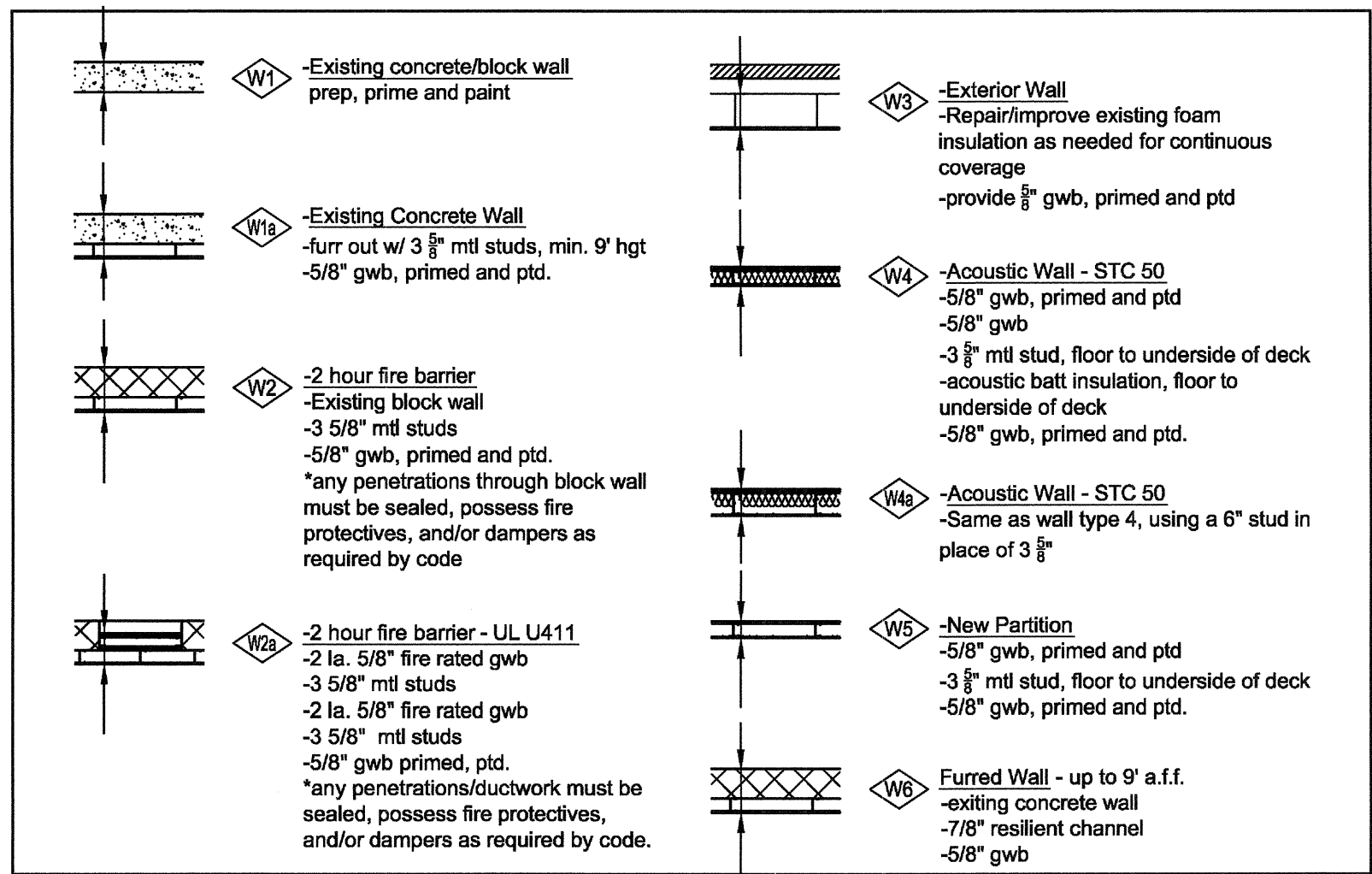
2 SILL DETAIL
SCALE: NTS

DEMOLITION NOTES:

1. CONTRACTOR TO COORDINATE DEMOLITION WORK AND MATERIALS REMOVAL WITH OWNER TO MAINTAIN CONTINUOUS SAFE OPERATION OF THE RECREATION CENTER AT ALL TIMES.
2. NO DEMOLITION DEBRIS SHALL BE LEFT OUTSIDE THE BUILDING OVERNIGHT
3. THIS PLAN IS TO BE USED IN CONJUNCTION WITH THE ENTIRE DRAWING SET AND THE MEP/FP DESIGN SPECIFICATIONS. DO NOT REMOVE ANY ITEMS WITHOUT VERIFYING AND COORDINATING WITH ALL GENERAL TRADES AS TO HOW THEY RELATE TO THE OVERALL PROJECT.
4. CONTRACTOR RESPONSIBLE FOR REMOVAL AND DISPOSAL OF ALL DEMOLITION DEBRIS
5. COORDINATE WITH OWNER ANY OPPORTUNITIES FOR REUSE OF MATERIALS
6. IF HAZARDOUS MATERIALS ARE ENCOUNTERED DURING CONSTRUCTION, STOP WORK IMMEDIATELY AND CONTACT OWNER.

GENERAL NOTES:

1. CONTRACTOR SHALL VERIFY AND COORDINATE ALL NEW AND EXISTING CONDITIONS AND DIMENSIONS AT JOB SITE FOR COMPARISON WITH DRAWINGS AND SPECIFICATIONS PRIOR TO BIDDING AND START OF CONSTRUCTION. IF ANY DISCREPANCIES, INCONSISTENCIES OR OMISSIONS ARE FOUND, CONTACT THE OWNER IN WRITING PRIOR TO PROCEEDING WITH WORK.
2. ALL DIMENSIONS SHALL BE TAKEN AS NOTED. DO NOT SCALE DRAWINGS. ANY DISCREPANCIES SHALL BE NOTED WITH THE OWNER.
3. DIMENSIONS ARE TO FACE OF STUD, CONCRETE OR BLOCK, U.N.O.
4. IF IT BECOMES NECESSARY TO INTERRUPT ANY EXISTING UTILITY SERVICE, COORDINATE WITH AND PROVIDE MIN. 48 HOURS NOTICE. 5.



SCALE: AS NOTED

DRAWN BY: AKT

CHECKED BY: AKT

DATE: 2-3-12

A-1.0

FLOOR PLAN,
WALL TYPES,
DETAILS

ROBERT MILLER
COMMUNITY CENTER
LEASE SPACE
RENOVATIONS

BURLINGTON VERMONT

anna thelemarck . design

343 North Street Burlington Vermont 05401
p. 802 . 922.2632 e. a.thelemarck@burlingtontelecom.net

