

CITY OF BURLINGTON CONSTRUCTION CONTRACT

This Construction Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and M2M, LLC DBA Goliathtech of Vermont (“Contractor”), a Vermont corporation located at 2257 Monkton, Road, North Ferrisburgh, VT 05473,

Contractor and the City agree to the terms and conditions of this Contract.

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Contract Documents”** means all the documents identified in Section 4 (Scope of Work) of this Contract.
- B. **“Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- C. **“Party”** means the City or Contractor and **“Parties”** means the City and Contractor.
- D. **“Project”** means the Elmwood Shelter Community.
- E. **“Work”** means the services described in Section 5 (Payment for Services) of this Contract, along with the specifications contained in the Contract Documents as defined in Section 4 (Scope of Work) below.

2. RECITALS

- A. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. **Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. **Purpose.** The City seeks to employ the Contractor to complete the sitework required for the deployment of structures that will make up the Elmwood Emergency Shelter Community.

3. EFFECTIVE DATE & TERM

- A. **Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date

and shall have no obligation to pay Contractor for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.

- B. Term.** This Contract and the Parties' respective performance shall commence on the Effective Date and expire on December 31, 2022 or upon the satisfaction of the City, unless sooner terminated as provided herein.

4. SCOPE OF WORK

The Contractor shall perform the services listed in Attachments A (Request for Proposals) and B (Contractor's Response to Request for Proposals).

5. PAYMENT FOR SERVICES

- A. Amount.** The City shall pay the Contractor for completion of the Work in accordance with Attachment B (Contractor's Response to Request for Proposals). In addition, the City is carrying 5% in contingency funds, totaling up to \$13,505.84, to address unknown factors on the site. These funds will not be available without duly written approval.

Contractor agrees to accept this payment as full compensation for performance of all services and expenses incurred under this Contract.

- B. Payment Schedule.** The City shall pay the Contractor in the manner and at such times as set forth in the Contract Documents. The City seeks to make payment within thirty days of receipt of an invoice and any backup documentation requested under subsection D (Invoice) below.
- C. Maximum Limiting Amount.** The total amount that may be paid to the Contractor for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$283,622.59. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval.
- D. Invoice.** Contractor shall submit one copy of each invoice, including rates and a detailed breakdown by task for each individual providing services, and backup documentation for any equipment or other expenses to the following:

Samantha Dunn
Community & Economic Development Office
Room 32, City Hall, 149 Church Street
Burlington, VT 05401
sdunn@burlingtonvt.gov

The City reserves the right to request supplemental information prior to payment. Contractor shall not be entitled to payment under this Contract without providing sufficient backup documentation satisfactory to the City.

6. SECTION & ATTACHMENT HEADINGS

The article and attachment headings and throughout this Contract are for the convenience of City and Contractor and are not intended nor shall they be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

A. Contract Documents. The Contract Documents are hereby adopted, incorporated by reference, and made part of this Contract. The intention of the Contract Documents is to establish the necessary terms, conditions, labor, materials, equipment, and other items necessary for the proper execution and completion of the Work to ensure the intended results.

The following documents constitute the Contract Documents:

Attachment A: Request for Proposals dated July 5, 2022

Attachment B: Contractor's Response to Request for Proposals dated July 8, 2022

Attachment C: Burlington Standard Contract Conditions for Construction Contractors

Attachment D: Burlington Livable Wage Ordinance Certification

Attachment E: Burlington Outsourcing Ordinance Certification

Attachment F: Burlington Union Deterrence Ordinance Certification

Attachment G: Contractor's Certificate of Insurance

B. Order of Precedent. To the extent a conflict or inconsistency exists between the Contract Documents, or provisions therein, then the Contract takes precedent. Any Invitation for Bids, Additional Contract Provisions, and the City Ordinance Certifications shall prevail over any inconsistency with the Contractor's Scope of Work and Cost Proposal.

8. [Reserved]

— Signatures follow on the next page —

SIGNATURE

Persons signing for the Parties hereby swear and affirm that they are authorized to act on behalf of their respective Party and acknowledge that the other Party is relying on their representations to that effect.

Contractor
M2m, LLC DBA GoliathTech of Vermont

By: _____
Name & Signature

Date: _____

City of Burlington
Community & Economic Development Office

By: _____
Brian Pine
Director

Date: _____

**Attachment A:
Request for Proposals dated July 5, 2022**

DRAFT

**Attachment B:
Contractor's Response to Request for Proposals dated July 8, 2022**

DRAFT

SHELTER COMMUNITY
BID FORM

BIDDER agrees to perform all the work described in the CONTRACT DOCUMENTS for the following lump sum amount:

Two Hundred Seventy Thousand One Hundred Sixteen Dollars and Seventy-Five Cents

\$ 270,116.75

Note: This project is take or leave. Prices quoted shall not include sales tax. Please complete schedule of values or

Work performed as a result of Change Orders shall be charged as follows:

- a. For work performed by the Contractor's own forces, the hourly rates, including overhead and profit shall be as follows:
 - 1. Skilled Labor \$55.00/hr
 - 2. Unskilled Labor \$/hr

- b. For work performed by mechanical workers, the hourly rates, including subcontractor's overhead and profit shall be as follows:
 - 1. Journeyman N/A \$/hr
 - 2. Apprentice \$/hr

- c. For work performed by plumbers, the hourly rates, including subcontractors overhead and profit shall be as follows:
 - 1. Journeyman N/A\$/hr
 - 2. Apprentice \$/hr

- d. For work performed by painters, the hourly rates, including subcontractors overhead and profit shall be as follows:
 - 1. Journeyman N/A\$/hr
 - 2. Apprentice \$/hr

- e. For work performed by electricians, the hourly rates, including subcontractors overhead and profit shall be as follows:
 - 1. Journeyman N/A \$/hr
 - 2. Apprentice \$/hr

- g. For changes in the work the percentage fee for overhead and profit (including insurance and bond) shall not exceed Five Percent (5%) of such work's actual cost.

SHELTER COMMUNITY
BID FORM

DATE OF COMPLETION- Indicate below the number of days from the Date of
Commencement until the Date of Completion: Twenty Business days

Respectfully submitted:


Signature

Maxwell Murray/Manager
Title

2257 Monkton Rd, North Ferrisburgh VT 05473
Address

July 8, 2022
Date

EIN: 0364643
License number (if applicable)

Attachment C:
Burlington Contractor Conditions for Construction Contracts

DRAFT

**ATTACHMENT C:
BURLINGTON STANDARD CONTRACT CONDITIONS
FOR CONSTRUCTION CONTRACTORS**

1. DEFINITIONS:

- A. The “Contract” shall mean the Contract between Contractor and the City to which these conditions apply and includes this Attachment C.
- B. The “Contractor” shall mean M@M, LLC DBA GoliathTech of Vermont.
- C. The “City” shall mean the City of Burlington, Vermont or any of its departments.
- D. The “Effective Date” shall mean the date on which the Contract becomes effective according to its terms, or if no effective date is stated, the date that all parties to it have signed.
- E. The “Parties” shall mean the parties to this Contract.
- F. The “Work” shall mean the services being provided by the Contractor, as provided in the Contract.

2. REGISTRATION: The Contractor agrees to be registered with the Vermont Secretary of State’s office as a business entity doing business in the State of Vermont at all times this contract is effective. This registration must be complete prior to contract execution.

3. INSURANCE: Prior to beginning any work, the Contractor shall obtain the following insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). The certificate of insurance coverage shall be documented on forms acceptable to the City. Compliance with minimum limits and coverage, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the City, must be received prior to the Effective Date of the Contract. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the City. If this Contract extends to more than one year, evidence of continuing coverage must be submitted to the City on an annual basis. Copies of any insurance policies may be required. Each policy (with the exception of professional liability and worker’s compensation) shall name the City as an additional insured for the possible liabilities resulting from the Contractor’s actions or omissions. The liability insurance furnished by the Contractor is primary and non-contributory for all the additional insured.

The Contractor is responsible to verify and confirm in writing to the City that: (i) all subcontractors must comply with the same insurance requirements as the Contractor; (ii) all coverage shall include adequate protection for activities involving hazardous materials; and (iii) all work activities related to the Contract shall meet minimum coverage and limits.

No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor’s operations. These are solely minimums that have been developed and must be met to protect the interests of the City.

A. General Liability And Property Damage: With respect to all operations performed by the Contractor, subcontractors, agents or workers, it is the Contractor’s responsibility to ensure

that general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses

Coverage limits shall not be less than:

1. General Aggregate	\$2,000,000
2. Products-Completed/Operations	\$2,000,000
3. Personal & Advertising Injury	\$1,000,000
4. Each Occurrence	\$1,000,000
5. Damage to Rented Premises	\$ 250,000
6. Med. Expense (Any one person)	\$ 5,000

B. Workers' Compensation: With respect to all operations performed, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all subcontractors carry the same workers' compensation insurance for all work performed by them under this contract. Minimum limits for Employer's Liability:

1. Bodily Injury by Accident: \$500,000 each accident
2. Bodily Injury by Disease: \$500,000 policy limit,
\$500,000 each employee

C. Automobile Liability: The Contractor shall carry commercial automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the Contract. Each policy shall provide coverage with a limit not less than: \$1,000,000 - Combined Single Limit for each occurrence.

D. Umbrella Liability:

1. \$1,000,000 Each Event Limit
2. \$1,000,000 General Aggregate Limit

4. CONFLICT OF INTEREST: The Contractor shall disclose in writing to the City any actual or potential conflicts of interest or any appearance of a conflict of interest by the Contractor, its employees or agents, or its subcontractors, if any.

5. PERSONNEL REQUIREMENTS AND CONDITIONS: A Contractor shall employ only qualified personnel with responsible authority to supervise the work. The City shall have the right to approve or disapprove key personnel assigned to administer activities related to the

Contract.

Except with the approval of the City, during the life of the Contract, the Contractor shall not employ:

1. Any City employees who are directly involved with the awarding, administration, monitoring, or performance of the Contract or any project(s) that are the subjects of the Contract.
2. Any City employees so involved within one (1) year of termination of employment with the City.

The Contractor warrants that no company or person has been employed or retained (other than a bona fide employee working solely for the Contractor) to solicit or secure this Contract, and that no company or person has been paid or has a contract with the Contractor to be paid, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this warranty, the City shall have the right to annul the Contract, without liability to the City, and to regain all costs incurred by the City in the performance of the Contract.

The City reserves the right to require removal of any person employed by a Contractor from work related to the Contract, for misconduct, incompetence, or negligence, in the opinion of the City, in the due and proper performance of Contractor's duties, or who neglects or refuses to comply with the requirements of the Contract.

6. **PERFORMANCE:** Contractor warrants that performance of Work will conform to the requirements of this Contract. Contractor shall use that degree of ordinary care and reasonable diligence that an experienced and qualified provider of similar services would use acting in like circumstances and experience in such matters and in accordance with the standards, practices and procedures established by Contractor for its own business.
7. **RESPONSIBILITY FOR SUPERVISION:** The Contractor shall assume primary responsibility for general supervision of Contractor employees and any subcontractors for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions, and contents of work performed under the Contract. The Contractor shall be responsible to the City for all acts or omissions of its subcontractors and any other person performing work under this Contract.
8. **INSPECTION OF WORK:** The City shall, at all times, have access to the Contractor's work for the purposes of inspection, accounting, and auditing, and the Contractor shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Contractor shall permit the City or representative for the City the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Contractor pursuant to the Contract, as well as any preparatory work, work-in-progress, or completed work at a field site.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the City.

- 9. UTILITIES & ACCESS:** Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Contractor will counsel with the City and will enter into any necessary contacts and discussions with the affected owners regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Contractor shall inform the City, in writing, of any such contacts and the results thereof.

The City shall provide the land and/or construction easements for the land upon which the Work under this Contract is to be done, and will, so far as is convenient, permit the Contractor to use as much of the land as is required for the erection of temporary construction facilities and storage of materials, together with the right of access to same, but beyond this, the Contractor shall provide at the Contractor's cost and expense any additional land required.

10. PROTECTION OF PROPERTY:

- A. In General:** Contractor shall avoid damage, as a result of its operations, to trees, plant life, existing sidewalks, curbs, streets, alleys, pavements, utilities, adjoining property, the work of other contractors, and the property of the City and others. Contractor shall, at its own expense, repair any damage to any property caused by Contractor's operations.
- B. Underpinning and Shoring:** Contractor shall become familiar with the requirements of local and state laws applicable to underpinning, shoring and other work affecting adjoining property, and wherever required by law Contractor shall shore up, brace, underpin, secure and protect as may be necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected in any way by the excavations or other operations connected with the work to be performed under this Contract.
- C. Damage to Utilities:** Contractor shall be responsible for all damage to any utility equipment or structures caused by its acts or omissions to act, whether negligent or otherwise, and shall leave the utility equipment or structures in as good condition as they were in prior to the commencement of operations under this contract. However, any utility equipment or structures damaged as a result of any act, or omission to act, of the contractor may, at the option of the city department, utility company, or other party owning or operating the utility equipment or structures damaged, be repaired by the city department, utility company, or other party, and in that event, the cost of repairs shall be borne by Contractor.

- 11. PUBLIC RELATIONS:** Throughout the performance of the Contract, the Contractor will endeavor to maintain good relations with the public and any affected property owners.

Personnel employed by or representing the Contractor shall conduct themselves with propriety. The Contractor agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the City, in accordance with 19 V.S.A. § 35 and §.503, to accomplish the work under the Contract. The Contractor agrees that any work will be done with minimum damage to the property and disturbance to the owner. Upon request of the Contractor, the City shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Contractor is acting as an agent of the City.

12. ACKNOWLEDGEMENTS: Acknowledgment of the City's support must be included in any and all publications, renderings and project publicity, including audio/visual materials developed under this contract.

13. APPEARANCES:

A. Hearings and Conferences: The Contractor shall provide services required by the City and necessary for furtherance of any work covered under the Contract. These services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Contract.

The Contractor shall perform any liaison that the City deems necessary for the furtherance of the work and participate in conferences with the City, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Contract.

The Contractor further agrees to participate in meetings with the City and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Contract.

The Contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract.

B. Appearance as Witness: If and when required by the City, the Contractor, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related contract, on behalf of the City. The Contractor shall be equitably paid, to the extent permitted by law, for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract.

14. RESPONSIBILITY OF COST: The Contractor shall furnish and pay the cost, including taxes (except tax-exempt entities) and all applicable fees, of all the necessary materials and shall furnish and pay for full time on-site superintendence during any construction activity, labor, tools, equipment, and transportation. The Contractor shall perform all the Work required for the construction of all items listed and itemized under Attachment A (Request for Proposals) and Attachment B (Contractor's Response to Request for Proposals) and in strict accordance with the Contract Documents and any amendments thereto and any approved supplemental plans and specifications. The Contractor agrees to pay all claims for labor,

materials, services and supplies and agrees to allow no such charge, including no mechanic's lien, to be fixed on the property of the City.

- 15. PAYMENT PROCEDURES:** The City shall pay or cause to be paid to the Contractor or the Contractor's legal representative payments in accordance with the Contract. When applicable, for the type of payment specified in the Contract, a progress report shall summarize actual costs and any earned portion of fixed fee. All payments will be made in reliance upon the accuracy of all representations made by the Contractor, whether in invoices, progress reports, emails, or other proof of work.

All invoices and correspondence shall indicate the applicable project name, project number and the Contract number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Contract, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont's labor contract, and need not be receipted. All other expenses are subject to approval by the City and must be accompanied by documentation to substantiate their charges.

No approval given or payment made under the Contract shall be conclusive evidence of the performance of the Contract, either wholly or in part, and no payment shall be construed to be acceptance of defective work or improper materials.

The City agrees to pay the Contractor and the Contractor agrees to accept as full compensation, for performance of all services rendered and expenses encompassed in conformance therewith, the fee specified in the Contract.

- 16. DUTY TO INFORM CITY OF CONTRACT DOCUMENT ERRORS:** If Contractor knows, or has reasonable cause to believe, that a clearly identifiable error or omission exists in the Contract Documents, including but not limited to unit prices and rate calculations, Contractor shall immediately give the City written notice thereof. Contractor shall not cause or permit any Work to be conducted which may relate to the error or omission without first receiving written notice by the City that City representatives understand the possible error or omission and have approved of modifications to the Contract Documents or that Contractor may proceed without any modification being made to Contract Documents.

- 17. NON-APPROPRIATION:** The obligations of the City under this Contract are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Contract shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. The decision whether or not to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Contractor as soon as practicable of any non-appropriation, and Contractor shall not be entitled to

any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

18. CHANGE ORDERS & AMENDMENTS: No changes or amendments to the Contract shall be effective unless documented in writing and signed by authorized representatives of the City and the Contractor. All changes affecting the Project's construction cost, length of time, or modifications of the terms or conditions of the Contract, must be authorized by means of a written Contract Change Order which is mutually agreed to by the City and Contractor. The Contract Change Order will include extra Work, Work for which quantities have been altered from those shown in the Bid Schedule, as well as decreases or increases in the quantities of installed units from those shown in the Bid Schedule because of final measurements. All changes must be recorded on a Contract Change Order (which form is part of these Contract Documents) and fully executed before they can be included in a partial payment estimate. Changes for Work, quantities, and/or conditions will include any respective time adjustment, if justified. Time adjustments will require an updated Project Schedule with the Change Order.

19. EXTENSION OF TIME: The Contractor agrees to prosecute the work continuously and diligently, and no charges or claims for damages shall be made by the Contractor for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Contract. The Contractor may request an extension of time for such delays or hindrances, if any.

Time extensions may be granted by amendment only for excusable delays, such as delays beyond the control of the Contractor and without the fault or negligence of the Contractor.

The City may suspend the work or any portion thereof for a period of not more than ninety (90) days at its discretion or such further time as agreed by the Contractor. The Contractor will be allowed an extension of contract time directly attributable to any suspension.

20. PUBLIC HEALTH EMERGENCY:

A. Compliance with Mandates and Guidance: The Contractor is advised that public health emergencies—meaning public health emergencies, as declared by the City, the State of Vermont, or the Federal Government—may introduce significant uncertainty into the project. The Contractor must comply with all local, state, federal orders, directives, regulations, guidance, advisories during a public health emergency. Contractor shall adhere to the below provisions and consider public health emergencies as it develops project schedules and advances the Work.

B. Creation of Public Health Emergency Plan: For any work performed on-site at a City location, the Contractor shall create a public health emergency plan acceptable to the City. The Contractor shall be responsible for following this plan and ensuring that the project or site is stable and in a safe and maintainable condition.

a. **Public Health Emergency Plan:** The Public Health Emergency Plan will contain:

- i. Measures to manage risk and mitigate potential impacts to the health and safety of the public, the City and Contractor's workers;
- ii. Explicit reference to any health and safety performance standards and mandates provided by the City, the State of Vermont, the Federal government, or other relevant governmental entities;
- iii. A schedule for possible updates to the plan as standards and mandates change; and
- iv. Means to adjust the schedule and sequence of work should the emergency change in nature or duration.

b. Review and Acceptance of Plan:

- i. Contractor must provide the plan to the City by the Effective Date of this Contract or by one (1) week prior to the commencement of on-site activities, whichever is later.
- ii. The City shall have sole discretion to require changes to the plan.
- iii. The City may revisit the plan at any time to verify compliance with obligations that arise under a state of emergency.

C. Enforcement & Stoppage of Work: Contractor fails to comply with either 1) the approved public health emergency plan, or 2) any local, state, federal orders, directives, regulations, guidance, or advisories during a public health emergency, the City may stop Work under the Contract until such failure is corrected. Such failure to comply shall constitute a breach of the Contract.

Upon stoppage of work, the City may allow Work to resume, at a time determined by the City, under this Contract if such failure to comply is adequately corrected. The City shall have sole discretion in determining if Contractor has adequately corrected its failure to comply with the above.

If Contractor's breach of Contract has not been cured within seven (7) days after notice to stop Work from the City, then City may terminate this Contract, at its discretion.

D. City Liability Relating to Potential Delays: If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays related to a public health emergency will be excusable, but will not be compensable.

21. FORCE MAJEURE: Neither Party to this Contract shall be liable to the other for any failure or delay of performance of any obligation under this Contract to the extent the failure or delay is caused by acts of God, public health emergencies, epidemics, 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 under its control ("Force Majeure"). To assert Force Majeure, the nonperforming party must prove

that a) it made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, b) diligently pursued performance of its obligations, c) substantially fulfilled all obligations that could be fulfilled, and d) timely notified the other part of the likelihood or actual occurrence of a Force Majeure event. If any such causes for delay are of such magnitude as to prevent the complete performance of the Contract within two (2) years of the originally scheduled completion date, either Party may by written notice request to amend or terminate the Contract. The suspension of any obligations under this section shall not cause the term of this Contract to be extended and shall not affect any rights accrued under this Contract prior to the occurrence of the Force Majeure. The Party giving notice of the Force Majeure shall also give notice of its cessation.

22. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The City may, in writing, require or agree to changes, or additions to or deletions from the originally contemplated scope of work.

The value of such changes, to the extent not reflected in other payments to the Contractor, shall be incorporated in an amendment and be determined by mutual agreement, by one or more of the following:

1. Fixed Price. By a price that is not subject to any adjustment on the basis of the Contractor's expenses experienced in performing the work. The Contractor is fully responsible for all costs and resulting profit or loss.
2. Rate Schedule. By unit prices designated in the Contract, or by unit prices covered under any subsequent contracts.
3. Actual Cost. By amounts determined on the basis of actual costs incurred, as distinguished from forecasted expenditures.

No changes for which additional fee payment is claimed shall be made unless pursuant to a written order from the City, and no claim for payment shall be valid unless so ordered.

The Contractor agrees to maintain complete and accurate records of all change work, in a form satisfactory to the City. The City reserves the right to audit the records of the Contractor related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Contract. When changes are so ordered, no additional work shall be performed by the Contractor until a Contract amendment has been fully executed, unless written notice to proceed is issued by the City. Any claim for extension of time that may be necessitated as a result of extra work or additional services and changes shall be given consideration and evaluated insofar as it directly relates to the change.

23. FAILURE TO COMPLY WITH TIME SCHEDULE: If the City is dissatisfied because of slow progress or incompetence in the performance of the Work in accordance with the schedule for completion of the various aspects of construction, the City shall give the Contractor written notice in which the City shall specify in detail the cause of dissatisfaction. Should the Contractor fail or refuse to remedy the matters complained of within five days after the written

notice is received by the Contractor, the City shall have the right to take control of the Work and either make good the deficiencies of the Contractor itself or direct the activities of the Contractor in doing so, employing such additional help as the City deems advisable. In such events, the City shall be entitled to collect from the Contractor any expenses in completing the Work. In addition, the City may withhold from the amount payable to the Contractor an amount approximately equal to any interest lost or charges incurred by the City for each calendar day that the Contractor is in default after the time of completion stipulated in the Contract Documents.

- 24. RETURN OF MATERIALS:** Contractor agrees that at the expiration or termination of this Contract, it shall return to City all materials provided to it during its engagement on behalf of City.
- 25. ACCEPTANCE OF FINAL PAYMENT; RELEASE:** Contractor's acceptance of the final payment shall be a release in full of all claims against the City or its agents arising out of or by reason of the Work. Any payment, however, final or otherwise, shall not release the Contractor or its sureties from any obligations under the Contract Documents or any performance or payment bond.
- 26. OWNERSHIP OF THE WORK:** The Contractor agrees that the ownership of all studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM and other material prepared or collected by the Contractor, hereafter referred to as "instruments of professional service", shall become the property of the City as they are prepared and/or developed in the course of the Contract. The Contractor agrees to allow the City access to all "instruments of professional service" at any time. The Contractor shall not copyright any material originating under the Contract without prior written approval of the City. No publications or publicity of the work, in part or in total, shall be made without the express written agreement of the City, except that Contractor may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
- 27. PROPRIETARY RIGHTS:** The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed by the Contractor under the Contract, all rights accruing from such discoveries or inventions shall be the sole property of the Contractor. The Contractor, however, agrees to and does hereby grant to the City an irrevocable, nonexclusive, non-transferable, and royalty-free license to the manufacture, use, and disposition of any discovery or invention that may be developed as a part of the Work under the Contract.
- 28. PUBLIC RECORDS:** The Contractor understands that any and all records related to and acquired by the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act and that the determination of how those records must be handled is solely within the purview of City. The Contractor shall identify all records that it considers to be trade secrets as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act and shall also identify all other records it considers to be exempt under the Act. It is not sufficient to merely state generally that the record is proprietary or a trade secret or is

otherwise exempt. Particular records, pages or section which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

29. RECORDS RETENTION AND ACCESS: The Contractor agrees to retain, in its files, and to produce to the City—within the time periods requested—all books, documents, electronic data media (EDM), accounting records, and other records produced or acquired by the Contractor in the performance of this Contract which are related to the City, at any time during this Contract and for a period of at least three (3) years after its completion or termination. In addition, if any audit, claim, or litigation is commenced before the expiration of that three (3) year period, the records shall be retained until all related audits, claims, or litigation are resolved. The Contractor further agrees that the City shall have access to all the above information for the purpose of review and audit during the Contract period and any time within the aforementioned retention period. Copies of all of the above referenced information shall be provided to the City, if requested, in the format in which the records were obtained, created, or maintained, such that their original use and purpose can be achieved. Contractor, subcontractors, or their representatives performing work related to the Contract, are responsible to ensure that all data and information created or stored on EDM is secure and can be duplicated and used if the EDM mechanism is subjected to power outage, obsolescence, or damage.

30. WARRANTY: In addition to any warranty provided by the manufacturer or distributor, Contractor guarantees the Work performed, and all materials or equipment furnished, to be free from defects in material and workmanship for a minimum period of one (1) year from the date of the City's acceptance of completion. The Contractor's warranty is not intended and shall not be interpreted as a limitation upon the City's rights or a waiver of manufacturer and distributor warranties, any subcontractor warranties, or any other warranties provided in connection with the Work.

Contractor, at its own expense, shall make any repairs, or replacement necessary to correct these defects to the satisfaction of the City.

This warranty of material and workmanship applies only:

1. To the property only as long as it remains in the possession of the City.
2. To the Work that has not been subject to accident, misuse, or abuse by someone other than the Contractor.
3. To the Work that has not been modified, altered, defaced, or had repairs made or attempted by someone other than the Contractor.
4. If the Contractor is immediately notified in writing within ten (10) days of first knowledge of the defect by the City.

5. If the Contractor is given the first opportunity to make any repairs, replacements, or corrections to the defective construction at no cost to the City within a reasonable period of time.

Under no circumstances shall Contractor be liable by virtue of this warranty or otherwise for damage to any person or property whatsoever for any special, indirect, secondary or consequential damages of any nature however arising out of the use or inability to use because of the construction defect.

If the Contractor is unable, after receipt of two (2) written notices given to Contractor by the City, to successfully repair or replace the labor, equipment, or materials within six (6) months of the second notice, then the District's repair and replace warranty shall be deemed to have failed and the City's rights and remedies shall not be limited by the provisions of this section.

31. CONTRACT DISPUTES: In the event of a dispute between the parties to this Contract, each party will continue to perform its obligations unless the Contract is terminated in accordance with these terms.

32. SETTLEMENTS OF MISUNDERSTANDINGS: To avoid misunderstandings and litigation, it is mutually agreed by all Parties that in the case of disputes, both parties agree to discussions between parties, and, if necessary, non-binding mediation.

33. CITY'S OPTION TO TERMINATE: The Contract may be terminated in accordance with the following provisions, which are not exclusive:

A. Termination for Convenience: At any time prior to completion of services specified under the Contract, the City may terminate the Contract for any reason by submitting written notice via certified or registered mail to the Contractor, not less than fifteen (15) days prior to the termination date, of its intention to do so. If the termination is for the City's convenience, payment to the Contractor will be made promptly for the amount of any fees earned to the date of the notice of termination and costs of materials obtained in preparation for Work but not yet installed or delivered, less any payments previously made. However, if a notice of termination is given to a Contractor prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Contractor will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the City's approval. The Contractor shall make no claim for additional compensation against the City by reason of such termination.

B. Termination for Cause:

- i. Breach: Contractor shall be in default if Contractor fails in any manner to fully perform and carry out each and all conditions of this Contract, including, but not limited to, Contractor's failure to begin or to prosecute the Work in a timely

manner or to make progress as to endanger performance of this Contract; failure to supply a sufficient number of properly skilled employees or a sufficient quantity of materials of proper quality; failure to perform the Work unsatisfactorily as determined by the City; failure to neglect or refuse to remove materials; or in the event of a breach of warranty with respect to any materials, workmanship, or performance guaranty. Contractor will not be in default for any excusable delays as provided in Sections 18-20.

The City may give Contractor written notice of such default. If Contractor does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by the City, then the City may terminate this contract for cause.

- ii. Dishonest Conduct: If Contractor engages in any dishonest conduct related to the performance or administration of this Contract then the City may immediately terminate this contract.
- iii. Cover: In the event the City terminates this contract as provided in this section, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Contractor shall be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services, interest, or other charges the City incurs to cover.
- iv. Rights and Remedies Not Exclusive: The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

34. GENERAL COMPLIANCE WITH LAWS: The Contractor and any subcontractor approved under this Contract shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance, the Non-Outsourcing Ordinance, and the Union-Deterrence Ordinance and shall provide the required certifications attesting to compliance with these ordinances (see attached ordinances and certifications).

35. SAFETY REQUIREMENTS: The Contractor shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any VOSHA (Vermont OSHA) Safety and Health requirements, including the provision and use of appropriate safety equipment and practices.

The Contractor, and not the City, shall be responsible for the safety, efficiency, and adequacy of Contractor's or its subcontractors' plant, appliances, equipment, vehicles, and methods, and for any damages, which may result from their failure or their improper construction, maintenance or operation.

36. CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY: During performance

of the Contract, the Contractor will not discriminate against any employee or applicant for employment because of religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status, or genetic information. Contractor, and any subcontractors, shall comply with any Federal, State, or local law, statute, regulation, executive order, or rule that applies to it or the services to be provided under this contract concerning equal employment, fair employment practices, affirmative action, or prohibitions on discrimination or harassment in employment.

37. CHILD SUPPORT PAYMENTS: By signing the Contract, the Contractor certifies, as of the date of signing the Contract, that the Contractor (a) is not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Contractor is a sole proprietorship, the Contractor's statement applies only to the proprietor. If the Contractor is a partnership, the Contractor's statement applies to all general partners with a permanent residence in Vermont. If the Contractor is a corporation, this provision does not apply.

38. TAX REQUIREMENTS: By signing the Contract, the Contractor certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, the Contractor is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Contract.

39. INDEMNIFICATION:

A. Indemnification by Contractor: Except for the gross negligence or willful misconduct by the City, or any of its boards, officers, agents, employees, assigns and successors in interest, contractor undertakes and agrees to defend, indemnify and hold harmless the City and any of its boards, officers, agents, employees, assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Contractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by Contractor or its subcontractors of any tier.

B. Notice of Claims & City's Right to Participate: If the City, its officers, agents, or employees are notified of any claims asserted against it to which this indemnification provision may apply, the City shall immediately thereafter notify the Contractor in writing that a claim to which the indemnification provision may apply has been filed. Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The City retains the right to participate, at its own expense, in the defense of any claim, and to approve all proposed settlements of claims to which this provision applies.

C. City's Rights and Remedies: Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States and the State of Vermont.

D. No Indemnification by City: Under no conditions shall the City be obligated to indemnify the Contractor or any third party, nor shall the City be otherwise liable for expenses or reimbursement including attorney's fees, collection costs, or other costs of the Contractor or any third party.

40. NO GIFTS OR GRATUITIES: The Contractor shall not make any payment or gift or donation of substantial value to any elected official, officer, employee, or agent of the City during the term of this Contract.

41. ASSIGNMENT: Contractor shall not sublet or assign this Work, or any part of it, without the written consent of the City. If any subcontractor is approved, Contractor shall be responsible and liable for all acts or omissions of that subcontractor for any Work performed. If any subcontractor is approved, Contractor shall be responsible to ensure that the subcontractor is paid as agreed and that no lien is placed on any City property.

42. TRANSFERS, SUBLETTING, ASSIGNMENTS, ETC: Contractor shall not assign, sublet, or transfer any interest in the work, covered by this Contract, without prior written consent of the City and further, if any subcontractor participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the City. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Contractor of responsibility for the performance of that portion of the work so transferred. The form of the subcontractor's contract shall be as developed by the Contractor and approved by the City. The Contractor shall ensure that insurance coverage exists for any operations to be performed by any subcontractor as specified in the insurance requirements section of this Contract.

The services of the Contractor, to be performed under the Contract, shall not be transferred without written authorization of the City. Any authorized sub-contracts shall contain all of the same provisions contained in and attached to the original Contract with the City.

43. CONTINUING OBLIGATIONS: The Contractor agrees that if because of death, disability, or other occurrences, it becomes impossible to effectively perform its services in compliance with the Contract, neither the Contractor nor its surviving members shall be relieved of their obligations to complete the Contract unless the City agrees to terminate the Contract because it determines that the Contractor is unable to satisfactorily execute the Contract.

44. INTERPRETATION & IMPLEMENTATION: Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties.

45. ARM'S LENGTH: This Contract has been negotiated at arm's length, and any ambiguity in any of its terms or provisions shall be interpreted in accordance with the intent of the Parties and not against or in favor of either the City or Contractor.

46. RELATIONSHIP: The Contractor is an independent contractor and shall act in an independent capacity and not as officers or employees of the City. To that end, the Contractor shall determine the method, details, and means of performing the work, but will comply with all legal requirements in doing so. The Contractor shall provide its own tools, materials, or equipment. The Parties agree that neither the Contractor nor its principal(s) or employees are entitled to any employee benefits from the City. Contractor understands and agrees that it and its principal(s) or employees have no right to claim any benefits under the Burlington Employee Retirement System, the City's worker's compensation benefits, health insurance, dental insurance, life insurance, or any other employee benefit plan offered by the City. The Contractor agrees to execute any certifications or other documents and provide any certificates of insurance required by the City and understands that this Contract is conditioned on its doing so, if requested.

The Contractor understands and agrees that it is responsible for the payment of all taxes on the above sums and that the City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

47. CHOICE OF LAW: Vermont law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by operation of this provision shall not invalidate the remainder of this Contract to the extent capable of execution.

48. JURISDICTION: All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.

49. BINDING EFFECT AND CONTINUITY: This Contract shall be binding upon and shall inure to the benefit of the Parties, their' respective heirs, successors, representatives, and assigns. If a dispute arises between the Parties, each Party will continue to perform its obligations under this Contract during the resolution of the dispute, until the Contract is terminated in accordance with its terms.

50. SEVERABILITY: The invalidity or unenforceability of any provision of this Contract or the Contract Documents shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

51. ENTIRE CONTRACT & AGREEMENT: This Contract, including the Contract Documents, constitutes the entire Contract, agreement, and understanding of the Parties with respect to the subject matter of this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

- 52. APPENDICES:** The City may attach, to these specifications, appendices containing various forms and typical sample sheets for guidance and assistance to the Contractor in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the City as occasions may require. It is the responsibility of the Contractor to ensure that they have the latest versions applicable to the Contract.
- 53. NO THIRD PARTY BENEFICIARIES:** This Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.
- 54. WAIVER:** A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**Attachment D:
Burlington Livable Wage Ordinance Certification**

DRAFT

Certification of Compliance with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor") in connection with a contract for _____ services that we provide to the City, hereby certify under oath that the Contractor (and any subcontractors under this contract) is and will remain in compliance with the City of Burlington's Livable Wage Ordinance, B.C.O. 21-80 et seq., and that

(1) as a condition of entering into this contract or grant, we confirm that all covered employees as defined by Burlington's Livable Wage Ordinance (including the covered employees of subcontractors) shall be paid a livable wage (as determined, or adjusted, annually by the City of Burlington's chief administrative officer) and provided appropriate time off for the term of the contract;

(2) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace(s) or other location(s) where covered employees work;

(3) we will provide verification of an employee's compensation, produce payroll or health insurance enrollment records or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of a request by the City;

(4) we will cooperate in any investigation conducted by the City of Burlington's City Attorney's office pursuant to this ordinance; and

(5) we will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this ordinance.

Date _____ By: Contractor _____

Subscribed and sworn to before me:

Date _____ Notary _____

ARTICLE VI. LIVABLE WAGES¹

21-80 Findings and purpose.

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its employees have an opportunity for a decent quality of life and are compensated such that they are not dependent on public assistance to meet their basic needs;
- (c) The City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-81 Definitions.

As used in this article, the following terms shall be defined as follows:

- (a) *Contractor or vendor* is a person or entity that has a service contract with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor.
- (b) *Grantee* is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants, including any contractors or subgrantees of the grantee, that exceed fifteen thousand dollars (\$15,000.00) for any twelve (12) month period.

(c) *Covered employer* means the City of Burlington, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.

(d) *Covered employee* means an "employee" as defined below, who is employed by a "covered employer," subject to the following:

(1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington, notwithstanding that the employee may be a temporary or seasonal employee;

(2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the City of Burlington is a "covered employee."

(e) *Designated accountability monitor* shall mean a nonprofit corporation which has established and maintains valid nonprofit status under Section [501\(c\)\(3\)](#) of the United States Internal Revenue Code of 1986, as amended, and that is independent of the parties it is monitoring.

(f) *Employee* means a person who is employed on a full-time or part-time regular basis. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four (4) years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six (6) months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

(g) *Employer-assisted health care* means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)

(h) *Livable wage* has the meaning set forth in Section [21-82](#).

(i) *Retaliation* shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.

(j) *Service contract* means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property). A contract involving the furnishing of financial products, insurance products, or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-82 Livable wages required.

(a) Every covered employer shall pay each and every covered employee at least a livable wage no less than:

(1) For a covered employer that provides employer assisted health care, the livable wage shall be at least thirteen dollars and ninety-four cents (\$13.94) per hour on the effective date of the amendments to this article.

(2) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least fifteen dollars and eighty-three cents (\$15.83) per hour on the effective date of the amendments to this article.

(3) Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage compensation will at least equal the livable wage as established under this article.

(b) The amount of the livable wage established in this section shall be adjusted by the chief administrative officer of the city as of July 1 of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the Joint Fiscal Office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to May 1 preceding any such adjustment and prior to

May 1 of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by posting a written notice in a prominent place in City Hall by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information to the chief administrative officer, by notice to each such covered employer. However, once a livable wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.

(c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, personal, or combined time off leave.

(Ord. of 11-19-01; Ord. of 5-2-11; Ord. of 6-13-11; Ord. of 10-21-13)

21-83 Applicability.

(a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.

(b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the funds awarded by the City of Burlington are being expended by the covered employer.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-84 Enforcement.

(a) Each service contract or grant covered by this article shall contain provisions requiring that the covered employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this article. The covered employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The covered employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief

administrative officer of the City of Burlington, within ten (10) business days from receipt of the City of Burlington's request.

(b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to:

- (1) Verification of an individual employee's compensation;
- (2) Production of payroll, health insurance enrollment records, or other relevant documentation; or
- (3) Evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

(c) The City of Burlington shall appoint a designated accountability monitor that shall have the authority:

- (1) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;
- (2) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;
- (3) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their initial credibility; and
- (4) To refer credible complaints to the city attorney's office for potential enforcement action under this article.

The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

(d) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the city attorney's office within one (1) year after the alleged violation. The city attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the

complaint. Prior to ordering any penalty provided in subsection (e), (f), or (g) of this section, the city attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing officer appointed by the city attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the city attorney's office and the covered employer.

(e) The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with a covered employer from any court of competent jurisdiction, if the covered employer has not complied with this article.

(f) Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.

(g) A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.

(h) If a complaint is received that implicates any City of Burlington employee in a possible violation of this article, that complaint will be handled through the City's personnel procedures, not through the process outlined in this article.

(i) Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:

(1) The difference between the livable wage required under this article and the amount actually paid to the covered employee;

(2) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;

(3) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or fifty dollars (\$50.00) for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;

(4) Reinstatement in employment and/or injunctive relief; and

(5) Reasonable attorneys' fees and costs.

(j) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

(Ord. of 11-19-01; Ord. of 2-17-04; Ord. of 5-2-11; Ord. of 10-21-13)

21-85 Other provisions.

(a) No covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this subsection shall be deemed a violation of this article subject to the remedies of Section [21-84](#).

(b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the livable wage as a result of amendments to this article.

(c) Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection (d) of this section, shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

(d) Notwithstanding subsection (c) of this section, where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.

(e) Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.

(f) The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-86 Exemptions.

An exemption from any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage would cause substantial economic hardship;
and
- (b) By the City of Burlington where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this section may reapply for an exemption upon the expiration of the exemption. Requests for exemption may be granted by majority vote of the city council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee of the City of Burlington shall first consider such request and make a recommendation to the city council. The decision of the city council shall be final.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-87 Severability.

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-88 Annual reporting.

On or before April 15 of each year, the city attorney's office shall submit a report to the city council that provides the following information:

- (a) A list of all covered employers broken down by department;
- (b) A list of all covered employers whose service contract did not contain the language required by this article;
and
- (c) All complaints filed and investigated by the city attorney's office and the results of such investigation.

(Ord. of 10-21-13)

21-89 Effective date.

The amendments to this article shall take effect on January 1, 2014, and shall not be retroactively applied.

(Ord. of 10-21-13)

**Attachment E:
Burlington Outsourcing Ordinance Certification**

DRAFT

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, _____, on behalf of
_____ (Contractor) and in connection with the

_____ [project], hereby certify under oath that (1) Contractor shall comply with the City of Burlington's Outsourcing Ordinance (Ordinance §§ 21-90 – 21-93); (2) as a condition of entering into this contract or grant, Contractor confirms that the services provided under the above-referenced contract will be performed in the United States or Canada.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

Subscribed and sworn to before me: _____
Notary

ARTICLE VII. OUTSOURCING

21-90 Policy.

It is the policy of the City of Burlington to let service contracts to contractors, subcontractors and vendors who perform work in the United States.

(Ord. of 11-21-05/12-21-05)

21-91 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any city funds and the total amount of the contract is fifty thousand dollars (\$50,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Outsourcing.* The assigning or reassigning, directly, or indirectly through subcontracting, of services under a government funded project to workers performing the work outside of the United States.

(Ord. of 11-21-05/12-21-05)

21-92 Implementation.

(a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who is outsourcing, or causing the work to be performed outside of the United States or Canada.

(b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that the services provided under the contract will be performed in the United States or Canada.

(Ord. of 11-21-05/12-21-05)

21-93 Exemption.

An exemption from requirements of this article may be authorized by the chief administrative officer based upon a determination that the services to be performed for the government funded project are not available in the United States or Canada at a reasonable cost. Any such exemption decision by the chief administrative officer

shall be reported to the board of finance in writing within five (5) days. The board of finance may, if it should vote to do so, override the exemption decision if such vote occurs within fourteen (14) days of the date of the chief administrative officer's communication to such board.

(Ord. of 11-21-05/12-21-05)

21-94 Enforcement.

(a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or outsources work on a government funded project shall be deemed to be in violation of this article.

(b) A violation of this article shall be a civil offense subject to a civil penalty of from one hundred dollars (\$100.00) to five hundred (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any violation of any provision of this article shall continue shall constitute a separate violation.

(c) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 11-21-05/12-21-05)

21-95—21-99 Reserved.

**Attachment F:
Burlington Union Deterrence Ordinance Certification**

DRAFT

Certification of Compliance with the City of Burlington's
Union Deterrence Ordinance

I, _____, on behalf of _____
(Contractor) and in connection with _____ (City
contract/project/grant), hereby certify under oath that _____
(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will
it over the life of the contract advertise or provide union deterrence services in violation of the
City's union deterrence ordinance.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

ARTICLE VIII. UNION DETERRENCE

21-100 Policy.

It is the policy of the City of Burlington to limit letting contracts to organizations that provide union deterrence services to other companies.

(Ord. of 3-27-06/4-26-06)

21-101 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Union deterrence services.* Services provided by a contractor, subcontractor or vendor that are not restricted to advice concerning what activities by an employer are prohibited and permitted by applicable laws and regulations, but extend beyond such legal advice to encouraging an employer to do any of the following:

- 1) Hold captive audience, (i.e., mandatory) meetings with employees encouraging employees to vote against the union;
- 2) Have supervisors force workers to meet individually with them to discuss the union;
- 3) Imply to employees, whether through written or oral communication, that their employer may have to shut down or lay people off if the union wins the election;
- 4) Discipline or fire workers for union activity;
- 5) Train managers on how to dissuade employees from supporting the union.

(d) *Substantial portion of income.* For the purposes of this article, substantial portion of income shall mean greater than ten (10) percent of annual gross revenues or one hundred thousand dollars (\$100,000.00), whichever is less.

(Ord. of 3-27-06/4-26-06)

21-102 Implementation.

- (a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who
- 1) Advises or has advised an employer to conduct any illegal activity in its dealings with a union.
 - 2) Advertises union deterrence services as specialty services;
 - 3) Earns a substantial portion of its income by providing union deterrence services to other companies in order to defeat union organizing efforts.
- (b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that it has not advised the conduct of any illegal activity, it does not currently, nor will it over the life of the contract provide union deterrence services in violation of this article.

(Ord. of 3-27-06/4-26-06)

21-103 Enforcement.

- (a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or provided union deterrence services during the life of a contract for a government funded project shall be deemed to be in violation of this article.
- (b) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 3-27-06/4-26-06)

21-104—21-110 Reserved.

**Attachment G:
Contractor's Certificate of Insurance**

DRAFT



PO Box 220
South Paris, ME 04281
(207) 739-2400 Fax: (207) 739-2223

Dated: _____

INDEPENDENT BUILDER AGREEMENT

This Builder Agreement (“Agreement”) is intended to cover the relationship between City of Burlington Vermont (“**Owner**”) and **KBS Builders, Inc.** (“KBS” or “Manufacturer”), of South Paris, Maine, a manufacturer of modular housing units. KBS and Owner agree as follows:

1. **Order Process and Term.** This Agreement provides the Owner the basis on which to submit orders. KBS will review, and return with a price/order form. Once the Owner agrees and signs the price/order form, provides an approved floor plan and elevation, and a ten percent (10%) deposit, the package will be scheduled for production. The term of this Agreement shall be one (1) year commencing from the date of execution of this Agreement.

2. **Details of Build.** KBS agrees to build modular type units (multi-section dwelling) referred to herein as “Units.” The detailed specifications of the contract shall be included in the order form. KBS reserves the right to substitute materials of an equal or better quality than what the specifications call out. KBS also reserves the right to make compulsory changes without consent of Owner when such changes are mandated by amendments to regulatory requirements to which the Unit must be manufactured. Additionally:

- a. Unless KBS is providing “set work,” Independent Builder must review set plans prepared, and provided by KBS, (i.e. indication how the Units will be installed in the field), and review them with, Owner’s subcontractor in the field.
- b. Owner is responsible for reviewing the approved plans and installation instructions, for all electrical, plumbing, and heating utilities, with its licensed subcontractors prior to Owner’s licensed subcontractors connecting or installing said utilities. Owner bears the entire responsibility of compliance for these trades.

- c. Owner's plumbing subcontractor must inspect and test for damage that may have been caused to the Units plumbing by transporting or setting the Units prior to installing or connecting any plumbing in the Units. KBS is not liable for water damage resulting from Owner's plumbing subcontractor failing to adequately inspect and test for damage to the Units plumbing.
- d. Owner's electrical subcontractor shall be responsible for inspecting and testing all outlets and switches to ensure that they are functioning properly.
- e. Owner's heating subcontractor shall be responsible for inspecting and testing all heating utilities to ensure that they are functioning properly.

3. **Not Included Items.** Foundations, footings, supporting columns, plates, slabs, blocks or other supporting items are not included in the sale of the modular Unit. Basement stairs, furnaces and water filters are also not included. KBS is not responsible for, *inter alia*, any calculations, specifications, or code compliance relating to basement stairs, furnaces, water filters, foundations, footings, support columns, plates, slabs, blocks or other supporting items. Further, "set fees", heavy equipment at the site including cranes, dozers and backhoes are not included in the base or option price. All "set fees" and heavy equipment costs including cranes will be quoted separately. Transportation will be separately quoted; and will be specifically listed on the pricing/order form. Transportation cost shall include all costs associated with transporting the Units from KBS to Owners building or storage site. If more than one move is required (i.e. first to a storage site and then to the Owners building site) Owner shall be liable for all additional costs associated with each move.

4. **Delivery Date.** Owner will be notified of the expected production schedule, and an approximate date the Unit is expected to be ready for shipping. KBS will coordinate the delivery of the Unit to the Owner's specified site. Delivery and production dates are estimates and are subject to adjustment. **UNDER NO CIRCUMSTANCES WILL KBS BE LIABLE FOR ANY DAMAGES, CONSEQUENTIAL OR OTHERWISE, FOR ANY REASONABLE DELAYS IN PRODUCTION AND DELIVERY.**

5. **Request for Change Orders.** Request for change orders may be submitted up to ten days before the production date on forms provided by KBS. All requests for change orders are subject to a two hundred fifty dollar (\$250)

change order fee. If the proposed change order is accepted by KBS, the proposed additional charges by KBS, if any, must be approved by the Owner five (5) business days from receiving that acceptance or, five (5) days before production is projected to begin, whichever is earlier. KBS reserves the right to reject any request for a change order.

6. **Financial Information.** The Owner shall provide documentation for payment. Documentation may include commitment letters, letters of credit or bank guarantees. KBS reserves the right to refuse production or delivery in the absence of appropriate documentation demonstrating a commitment and ability to pay. KBS shall be the sole judge of whether the documentation is adequate.

7. **Local Building Codes.** It is Owner's responsibility to inform KBS in writing of all local code requirements at the time the order is submitted. Changes to the project by the Owner, General Contractor, or Architect due to special code requirements, energy requirements, or structural requirements, shall require a change order.

8. **Payment terms.** Payment is due the earlier of:
- a. By certified check when the Units reach the building site or the Owner's sales lot; or
 - b. Fourteen (14) days after the agreed upon scheduled delivery date as shown in the sales agreement, provided the Unit is ready for delivery; or
 - c. Fourteen (14) days after the Unit is ready for delivery if it is ready for delivery after the scheduled delivery date as shown in the sales agreement.

If payment is not made in accordance with this Agreement and for whatever reason the Unit is delivered, then Owner shall be liable for KBS' reasonable attorneys fees and costs

9. **Scheduling of Delivery.** Owner will be contacted by the transportation coordinator to arrange delivery. If payment has not been received by KBS at or before the time of delivery, or through no fault of KBS, the site is not ready for delivery within fifteen (15) days of the Units being ready for delivery, then KBS may store the Units and Owner will be liable for storage, interest, and insurance charges as described. Storage costs shall be twenty-five dollars (\$25) per day per Unit. Interest charges shall be equal to one percent

(1%) per month of the order amount. Insurance must be obtained by Owner, and must cover the Units in the yard or storage site. Said insurance shall identify KBS, its subsidiaries, employees, volunteers, directors, and officers as additional insured on a primary and non- contributory basis for work performed by or on behalf of the named insured. KBS is not responsible for any damage to the Project or stored Units, including without limitation, any damage from water or vandalism. For the purposes of this paragraph, the ready for delivery date will not be before the requested delivery date as shown on the sales agreement.

If forty-five (45) days after production, the Owner is unable or unwilling to take possession, and the Units (less shipping costs) have not been paid for in full, then the Units may, at KBS' sole discretion, be sold to a third party. KBS shall be entitled to recover from the Owner the difference between the contract price and the actual price as damages, plus accrued interest and storage charges.

10. **Transporter Trailers**. Modular Units will be moved by transporter trailers. These trailers are, and at all times will remain, the property of KBS. If these trailers are damaged onsite by the Owner or its agent the damage will be assessed by KBS and billed to the Owner accordingly. These trailers may be left at the building site for a reasonable time after the Units are set as agreed upon by the Owner and KBS . If the trailers are left at the building site they shall not be moved off site without written consent of KBS. . If the Owner transports its own Units:

- a. To the fullest extent permitted by law, Owner shall defend, indemnify, and hold harmless KBS, and its subsidiaries, employees, volunteers, directors, and officers from and against any and all actions, liabilities, claims, losses, costs, injuries, damages and expenses, including reasonable attorneys' fees, that may be incurred as a result of the negligent acts or omissions or willful misconduct of Owner, its sub-consultants, or those for which it is legally liable, in connection with transporting the Units. This indemnity obligation applies notwithstanding any contrary provision of Workers' Compensation Law §11 limiting the indemnity.
- b. Owner must obtain insurance identifying KBS, its subsidiaries, employees, volunteers, directors, and officers as additional insured on a primary and non- contributory basis for any and all actions, liabilities, claims, losses, costs, injuries, damages and expenses, including reasonable attorneys' fees, that may be incurred as a result of the

negligent acts or omissions or willful misconduct of Owner, its sub- consultants, or those for which it is legally liable, in connection with transporting the Units; andc. The Owner or its agent will be responsible for, *inter alia*, fixing plastic, flat tires or DOT inspections.

11. **Site Preparation.** It is the Owner' s sole responsibility to make sure the site is prepared appropriately for setting the modular Units by crane. This includes access roads of appropriate grades, curves and base material. It includes cleared areas around the foundation with appropriate compacted fill. The most recent KBS site installation procedures shall govern the appropriate scope and details. KBS will not inspect the site before the day of delivery. Owner may request a site inspection up to five (5) days before a scheduled delivery date. A site inspection shall be subject to a two hundred and fifty dollars (\$250) site inspection fee, which must be paid prior to the site inspection.

The Owner is also solely responsible to make sure that roads leading to the job site are hard packed, free of severe dips, humps or curves and unrestricted by obstacles overhead or otherwise.

If KBS or its set contractor is unable to deliver or set the Unit because these provisions have not been followed then Owner is liable for all costs and delays.

12. **Risk of Loss.** Risk of loss for a Unit shifts to the Owner when the Unit is (i) paid for and (ii) delivered to the agreed delivery location, or (iii) being transferred to a transportation vehicle if Owner is providing its own transportation, whichever is earliest. Title transfers to Owner immediately upon payment in full for the Unit. Owner must obtain insurance identifying KBS, its subsidiaries, employees, volunteers, directors, and officers as additional insured on a primary and non- contributory basis as described in paragraph 22, beginning no later than the time risk of loss shifts to Owner.

13. **Limited Warranty.** KBS warrants that the Units are free from any substantial defects in materials or workmanship. KBS at its discretion will replace or repair any substantial defects in materials or workmanship, at the installation site of the modular Units. The owner must give written notice of such defects to the Owner at their business address no later than twelve (12) months and ten (10) days from the date of delivery. Any and all claims for warranty work by owner must first be made through the Owner.

As used in this Agreement, owner is the expected ultimate owner of the Unit. For "spec" or model Units, the owner is the Owner. KBS's warranty

obligations will extend for one year or twelve (12) months and ten (10) days from date of delivery. KBS's warranty for Units owned by the Owner for less than one year, measured from the date of delivery, will extend to the owner for the remainder of the twelve (12) months and ten (10) days.

14. **Nail Pops, Drywall Cracks and Floor Squeaks.** Drywall cracks, nail pops, and floor squeaks, not meeting the criteria, as defined in the National Association of Home Builders Performance Guide, referred to herein as "NAHB", as defects, are not covered by the KBS warranty unless caused by a structural problem. The Owner at its discretion may cover those issues separately with the owner or exclude them by a properly drafted agreement.

15. **Condensation, Moisture, Mold/Mildew.** Condensations, moisture, mold/mildew in the Unit are a function, in part, of moisture in the Component. Moisture is put in Components by many causes including, showers and bathing, washing machines, dryers, damp or wet basements and plants among other things. Moisture, mold and mildew may be mitigated by dry basements, use of ventilation fans, opening windows, adjusting usage habits and KBS optional HRV units. As KBS will have no contact with the owner it has no control over informing and educating owners as to the appropriate usage habits, no control over wet basements, and no control over whether an HRV unit is recommended or chosen as an option. As a consequence, KBS shall have no liability for any mold or moisture conditions, or related claims, unless specifically and solely caused by a manufacturing defect for which KBS is responsible. If the owner develops moisture, condensation or mold/mildew problems attributable in part to Owner's failure to adequately educate the owner, the lack of an HRV unit or a wet or damp basement, Owner shall indemnify and hold KBS harmless including attorney fees from any and all such claims.

16. **NO IMPLIED WARRANTIES.** THE ONLY WARRANTIES PROVIDED BY KBS ARE THE WARRANTIES EXPLICITLY PROVIDED BY THIS AGREEMENT. KBS PROVIDES NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SPECIFICALLY, THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION OBTAINED ON THE FACE OF THIS CONTRACT.

17. **Limitations on Remedies.** All warranty work is to be done by KBS personnel unless KBS authorizes the Owner in writing to undertake such work. Any work done by the Owner or its agent without the written permission of KBS shall be deemed not to be covered warranty work.

THE EXCLUSIVE REMEDY FOR ANY DEFECTS SHALL BE REPAIR OR REPLACEMENT, OR SUCH REMEDIES AS AFFORDED BY THE LAWS GOVERNING THIS AGREEMENT. IN ANY EVENT, KBS SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS OR PERSONAL INJURY.

18. **Not Used.**

19. **Perfect Tender Rule.** It is agreed that Units are specifically manufactured for Owner and are not controlled by the perfect tender rule, which rule is expressly waived by this provision.

20. **Insurance.** KBS shall maintain commercial general liability insurance in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) per aggregate. KBS shall also carry auto liability coverage with a one million dollar (\$1,000,000) combined single limit, including coverage for owned or scheduled auto, hired auto, and non-owned autos. KBS subcontracted transportation company shall carry cargo coverage for the value of the units while in transit, and KBS will maintain worker's compensation insurance, including employers' liability coverage with limits of \$500,000/\$500,000/\$500,000. Workers compensation applies in the state in which work is performed. The City of Burlington is named or listed as additional insured on a primary and non-contributory basis under the auto and general liability policies. 30 Day Notice of cancellation applies in favor of the City of Burlington. Annually, or more frequently if requested, KBS shall provide the City with certificates of insurance reflecting the above coverage.

City of Burlington shall maintain commercial general liability insurance in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) per aggregate, auto liability coverage with one million (\$1,000,000) combined single limit, including owned autos, hired autos and non-owned auto coverage. City shall maintain worker's compensation insurance, including employers' liability coverage with limits of \$500,000/\$500,000/\$500,000.

21. **Termination.** This Agreement may be terminated by either party at any time with written notification of the intent to terminate to the other party with 15 days to respond. If this Agreement is terminated by KBS without cause, the Owner shall be entitled to any rebates that it otherwise earned at the time of the termination.

22. **Resolution of Disputes.** Any dispute arising out of this Agreement and any rebate programs, excepted as stated below, shall be arbitrated by the parties. If the amount in controversy is forty thousand dollars (\$40,000) or less, the parties shall agree upon a single arbitrator to decide the controversy. If the parties cannot agree on an arbitrator, either party may apply to the Superior Court of Maine, which shall have authority to appoint an arbitrator.

If the amount in controversy exceeds forty thousand dollars (\$40,000), each party shall select an arbitrator and then each arbitrator shall endeavor to agree upon a third arbitrator so that the matter is heard by a panel of three. If the two arbitrators cannot agree, the Superior Court of Maine shall have authority to appoint the third arbitrator.

The arbitrator(s) shall accept any relevant evidence of the nature that reasonable persons would rely upon in the conduct of serious affairs. The decision of the arbitrator(s) shall be binding on the parties. The cost of arbitration shall be borne equally by the parties.

Arbitration is not required where the two parties have been sued by either a consumer (not the Owner), the State of Maine Manufactured Housing Board, or similar entity, and cross-claims are filed between the parties arising out of the direct claim. In this circumstance, a court of competent jurisdiction shall hear and decide the controversy. If cross-claims are not asserted then the arbitration is required.

23. **Merger Clause.** This writing is intended as a complete and final expression of this Agreement. No course or prior dealings between the parties, and no usage of the trade shall be allowed to vary any of the terms in this Agreement.

24. **Waivers and Modification.** No failure of any party to enforce any provision of this Agreement to enforce any rights or make any elections shall be a waiver of such provision, right or election. No modification of this Agreement shall be effective unless it is in writing signed by both parties.

25. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of Maine.

26. **Successors and Assigns.** This Agreement shall benefit and be binding upon the heirs, executors, personal representatives, successors and assigns of the parties.

27. **Severability.** Should any part of this Agreement be declared invalid, such decision shall not affect the validity of any remaining portions, which remaining portions shall remain in force and effect as if this Agreement

had been executed without putting therein any such part, which may have been declared invalid.28. **Force Majeure**. Manufacturer shall not be liable for any delay in performance of this contract or performance of orders for delivery or shipment of goods or for any damages suffered by Owner by reason of such delay when the delay is directly or indirectly caused by, or in any manner arises from fires, earthquake, flood, accidents, riots, acts of God, war, government interferences or embargos, strikes, labor difficulties, shortages of labor, fuel, power, materials or supplies, transportation delays, or any other causes (whether or not similar in nature to any of those enumerated here) beyond KBS' control.

[Balance of Page Intentionally Left Blank; Signature Page Follows]

DATED: _____

KBS BUILDERS, INC.

By: _____
Witness

Its: _____

Owner

By: _____
Witness

Its: _____

KBS Builders Inc.

Pricing/Order Form

Date Printed: 7/12/2022

Quote Date: 03-07-22-RK	Revised: 06/22/22
Sales Rep: Matt Sullivan	Price Revision # 4-RK

Quote #	House #:
Plan Rev #:	50# CRC

BUILDER: Peter Schneider
ADDRESS: 128 Lakeside Ave.
CITY: Burlington
STATE: Vermont ZIP: 05401
CONTACT: Peter Schneider

TYPE OF HOUSE:	
Ranch	
SIZE OF HOUSE:	26 x 55

CUSTOMER: Community Works / Community Resource Ctr.
SITE ADDRESS:
CITY: Burlington
STATE: Vermont ZIP: 05478
GSL: WIND (Vult):

HOUSE INFO:	
Number of Boxes:	2
Number of Line Moves:	2
Total Approx Square Feet for Estimating Purposes:	1,430
Cost Base: 3/8/2022	Program: V22.03.02 Option Book: V22.03.02

FOUNDATION:					
> Builder to supply and install Lalley columns, Not KBS					By Builder
> Builder to supply and install Single layer sill plate					By Builder
CONSTRUCTION:					
FLOOR SYSTEM:					
> 2" x 10" Floor Joists - 16" o.c. / Solid Block Bridging		1st Floor			STD
> (2) 9-1/4" LVL band Joist at perimeter to spread out over piles (ILO 2x10)					671
> (2) 9-1/4" LVL Rim Joist at Marriage Wall (ILO 2x10)					450
> Decking: 3/4" T&G OSB (Glued & Nailed)					INC
. At all matewall openings greater than 3' and the flooring is omit/shiploose, the floor sheathing is to be held back 1'-6"					
. If KBS is installing the flooring we are to use the KBS standard hold back of 2"					
. Label material for matewall openings so the set crew will not use it for something else					
> 1/2" CDX Plywood Sheathing, install at exterior of floor joist					483
EXTERIOR WALLS:					
> 2" x 6" Exterior Walls - 16" o.c.					STD
> Air Infiltration: Install 3M 8067 Tape to all exterior wall to floor and exterior wall to ceiling connections					271
> 9' Ceilings - single story					2,497
EXTERIOR SHEATHING:					
> 7/16" OSB Wall Sheathing					STD
> Zip R-12 sheathing	Installed over 7/16" OSB sheathing				4,182
MARRIAGE WALLS:					
> 2" x 4" Marriage Wall studs - 16" o.c.					STD
MARRIAGE WALL SHEATHING:					
> 7/16" OSB Marriage Wall Sheathing		Completely Sheath			STD
ROOF:					
> 6/12 Pitch Truss - 16" o.c.					STD
. If KBS removes the eave, the roof sheathing needs to remain long with ice+water. (Will keep water out of the walls)					
ROOF SHEATHING:					
> 7/16" OSB Roof Sheathing					STD
GABLE END OVERHANGS:					
> 2 Gable End Overhang 6/12 to 7/12 (Each Side)					414
SHEETROCK:					
. At any smooth transitions the sheetrock is held back 1'6" at each side					
. Omit the RC-2 channel in this area and shiploose plywood to take its place					
. Label material for matewall openings so the set crew will not use it for something else					
WALLS:					
> 1/2" Thick Sheetrock Throughout					STD
> Add moisture resistant sheetrock to all bath walls					INC
CEILINGS:					
> 1/2" Thick Sheetrock at Ceilings with RC-2 Channel					STD
> Add moisture resistant sheetrock to all bath ceilings					INC
. At any smooth transitions the sheetrock is to be held back 1'6" at each side					
. Omit the RC-2 channel in this area and shiploose plywood to take its place					
. Label material for matewall openings so the set crew will not use it for something else					
FINISH:					
> Primer: Sherwin Williams "ProMar 200" Zero VOC Interior Latex				Color: White	STD
> Wall and Ceiling Paint: Sherwin Williams "ProMar 200" Zero VOC Interior Latex - Flat				Color: Dover White	STD
INSULATION:					
BASEMENT/CRAWL SPACE:					
> To be provided and installed by Builder on-site					By Builder
EXTERIOR WALLS:					
> R-20 Dense Pack Cellulose Wall Insulation (5-1/2" Wall) (ILO R-21 Fiberglass)					125
> Vapor Retarder: 6 Mil Poly (Walls)					STD
ROOF/CEILING:					
Trussed Roofs:					
> R-60 Cellulose insulation in Ceiling ILO R-38					908
> Vapor Retarder: 6 Mil Poly (Ceilings)					STD
INTERIOR WALLS:					
> Insulate Cellar Stairwell Walls					STD
WEATHER BARRIER:					
> Weather Barrier: REX Wrap		Tape all Seams and Penetrations			STD
> Weather Barrier: Henry Blue Skin VP100 (ILO STD) Wrap Bottom of Floor Joist prior to installing 1/2" CDX Plywood					572
> Flashing System:					
. Windows: Tyvek Flexwrap sill pans with Vycor Plus Flashing applied at sides and top					
. Doors: Jamsill Guard sill pans with Vycor Plus Flashing applied at sides and top					
. Penetrations: Tyvek Flexwrap or Vycor Flashing applied at all penetrations through the wall					
. Seams: Tyvek Tape at all seams and repair any cuts or tears in weather barrier					
EXTERIOR DOORS & SIDELITES:					



FRONT DOOR:			
3	3'-0" Therma-Tru S108, 15-Lite, Smooth Star Fiberglass, (ILO S210)	Low E+ GBGs if applicable	430
3	Door Frame: Final Frame with rot proof bottom (Primed)		STD
3	Hinges: (3) 4" x 4" Self-Aligning Ball Bearing Hinge - 5/8" Radius	Color: Black	STD
3	Door Sill: Tru Defense Composite Sill (Adjustable Cap with Lightwood finish - Aluminum sill with Mill Finish and Sill Cover)		STD
3	Door Prep: Double Bore (2-1/8" diameter with 2-3/4" backset) - Holes are 5-1/2" center to center		29
3	Exterior Trim: 5/4"x4" Final Frame w/ built in "J" Channel (White)	Color: White	STD
3	Kickboard: White PVC - Shipped loose and installed by Builder		STD
3	STD Finish: Primer finish from ThermaTru	Builder or Homeowner is required to paint all sides (within 6 mos) to maintain ThermaTru warranty	STD
>	Lockset: Kwikset "Carson" (Venetian Bronze) Exterior lever Grade 3 Keypad Entry Model 438CNL-11PS Meets ADA requirements		176
3	Deadbolt: Kwikset Signature Series Single Cylinder 980 - (Venetian Bronze) - Installed		95
REAR DOOR:			
>	None		
.	Note: All Final Door Adjustments by Builder in Field		By Builder
.			
WINDOWS:			
PARADIGM WINDOWS:			
>	Paradigm 8300 Series Casement (White) Triple Glazed, LowE, Argon (ILO STD)		3,396
.			
PATIO DOORS:			
>	NONE		
.			
SIDING & SHUTTERS:			
SIDING:			
>	Prep for Single Builder Installed Sill Plate		N/C
>	Start the siding so the seams can not be see from the gable end door if applicable		
>	CertainTeed Mainstreet Double 4" Siding	Color: << Select Color >>	STD
>	CertainTeed Board and Batten Vertical Vinyl single 8" Siding	Installed Per Print	2,800
>	Outside Corner: 3-1/2" x 10' Vinyl (Woodgrain)	Color: << Select Color >>	STD
>	Aluminum Fascia with Vinyl Soffit	Color: White	STD
>	J-Channel and Sill Trim at Eave Overhang to Match Siding Color		STD
>	J-Channel at Rake Overhang to Match Siding Color		STD
>	12" x 18" Gable End Vents	Shiploose	Color: << Select Color >>
			STD
SHUTTERS:			
>	None		INC
.			
ROOF SHINGLES:			
>	CertainTeed "Landmark" Architectural, Limited Lifetime Warranty	Color: << Select Color >>	STD
>	Aluminum Drip Edge	Color: White	STD
>	One Layer 15lb F15 Paper		STD
>	(2) Courses of Ice & Water Shield at Eaves and Single course at Valleys		STD
>	KBS Standard Ice & Water Shield		STD
.			
PLUMBING:			
>	PVC Drain & Vent Lines		STD
>	Pex Supply Lines to Basement, Stubbed at Each Location - Not a Complete Loop		STD
1	Radon Vent Pipe 3" PVC From Basement to Attic w/ Power to J-Box in Attic. Caps Each End and Labeled (Single Story)		94
>	Install "I" Box in Attic Within 16" of Vent for on-site use of a Radon Fan if Needed		STD
>	(2)Additional 3" Conduit(s) w/ 90 Degree long sweep Elbow Prep for GC installed heat pumps	crawlspace to indoor heads Builder will provide location(s)	85
.			
HEAT:			
>	OMIT Hot Water Baseboard Heaters		-679
.			
AIR EXCHANGER:			
>	None		
.			
.	Owners Signature:		
.	Owner Declines Optional Air Exchanger / HRV Unit.		
.			
ELECTRICAL:			
>	Load Center: Leviton 200 Amp Main Breaker - 42 spaces	Location:	STD
1	Relocate Panel box to opposite box		291
>	Wire for Electric Range		STD
1	Wire for Electric Dryer (Incls. Breaker, Dryer Box and Venting to the Exterior)		142
>	(2) GFI Weather Proof Outlets (per code)		STD
3	Television Jacks		31
3	Phone Jacks (Cat 5)		36
>	Photo Electric Smoke Detectors: BRK #7010B - Each Bedroom (per Code)		STD
>	Photo Electric Smoke/Carbon Monoxide Combo Detectors w/Voice: BRK #SC7010BV - Each Bedroom Group (per Code)		STD
>	Arc Fault Circuits (per Code)		STD
LIGHTING:			
1	Standard Package (Nickel)	One Story	Color: Nickel
			STD
LIGHTING SCHEDULE:			
.	Location	Model#	Qty Total
>	Kitchen (Sink):	Halo #HLB6099FS1EMWR (6" LED Recessed)	
>	Kitchen (Ceiling):	Progress #P350006-009-30 (LED) - Brushed Nickel	
>	Dining:	Progress #P4734-09 "Gather" 3 Lite Chandelier - Brushed Nickel	Ship loose
>	Living:	Switched Recept	
>	Entry (Ceiling):	Progress #P350006-009-30 (LED) - Brushed Nickel	
>	Walk in Closet:	None	
>	Hall (1st Floor):	Progress #P350006-009-30 (LED) - Brushed Nickel	
>	Front Door:	OMIT (Wire Only)	2
>	Emergency Lights & Exit Signs:		
3	Emergency Lights: Dual Head - Cooper "Sure-Lites" #CC2		124
4	Illuminated Exit Sign: Cooper "Sure-Lites" #LPX70RWH		234
.			
KITCHEN:			
CABINETS:			
>	Merillat: "Classic" Series Cabinets (Single Roll-Out Trays)		
>	Merillat cabinet touch up kit (TUK) - Shiploose		INC
>	Spring Valley Maple Square (Solid Drawer Front) - (Stain)	Color: <<Select Finish>>	STD
>	Note: If full overlay cabinets is selected the corner cabinet will be a BCR style ILO BLS style		
>	Toe Kick Material to match Cabinet Color (Note: Material is shipped loosed when Kitchen Flooring is OMIT)		STD
.	SDT - Standard Construction (Includes Dovetail Drawers, Soft Close Drawers and Soft Close Hardware on Doors)		STD
COUNTERTOP:			



KBS Builders Inc.

Pricing/Order Form

Date Printed: 7/12/2022

> Foundation survey to make sure it is level and square is the responsibility of the Builder				By Builder
> Sill plates installed level and square with a 1/4" tolerance are the responsibility of the Builder				By Builder
> Lally columns and plates on-site for day of set are the responsibility of the Builder				By Builder
.				
> Cost of off site storage area if needed for the modules is the responsibility of the Builder				By Builder
.				
> Police details on-site if required are the responsibility of the Builder				By Builder
> Police Escorts from storage site to Job site if required are the responsibility of the Builder				By Builder
.				
> Trash Dumpster available for the day of set is the responsibility of the Builder				By Builder
.				
.				
TOTAL OPTIONS:				25,756
.				
.				
.				
TOTAL BASE & OPTIONS (No Set Fees, Transportation, Engineering or Seals):				174,446
.				
STATE SALES TAX:				
0 % Tax Vermont	Taxable Amount	\$174,591		0
0 % Tax for Freight	Taxable Amount	\$10,722		0
6.0 % Tax for Appliances	Taxable Amount	\$0		0
.				
TOTAL F.O.B.				174,446
.				
.				
	STATE SEALS:			
2 Vermont - No State Seal Required				0
2 Third Party Approval Seal (Required in all States)				145
.				
.				
	FREIGHT & PERMITS:			
PERMITS: (Permit needed for each State traveled through)				
> Permits are included in Freight cost listed below				INC
FREIGHT:				
> Delivery charges are based on either the 50 mile minimum or going directly to the job site unless otherwise noted				13,026
Truck On-Site:				
> None				
.				
TOTAL ESTIMATED DELIVERED PRICE (Does not include Crane or Set):				187,617
.				
> Price / Square Foot before set costs.		\$131.20		
> Items shown as optional are not included in price.				
.				
.				
> NOTE: THIS QUOTE CONTAINS COMMODITY ITEMS THAT ARE SUBJECT TO MARKET VOLATILITY AND MAY BE SUBJECT TO PRICE ADJUSTMENT AT TIME OF PROCUREMENT. LOCKED IN PRICING FOR COMMODITY PORTION OF THE PROJECT IS AVAILABLE UPON REQUEST AND REQUIRES PAYMENT FOR STORED MATERIAL				
.				
NOTE: THIS IS A PRELIMINARY ESTIMATE ONLY SUBJECT TO ENGINEERING REVIEW.				
.				
THIS ESTIMATE REFLECTS STATE CODE CONFORMANCE. IT IS THE BUILDERS RESPONSIBILITY TO ALERT KBS OF ANY LOCAL CODE REQUIREMENTS.				
.				
THIS QUOTE IS GOOD FOR 7 DAYS FROM ORIGINAL QUOTE DATE. KBS HAS THE UNILATERAL RIGHT TO REPRICE QUOTES AFTER 7 DAYS. FINAL PRICE IS ONLY ACCEPTED AND LOCKED IN ONCE A SALES AGREEMENT IS MUTUALLY SIGNED				
NEW PRICES FOR OPTIONS WILL NOT REQUIRE A NEW QUOTE AS LONG AS THE FOOTPRINT AND ROOF DESIGN REMAIN UNCHANGED				
.				
.				
.				

DocuSigned by:

 3C64179C5ABE437...

7/13/2022

KBS Builders Inc.

Pricing/Order Form

Date Printed: 7/12/2022

Quote Date: 3/10/2022-RK	Revised: 06/22/22
Sales Rep: Matt Sullivan	Price Revision # 4-RK

Quote #	House #:
Plan Rev #:	SO# Bathroom Pod

BUILDER: EFVT, City of Burlington
ADDRESS:
CITY: Burlington
STATE: VT ZIP:
CONTACT: Peter Schneider

TYPE OF HOUSE:	
Custom	
SIZE OF HOUSE:	14 x 31

CUSTOMER: City of Burlington
SITE ADDRESS:
CITY: Burlington
STATE: VT ZIP:
GSL: 40 WIND (Vult): 116.19

HOUSE INFO:	
Number of Boxes:	1
Number of Line Moves:	1
Total Approx Square Feet for Estimating Purposes:	434
Cost Base: 3/8/2022	Program: V22.03.02 Option Book: V22.03.02

FOUNDATION:		
> Builder to supply and install Lalley columns, Not KBS		By Builder
> Builder to supply and install Single layer sill plate		By Builder
CONSTRUCTION:		
FLOOR SYSTEM:		
> LF of 9-1/4" Open Joist 2000 Floor Truss ILO 2"x10" Floor Joist (Priced per linear foot of trusses)	Open Truss to accommodate plumbing	534
> (2) 9-1/4" LVL band Joist at perimeter to spread out over piles (ILO 2x10)		507
> Decking: 3/4" T&G OSB (Glued & Nailed)		INC
. At all mawall openings greater than 3' and the flooring is omit/shiploose, the floor sheathing is to be held back 1'-6"		
. If KBS is installing the flooring we are to use the KBS standard hold back of 2"		
. Label material for mawall openings so the set crew will not use it for something else		
> 1/2" CDX Plywood Sheathing, install at exterior of floor joist		483
EXTERIOR WALLS:		
> 2" x 6" Exterior Walls - 16" o.c.		STD
> Air Infiltration: Install 3M 8067 Tape to all exterior wall to floor and exterior wall to ceiling connections		151
> 9' Ceilings - single story		758
EXTERIOR SHEATHING:		
> 7/16" OSB Wall Sheathing		STD
> Zip R-12 Sheathing R-Value 12.6		2,668
MARRIAGE WALLS:		
MARRIAGE WALL SHEATHING:		
ROOF:		
> 2/12 Rafters - 16" o.c.		STD
> Single Top Plate w/(2)-2x angle Ripped Rails to Create a Sloped Ceiling in the Long direction. Insul. Between 2x Rails w/ 2-1/2' of poly-iso Foam Insul.		1,867
. If KBS removes the eave, the roof sheathing needs to remain long with ice+water. (Will keep water out of the walls)		
ROOF SHEATHING:		
> OSB: 3/4"-4'X8' T&G Roof Sheathing		893
> 1/2" CDX Plywood Roof Sheathing installed on roof rafters before Poly-iso Rigid Ins.		483
GABLE END OVERHANGS:		
> None - Rake Edge		STD
SHEETROCK:		
. At any smooth transitions the sheetrock is held back 1'6" at each side		
. Omit the RC-2 channel in this area and shiploose plywood to take its place		
. Label material for mawall openings so the set crew will not use it for something else		
WALLS:		
> 1/2" Thick Sheetrock Throughout		STD
> Add moisture resistant sheetrock to all bath walls		INC
> FRP Board includes Moulding (Fiberglass Reinforced Plastic) walls only, Drop Ceiling installed On-Site by others		1,433
CEILING:		
> Suspended Ceilings done on site by the builder		
. At any smooth transitions the sheetrock is to be held back 1'6" at each side		
. Omit the RC-2 channel in this area and shiploose plywood to take its place		
. Label material for mawall openings so the set crew will not use it for something else		
FINISH:		
> Primer: Sherwin Williams "ProMar 200" Zero VOC Interior Latex	Color: White	STD
> Wall and Ceiling Paint: Sherwin Williams "ProMar 200" Zero VOC Interior Latex - Flat	Color: Dover White	STD
INSULATION:		
> R-30 Cellulose insulation Below Floor Decking (Forced Option)		318
EXTERIOR WALLS:		
> R-20 Dense Pack Cellulose Wall Insulation (5-1/2" Wall) (ILO R-21 Fiberglass)		64
ROOF/CEILING:		
> Rafter Rafters:		
> R-38 Cellulose Insulation in Ceiling on Raftered Roofs - Eaves to Knee walls		STD
> 2" Poly-iso R-24 Rigid Insulation double layer on roof		942
INTERIOR WALLS:		
> Insulate 2x4 & 2x6 interior walls with Rockwool "Safe n Sound" mineral fiber		536
WEATHER BARRIER:		
> Weather Barrier: Henry Blue Skin VP100 (ILO STD) Wrap Bottom of Floor Joist prior to installing 1/2" CDX Plywood		395
> Flashing System:		
. Windows: Tyvek Flexwrap sill pans with Vycor Plus Flashing applied at sides and top		
. Doors: Jamsill Guard sill pans with Vycor Plus Flashing applied at sides and top		
. Penetrations: Tyvek Flexwrap or Vycor Flashing applied at all penetrations through the wall		
. Seams: Tyvek Tape at all seams and repair any cuts or tears in weather barrier		
EXTERIOR DOORS & SIDELITES:		
FRONT DOOR:		
HARDWARE:		
REAR DOOR:		

DS
SD

ADA/COMMERCIAL DOOR(S):							
8	3'-0" Therma-Tru S210, 6 Panel, Outswing, Public Access Sill, Smooth Star Fiberglass						7,855
HARDWARE:							
8	Vizlok C5FS Heavy Duty Commercial Door Handle with Indicator, IN-USE/VACANT		ADA				1,440
	Note: All Final Door Adjustments by Builder in Field						By Builder
SIDING & SHUTTERS:							
SIDING:							
>	Prep for Single Builder Installed Sill Plate						N/C
>	Start the siding so the seams can not be seen from the gable end door if applicable						
>	CertainTeed Mainstreet Double 4" Siding			Color:	<< Select Color >>		STD
>	CertainTeed Board and Batten Vertical Vinyl single 8" Siding	Installed Per Print		Color:	<< Select Color >>		2,180
>	Outside Corner: 3-1/2" x 10' Vinyl (Woodgrain)			Color:	<< Select Color >>		STD
>	Aluminum Fascia with Vinyl Soffit			Color:	White		STD
>	J-Channel and Sill Trim at Eave Overhang to Match Siding Color						STD
>	J-Channel at Rake Overhang to Match Siding Color						STD
>	12" x 18" Gable End Vents	Shiploose		Color:	<< Select Color >>		STD
SHUTTERS:							
>	None						INC
ROOF SHINGLES:							
>	OMIT Standard Shingles - Shiploose Felt, Ice & water shield & drip edge (6/12 Pitch)						-1,587
>	EPDM Firestorm Full Force Rubber Roofing Installed	3rd Party Install at Factory		Color:	White		6,516
>	Aluminum Drip Edge						STD
>	One Layer 15lb F15 Paper						STD
>	(2) Courses of Ice & Water Shield at Eaves and Single course at Valleys						STD
>	KBS Standard Ice & Water Shield						STD
PLUMBING:							
>	PVC Drain & Vent Lines						STD
>	Pex Supply Lines to Basement, Stubbed at Each Location - Not a Complete Loop						STD
>	(2) 3/4" Pex Lines to 2nd Floor for Domestic Water						STD
>	(2) Additional 3" Conduit(s) w/ 90 Degree long sweep Elbow Prep for GC installed heat pumps					crawlspace to indoor heads Builder will provide location(s)	85
HEAT:							
>	OMIT Hot Water Baseboard Heaters						-206
AIR EXCHANGER:							
>	None						
Owners Signature:							
	Owner Declines Optional Air Exchanger / HRV Unit.						
ELECTRICAL:							
>	Load Center: Leviton 200 Amp Main Breaker - 42 spaces		Location:				STD
>	(2) GFI Weather Proof Outlets (per code)						STD
>	Photo Electric Smoke Detectors: BRK #7010B - Each Bedroom (per Code)						STD
>	Photo Electric Smoke/Carbon Monoxide Combo Detectors w/Voice: BRK #SC7010BV - Each Bedroom Group (per Code)						STD
>	Arc Fault Circuits (per Code)						STD
LIGHTING:							
1	Standard Package (Nickel)	One Story		Color:	Nickel		STD
LIGHTING SCHEDULE:							
	Location	Model#				Qty Total	
>	Kitchen (Sink):	Halo #HLB6099FS1EMWR (6" LED Recessed)					INC
>	Kitchen (Ceiling):	Progress #P350006-009-30 (LED) - Brushed Nickel					INC
>	Entry (Ceiling):	Progress #P350006-009-30 (LED) - Brushed Nickel					INC
>	Walk in Closet:	None					STD
>	Hall (1st Floor):	Progress #P350006-009-30 (LED) - Brushed Nickel					INC
>	Hall (2nd Floor):	Progress #P350006-009-30 (LED) - Brushed Nickel					INC
Emergency Lights & Exit Signs:							
2	Emergency Lights: Dual Head - Cooper "Sure-Lites" #CC2						42
2	Illuminated Exit Sign: Cooper "Sure-Lites" #LPX70RWH						117
CABINETS:							
	Merillat: "Classic" Series Cabinets (Single Roll-Out Trays)						
COUNTERTOP:							
SINK:							
FAUCET:							
RANGE HOOD:							
BATHROOMS #1 QTY. 2:							
>	OMIT Standard Postform Laminated Countertop						-11
HANDICAP LAV:							
2	Handicap wall hung lav: Kohler K-2032 (White) w/ concealed hanger and Zurn #Z812A-4 Faucets (ILO 36" Vanity and Lav)			Color:	White		369
FAUCET:							
2	American Standard "Colony Pro" Single Lever Faucet #7075.000.002 (Chrome)			Color:	Chrome		STD
MEDICINE CABINETS:							
2	OMIT Jensen "Horizon" #1451 16"x26" Recessed - Frameless Beveled Edge						-155
VANITY LIGHTS:							
2	Vanity Light Bar: Progress #P2707-09 (Two Light) - Brushed Nickel			Color:	Brushed Nickel		STD
BATH FANS:							
	Bath fan Integrated with HVAC System	Installed by Others					
TOILET:							
2	Toilet: American Standard "Cadet Pro" #3517D.101.020 Bowl & #4188A.104.020 Tank			Color:	White		STD
2	Toilet Seat: A/S Round Slow Close #5259B.65MT.020 (White)						STD
TUBS / SHOWERS:							
>	Showers:						
2	Shower: Maax Aker 36" #S-36			Color:	<< Select Color >>		STD
>	Faucet:						
2	American Standard "Colony Pro" Shower Diverter Trim Kit #TU075.507.002 with RU108ESS Valve (Chrome)			Color:	Chrome		STD
ACCESSORIES (SHIPPED LOOSE):							
2	Paper Holder: American Standard "C-Series" #8337.230.002			Color:	Chrome		STD
2	Quadruple Robe Hook: Model # 2810Q/PC, (Mount on Center Wall)			Color:	Chrome		328
BATHROOMS #2 QTY. 2:							



> OMIT Standard Postform Laminated Countertop					-11
HANDICAP LAV:					
2 Handicap wall hung lav: Kohler K-2032 (White) w/ concealed hanger and Zurn #Z812A-4 Faucets (ILO 36" Vanity and Lav)		Color: White			369
FAUCET:					
2 American Standard "Colony Pro" Single Lever Faucet #7075.000.295 (Satin Nickel) (ILO STD)		Color: Satin Nickel			62
MEDICINE CABINETS:					
2 OMIT Jensen "Horizon" #1451 16"x26" Recessed - Frameless Beveled Edge					-155
VANITY LIGHTS:					
2 Vanity Light Bar: Progress #P2707-09 (Two Light) - Brushed Nickel		Color: Brushed Nickel			STD
BATH FANS:					
. Bath fan Integrated with HVAC System Installed by Others					
TOILET:					
2 Toilet: American Standard "Cadet Pro" #3517D.101.020 Bowl & #4188A.104.020 Tank		Color: White			STD
2 Toilet Seat: A/S Round Slow Close #5259B.65MT.020 (White)					STD
TUBS / SHOWERS:					
> Showers:					
2 Shower: Maax Aker 36" #S-36		Color: << Select Color >>			STD
> Faucet:					
2 American Standard "Colony Pro" Shower Diverter Trim Kit #TU075.507.002 with RU108ESS Valve (Chrome)		Color: Chrome			STD
ACCESSORIES (SHIPPED LOOSE):					
2 Paper Holder: American Standard "C-Series" #8337.230.002		Color: Chrome			STD
2 Quadruple Robe Hook: Model # 2810Q/PC, (Mount on Center Wall)		Chrome			328
ADA BATHROOM #3:					
> OMIT Standard Postform Laminated Countertop					-11
HANDICAP LAV:					
1 Handicap wall hung lav: Kohler K-2032 (White) w/ concealed hanger and Zurn #Z812A-4 Faucets (ILO 36" Vanity and Lav)		Color: White			185
FAUCET:					
1 American Standard "Colony Pro" Single Lever Faucet #7075.000.002 (Chrome)		Color: Chrome			STD
MEDICINE CABINETS:					
1 OMIT Jensen "Horizon" #1451 16"x26" Recessed - Frameless Beveled Edge					-77
VANITY LIGHTS:					
1 Vanity Light Bar: Progress #P2707-09 (Two Light) - Brushed Nickel		Color: Brushed Nickel			STD
BATH FANS:					
. Bath fan Integrated with HVAC System Installed by Others					
TOILET:					
1 Handicap "Comfort Height" Toilet: Kohler Highline K-4199 Elongated Bowl & Wellworth K-4436 Tank - (ILO STD)		Color: Color			161
1 Toilet Seat: A/S Elongated Slow Close #5257A.65MT.020 (White)					STD
TUBS / SHOWERS:					
> Handicap Showers with Faucets:					
1 Aquatic 60" Handicap Roll -in Shower: 1603BFSD with Grab Bars and Fold up Seat		Color: << Select Color >>			2,062
1 American Standard Faucet #TU662SG.223.002 with Hand Held Shower and 36" Slide/Grab Bar (Chrome)		Color: Chrome			STD
ACCESSORIES (SHIPPED LOOSE):					
1 Paper Holder: American Standard "C-Series" #8337.230.002		Color: Chrome			STD
1 Quadruple Robe Hook: Model # 2810Q/PC, (Mount on Center Wall)		Chrome			164
ADA BATHROOM #4:					
HANDICAP LAV:					
1 Handicap wall hung lav: Kohler K-2032 (White) w/ concealed hanger and Zurn #Z812A-4 Faucets (ILO 36" Vanity and Lav)		Color: White			185
MEDICINE CABINETS:					
1 Jensen "Horizon" #1451 16"x26" Recessed - Frameless Beveled Edge					STD
VANITY LIGHTS:					
1 Vanity Light Bar: Progress #P2707-09 (Two Light) - Brushed Nickel		Color: Brushed Nickel			STD
BATH FANS:					
. Bath fan Integrated with HVAC System Installed by Others					
TOILET:					
1 Handicap "Comfort Height" Toilet: Kohler Highline K-4199 Elongated Bowl & Wellworth K-4436 Tank - (ILO STD)		Color: Color			161
1 Toilet Seat: A/S Elongated Slow Close #5257A.65MT.020 (White)					STD
TUBS / SHOWERS:					
> Handicap Showers with Faucets:					
1 Aquatic 60" Handicap Roll -in Shower: 1603BFSD with Grab Bars and Fold up Seat		Color: << Select Color >>			2,062
1 American Standard Faucet #TU662SG.223.002 with Hand Held Shower and 36" Slide/Grab Bar (Chrome)		Color: Chrome			STD
ACCESSORIES (SHIPPED LOOSE):					
1 Paper Holder: American Standard "C-Series" #8337.230.002		Color: Chrome			STD
1 Quadruple Robe Hook: Model # 2810Q/PC, (Mount on Center Wall)		Chrome			164
INTERIOR DOORS & TRIM:					
> Door Trim and Base TBD					
SHELVING:					
> Closetmaid Ventilated Wire Shelving - White					STD
6 (6) 16" Deep Shelves, install 1 over each sink					STD
FLOOR COVERINGS:					
> Armstrong Vinyl Sheet Flooring					5,317
ON-SITE REQUIREMENTS:					
> Foundation survey to make sure it is level and square is the responsibility of the Builder					By Builder
> Sill plates installed level and square with a 1/4" tolerance are the responsibility of the Builder					By Builder
> Lally columns and plates on-site for day of set are the responsibility of the Builder					By Builder
> Cost of off site storage area if needed for the modules is the responsibility of the Builder					By Builder
> Police details on-site if required are the responsibility of the Builder					By Builder
> Police Escorts from storage site to Job site if required are the responsibility of the Builder					By Builder
> Trash Dumpster available for the day of set is the responsibility of the Builder					By Builder
TOTAL OPTIONS:					
					39,971



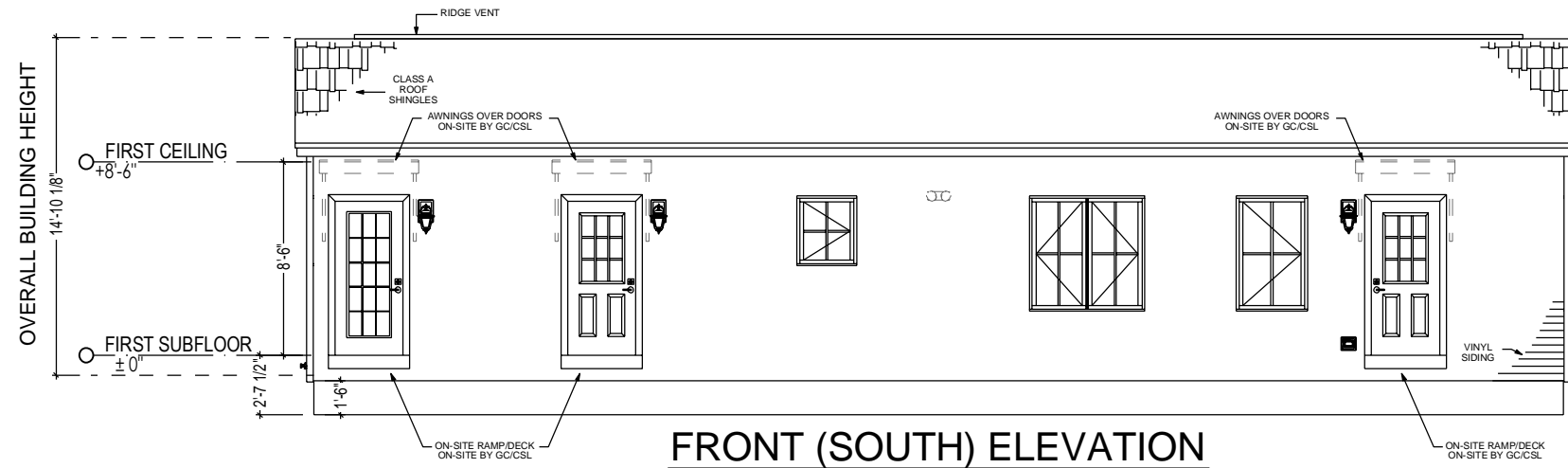
Pricing/Order Form

TOTAL BASE & OPTIONS (No Set Fees, Transportation, Engineering or Seals):			140,004
STATE SALES TAX:			
> customer is tax exempt & will provide tax # upon request			
0 % Tax for Freight	Taxable Amount	\$7,617	0
6.0 % Tax for Appliances	Taxable Amount	\$0	0
TOTAL F.O.B.			140,004
STATE SEALS:			
1	Vermont - No State Seal Required		0
1	Third Party Approval Seal (Required in all States)		73
FREIGHT & PERMITS:			
PERMITS: (Permit needed for each State traveled through)			
> Permits are included in Freight cost listed below			INC
FREIGHT:			
> Delivery charges are based on either the 50 mile minimum or going directly to the job site unless otherwise noted			10,735
Truck On-Site:			
> None			
TOTAL ESTIMATED DELIVERED PRICE (Does not include Crane or Set):			150,812
> Price / Square Foot before set costs.			\$347.49
> Items shown as optional are not included in price.			
NOTE: THIS QUOTE CONTAINS COMMODITY ITEMS THAT ARE SUBJECT TO MARKET VOLATILITY AND MAY BE SUBJECT TO PRICE ADJUSTMENT AT TIME OF PROCUREMENT. LOCKED IN PRICING FOR COMMODITY PORTION OF THE PROJECT IS AVAILABLE UPON REQUEST AND REQUIRES PAYMENT FOR STORED MATERIAL			
NOTE: THIS IS A PRELIMINARY ESTIMATE ONLY SUBJECT TO ENGINEERING REVIEW.			
THIS ESTIMATE REFLECTS STATE CODE CONFORMANCE. IT IS THE BUILDERS RESPONSIBILITY TO ALERT KBS OF ANY LOCAL CODE REQUIREMENTS.			
THIS QUOTE IS GOOD FOR 7 DAYS FROM ORIGINAL QUOTE DATE. KBS HAS THE UNILATERAL RIGHT TO REPRICE QUOTES AFTER 7 DAYS. FINAL PRICE IS ONLY ACCEPTED AND LOCKED IN ONCE A SALES AGREEMENT IS MUTUALLY SIGNED			
NEW PRICES FOR OPTIONS WILL NOT REQUIRE A NEW QUOTE AS LONG AS THE FOOTPRINT AND ROOF DESIGN REMAIN UNCHANGED			

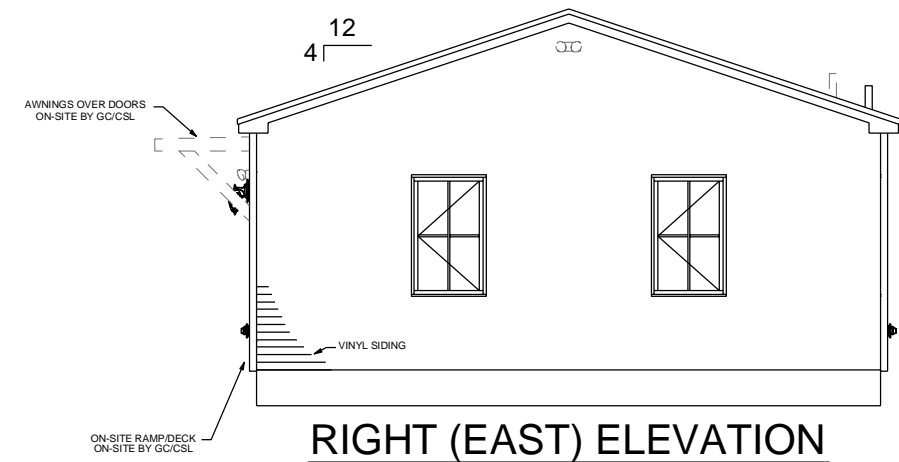


Radon vent note:

3" pipe to go thru the floors and stubbed into the attic and capped. GC/CSL to increase attic stub to 24" on-site or run through roof to exterior if required by local codes. Pipe is tested in the factory and labeled below 1st floor as being for future radon use. An electrical circuit terminates in the attic in an approved box by the vent pipe for a future Depressurization System.

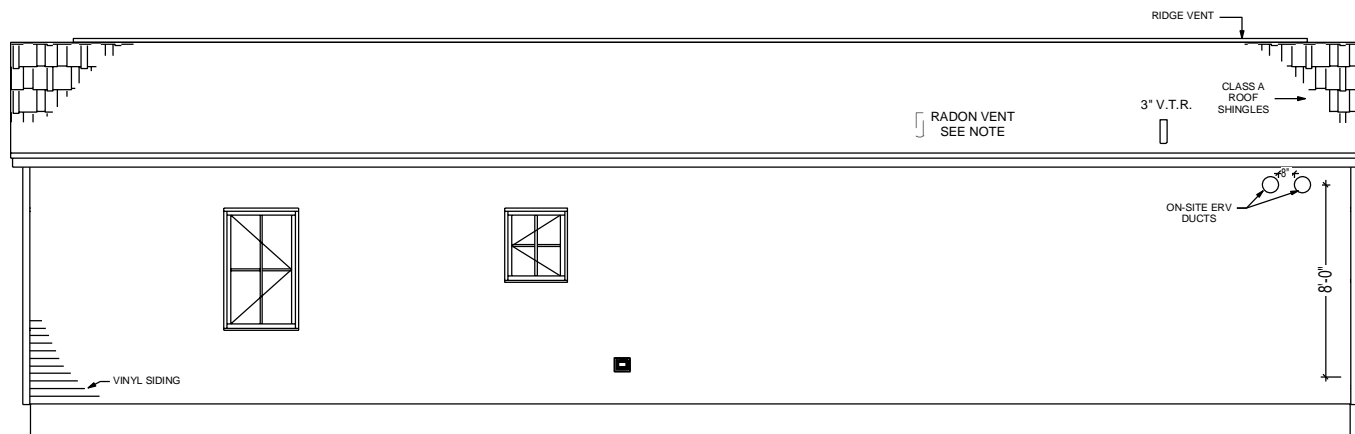


FRONT (SOUTH) ELEVATION

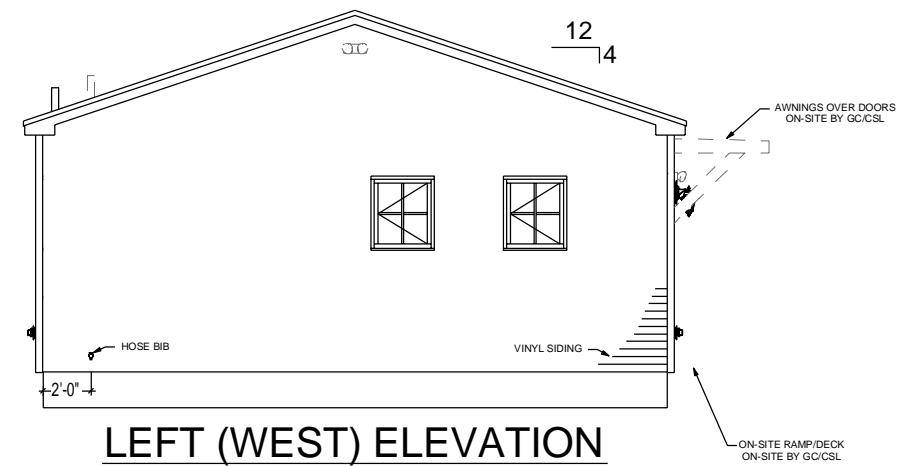


RIGHT (EAST) ELEVATION

BATH & BREAK ROOM EXHAUSTS ARE TO BE INTERGRATED INTO HVAC SYSTEM PROVIDED & INSTALLED BY GC/CSL



REAR (NORTH) ELEVATION



LEFT (WEST) ELEVATION

NOTE:
 - ELEVATIONS ARE FOR GRAPHIC REPRESENTATION ONLY. REFER TO WORK ORDER FORM FOR DETAILED INFORMATION.
 - EXTERIOR RAMPS, STEPS, RAILINGS & LANDINGS ONSITE BY GC/CSL.



BUNDLES OF SHINGLES: 53
BUNDLES OF RIDGE CAPS: 03

KBS Builders Inc.
 CUSTOM... QUALITY...
 300 PARK STREET
 SOUTH PARIS, ME 04281
 PHONE: 207-739-2400
 FAX: 207-739-2223
 www.kbsbuildersinc.com

BUILDER: Heyward Design Build
 128 Lakeside Ave
 Burlington, VT 05401

JOB NAME: Community Center
 TBD
 Burlington, VT

REV# / DATE: #2 - RLT - 06/17/2022
 REV# / DATE: _____
 REV# / DATE: _____
 REV# / DATE: _____

PERMIT REV# _____
 DATE: _____

NOTES:
 USE-B; BUSINESS OFFICE
 40# GSL / 115 MPH (Vult) WIND
 Paradigm WINDOWS
 8'-6" 1st CLG HGT
 Seismic

FILE: Q-22-0105-MS
 SERIAL #: KBS-
 DATE: 05/13/2022
 DWN BY: RLT

ELEVATIONS

SHEET #
P2

SCALE: NONE

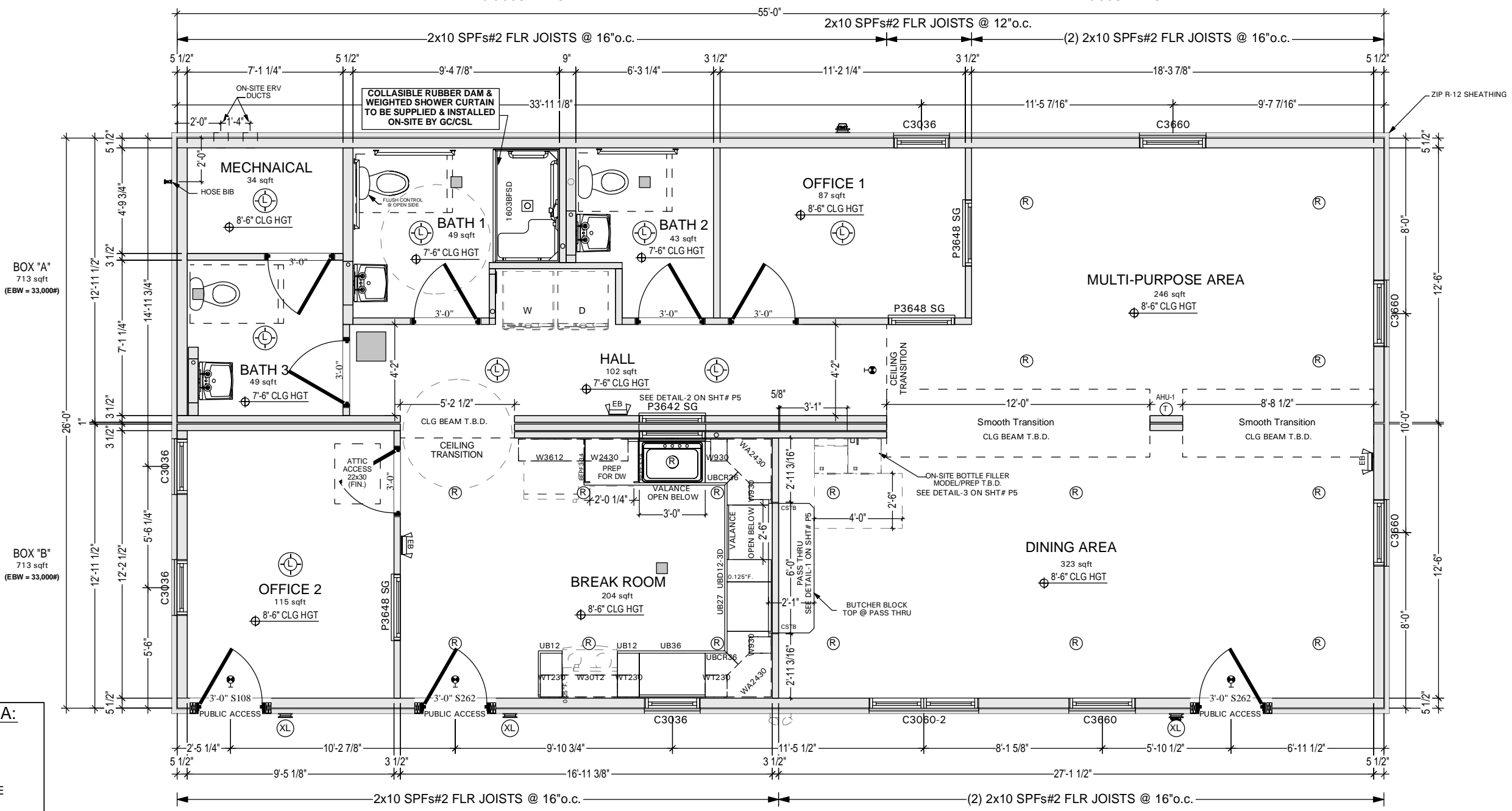
BATH & BREAK ROOM EXHAUSTS ARE TO BE INTERGRATED INTO HVAC SYSTEM PROVIDED & INSTALLED BY GC/CSL

BUSINESS AREA
813 sqft

DESIGN OCCUPANCY LOAD:
BUSINESS = 1 / 100 Sq. Ft.
8 OCCUPANTS

ASSEMBLY AREA
617 sqft

DESIGN OCCUPANCY LOAD:
ASSEMBLY = 1 / 15 Sq. Ft.
41 OCCUPANTS



DESIGN CRITERIA:
USE GROUP:
B; BUSINESS OFFICE

CONSTRUCTION CLASSIFICATION:
VB (5B)/ WOOD FRAME (UNPROTECTED)

DESIGN LOADS:
LIVE LOADS
OFFICES - 50 PSF
BREAK ROOM - 50 PSF
HALL - 50 PSF
BATHS - 50 PSF
MECHANICAL - 50 PSF
DINING AREA - 100 PSF
MULTI-PURPOSE - 100 PSF
ATTIC - 10 PSF

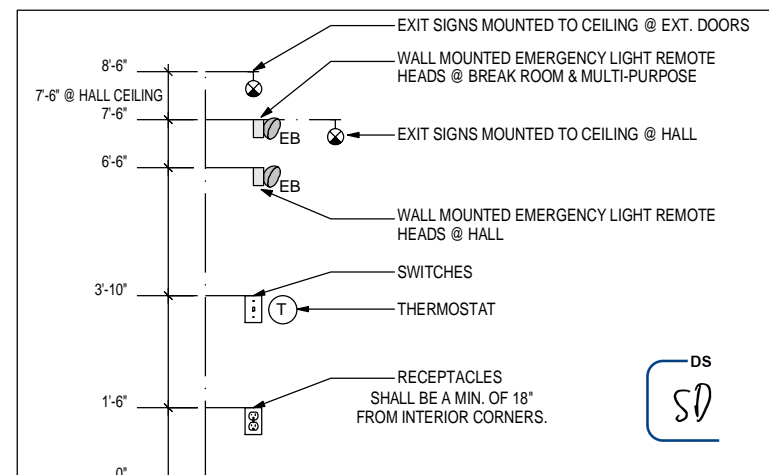
ROOF - LIVE LOAD TO BE DESIGNED FOR 40 PSF GROUND SNOW LOAD

DEAD LOADS
10 PSF OR ACTUAL

WIND LOADS, Exposure "B"
115 MPH (Vult) 89 MPH (Vasd)

BUILDING INFORMATION:

AREA OF ASSEMBLY SPACE: 617 Sq. Ft.
AREA OF BUSINESS SPACE: 813 Sq. Ft.
TOTAL AREA OF 1st FLOOR: 1,430 Sq. Ft.
VOLUME OF ENCLOSED SPACE: 12,155 Cu. Ft.
HEIGHT ABOVE FOUNDATION: 1 Story; Height: 14'-10 1/8"
DESIGN OCCUPANCY LOAD: MAX OCCUPANTS = < 50
ASSEMBLY = 1 / 15 Sq. Ft. BUSINESS = 1 / 100 Sq. Ft.
BUILDING LOCATION: MUST BE OUTSIDE FIRE LIMITS
LOT LINE MINIMUM SET BACKS: GREATER THAN 10'-0"



Builder: Heyward Design Build
128 Lakeside Ave
Burlington, VT 05401

Job Name: Community Center
TBD
Burlington, VT

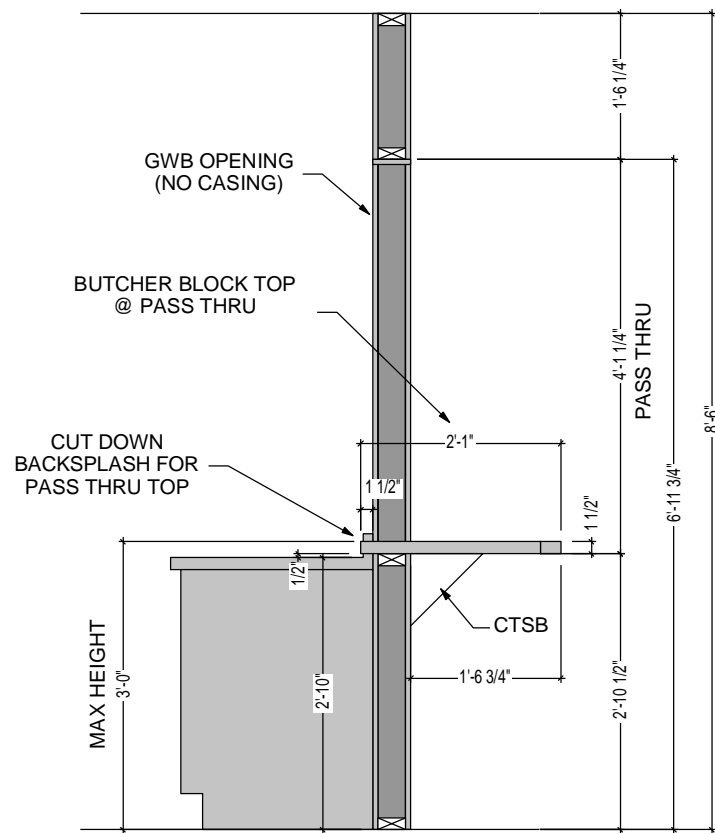
Notes:
USE-B; BUSINESS OFFICE
40# GSL / 115 MPH (Vult) WIND
Paradigm WINDOWS
8'-6" 1st CLG HGT
Seismic

FILE: Q-22-0105-MS
SERIAL #: KBS-
DATE: 05/13/2022
DWN BY: RLT

1ST FLOOR PLAN

SHEET #
P4

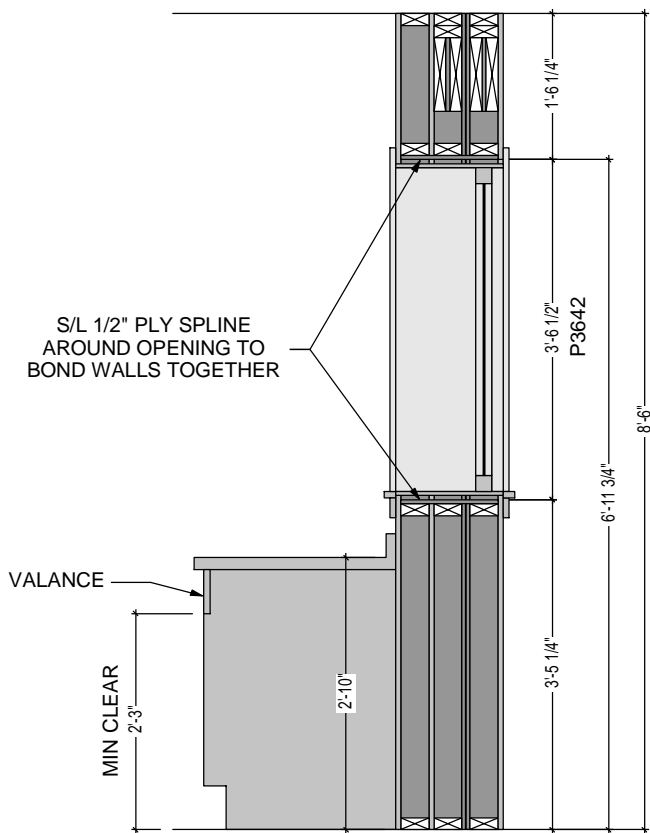
SCALE: 3/16"=1'-0"



1

PASS THRU SECTION

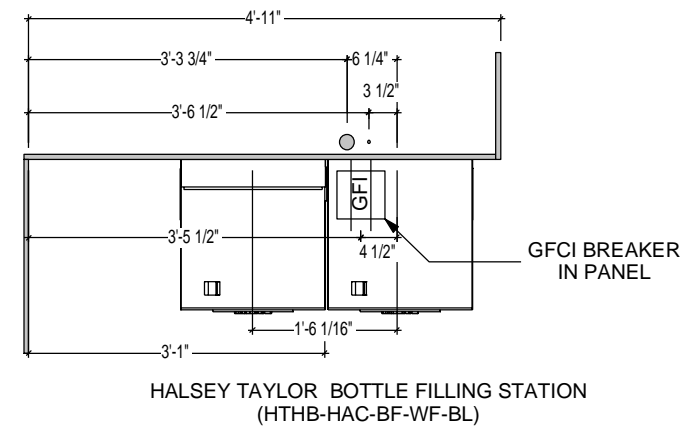
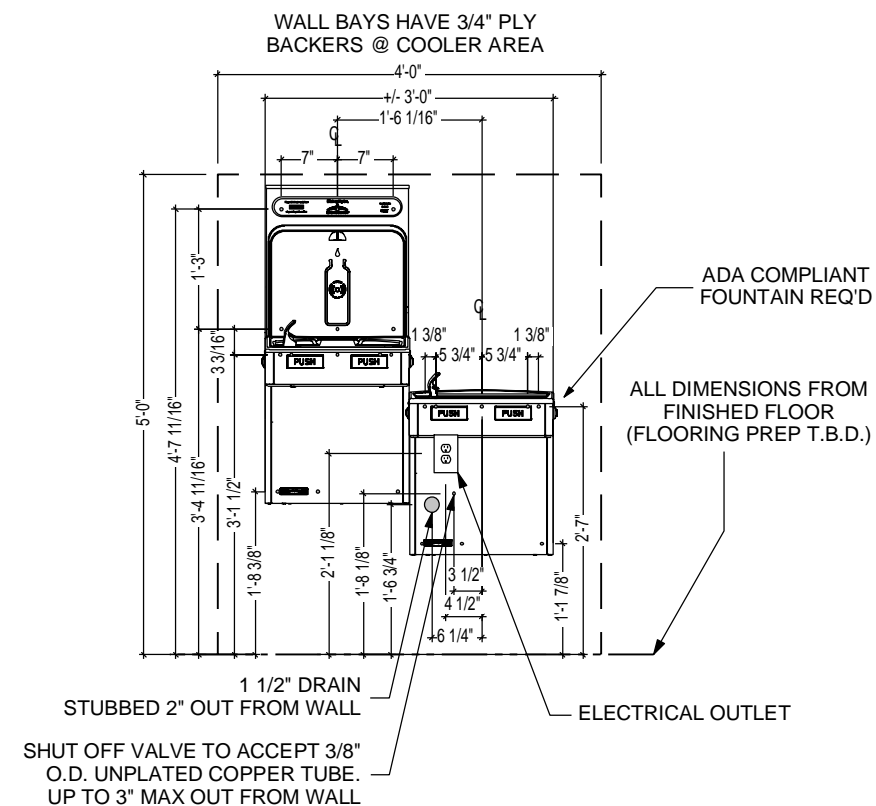
SCALE: 1/2"=1'-0"



2

KITCHEN SINK SECTION

SCALE: 1/2"=1'-0"



3

WATER FOUNTAIN

SCALE: 1/2"=1'-0"

GC/CSL TO VERIFY MODEL



Builder:
Heyward Design Build
128 Lakeside Ave
Burlington, VT 05401

Job Name:
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TBD
Burlington, VT

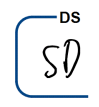
Notes:
USE-B; BUSINESS OFFICE
40# GSL / 115 MPH (Vult) WIND
Paradigm WINDOWS
8'-6" 1st CLG HGT
Seismic

FILE: Q-22-0105-MS
SERIAL #: KBS-
DATE: 05/13/2022
DWN BY: RLT

SHEET #
P5

SCALE: NONE

**FLOOR PLAN
DETAILS**



FILE: Q-22-0105-MS
 SERIAL #: KBS-
 DATE: 05/13/2022
 DWN BY: RLT

SHEET #
P7

SCALE: NONE

NOTES:
USE-B; BUSINESS OFFICE
 40# GSL / 115 MPH (Vult) WIND
 Paradigm WINDOWS
 8'-6" 1st CLG HGT
 Seismic

JOB NAME
Community Center
 TBD
 Burlington, VT

REV# / DATE: #2 - RLT - 06/17/2022
 REV# / DATE:
 REV# / DATE:
 REV# / DATE:

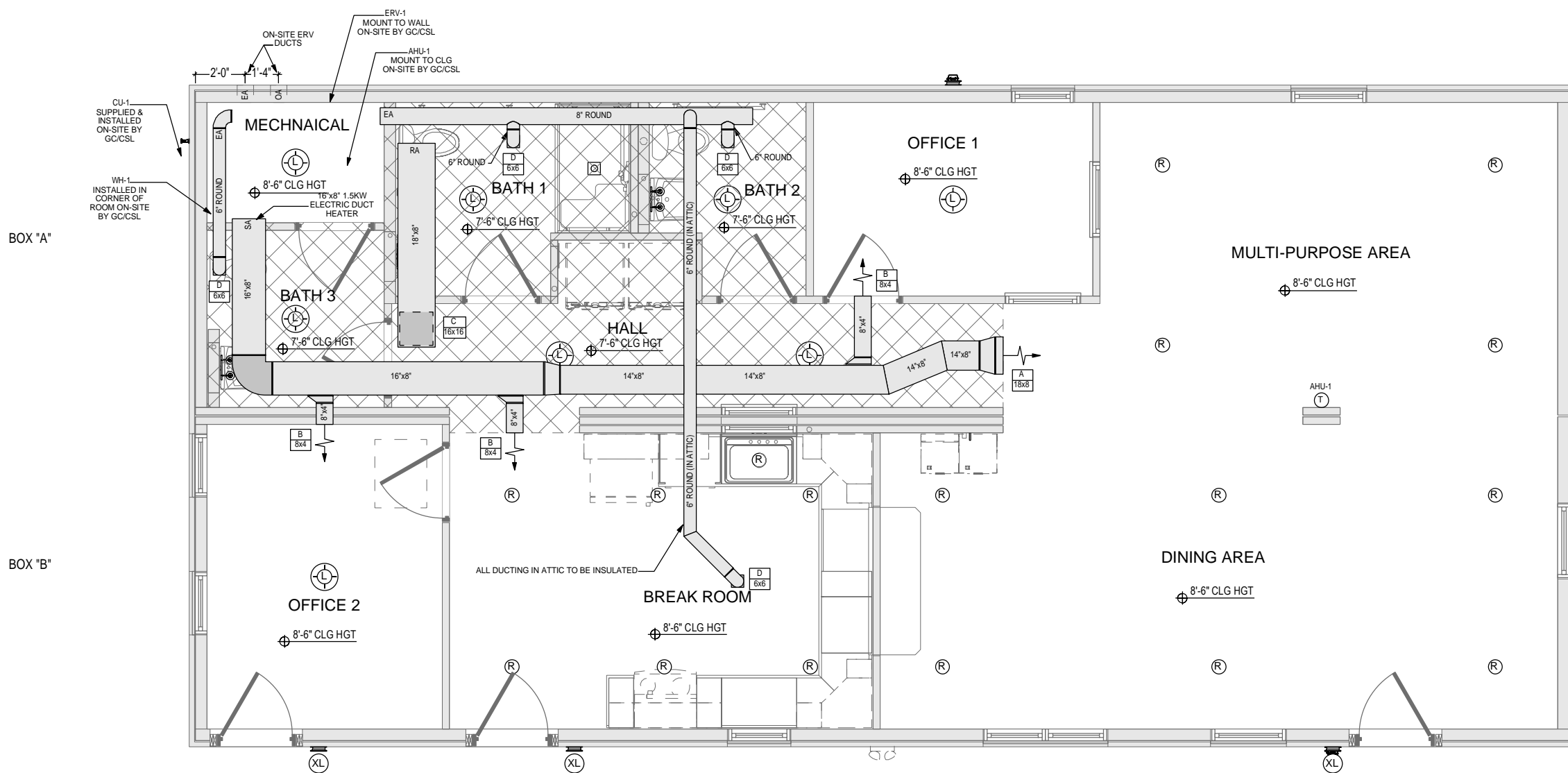
BUILDER:
Heyward Design Build
 128 Lakeside Ave
 Burlington, VT 05401

PERMIT REV#
 DATE:



NOTE:

1. INSULATE REFRIGERATION PIPING WITH CONTINUOUS INSULATION. PIPING HANGERS TO BE OVER THE INSULATION.
2. INULATE SUPPLY AIR (SA) DUCTS WITH MIN. R-8 INSULATION TO MEET VT CBES 2020 CODE.
3. INSULATE OUSTIDE AIR (OA) DUCT TO ERV-1 & EXHAUST AIR (EA) FROM ERV-W TO THE OUTSIDE WALL WITH MIN. R-8 INSULATION TO MEET VT CBES 2020 CODE.
4. INSTALL CU-1 MIN. 18" ABOVE SNOW LINE.
5. WALL MOUNT ERV-1 TO ALLOW CONDENSATE DRAINAGE.
6. PROVIDE MERV 13 FILTER FOR RETURN AIR (RA) FITLER GRILLE "C".
7. INSTALL 1/2" LINER IN RETURN AIR PLENUM TO REDUCE SOUND TRANSMISSION.
8. PIPE AHU-1 CONDESANTE DRAIN TO WASTE & VENT.



AIR HANDLER UNIT SCHEDULE (AHU)

MARK	LOCATION	MAKE	MODEL	CONN.	HEAT	COOLING	AIRFLOW	DRAIN	MOTOR	NOTES
AHU-1	MECH. ROOM	HAIER	USYM18UCDSA	1/2" & 1/4"	5,100-24,000 BTU/HR	1.5 TONS	650 CFM	1.25"	.27 HP	1, 2

NOTES:

1. PROVIDE WITH WIRED CONTROLLER MODEL # YR-E16B.

2. PROVIDE 1.5KW DUCT HEATER WARREN MODEL# QS01.5J168D2 w/TRANSFOMER & AIR PROVIDING SWITCH.

ENERGY RECOVERY UNIT SCHEDULE (ERV)

MARK	LOCATION	MAKE	MODEL	OA CFM	EA CFM	VOLTAGE	AMPS w/ PREHEATER	AMPS w/o PREHEATER	NOTES
ERV-1	MECH. ROOM	ZEHNDER	COMFOAIR Q450 ERV	160	160	240/60/1	10.8 AMPS	1.98 AMPS	1, 2, 3, 4, 5 & 6

NOTES:

1. DUCT OA DIRECTLY TO ADU-1 RETURN PLENUM.

2. MOUNT OFF FLOOR TO ENABLE CONDENSATE DRAINAGE. PIPE TO DRAIN.

3. PROVIDE WALL BRACKET KIT.

4. PROVIDE WITH PREHEATER KIT ACCESSORY 9656-00.

5. PROVIDE WITH MERV 13 FILTERS ACCESSORY 9670-00.

6. PROVIDE WITH CO2 SENSOR ACCESSORY 9620-01 & OPTION BOX ACCESSORY 9620-00.

CONDENSING UNIT SCHEDULE (CU)

MARK	MAKE	MODEL	COOLING	HEATING @ 5F	HEATING @ -15F	POWER	RANGE	MAX. AMPS	MOCP	NOTES
CU-1	HAIER	1U18EH2VHE	1.5 TONS	19,000 BTU/HR	15,000 BTU/HR	208-230/60/1	187-253 VAC	20 AMPS	30 AMPS	1, 2 & 3

NOTES:

1. PROVIDE WITH WALL BRACKET FOR MOUNTING ON SIDE OF BUILDING.

2. INDOOR UNIT (ADU-1) POWERED THRU OUTDOOR UNIT WITH 4 IWRE STRANDED 14 GA CABLE.

3. MIN. REFRIGERATION PIPING OF 10'.

WATER HEATER SCHEDULE (WH)

MARK	MAKE	MODEL	VOLUME	POWER	MAX. AMPS	MOCP	NOTES
WH-1	RHEEM	PORPH50-T2-RH375-SO	50 GAL.	240/60/1	21 AMPS	30 AMPS	1, 2

NOTES:

1. PROVIDE WITH 3/4" NON-LEAD THERMOSTATIC MIXING VALVE & TEMP GAUGE.

2. PROVIDE LEAK PROTECTION

REGISTER GRILLE DIFFUSER SCHEDULE (RGD)

MARK	MAKE	MODEL	CFM	SIZE	DESCRIPTION	NOTES
A	PRICE	520D	400	18x8	SUPPLY GRILLE	1
B	PRICE	520D	VARIES	8x4	SUPPLY GRILLE	1
C	PRICE	530FF	650	16x16	FILTER GRILLE	2
D	PRICE	80	40	6x6	RETURN GRILLE	3

NOTES:

1. USE INTERNAL DAMPER FOR AIR BALANCE

2. PROVIDE WITH 1" 16x16 MERV 13 FILTER

3. PROVIDE DAMPER ACCESSORY MODEL # VCS3S



Builder: Heyward Design Build
 128 Lakeside Ave
 Burlington, VT 05401

Job Name: Community Center
 TBD
 Burlington, VT

Notes: USE-B; BUSINESS OFFICE
 40# GSL / 115 MPH (Vult) WIND
 Paradigm WINDOWS
 8'-6" 1st CLG HGT
 Seismic

File: Q-22-0105-MS
Serial #: KBS-
 DATE: 05/13/2022
 DWN BY: RL

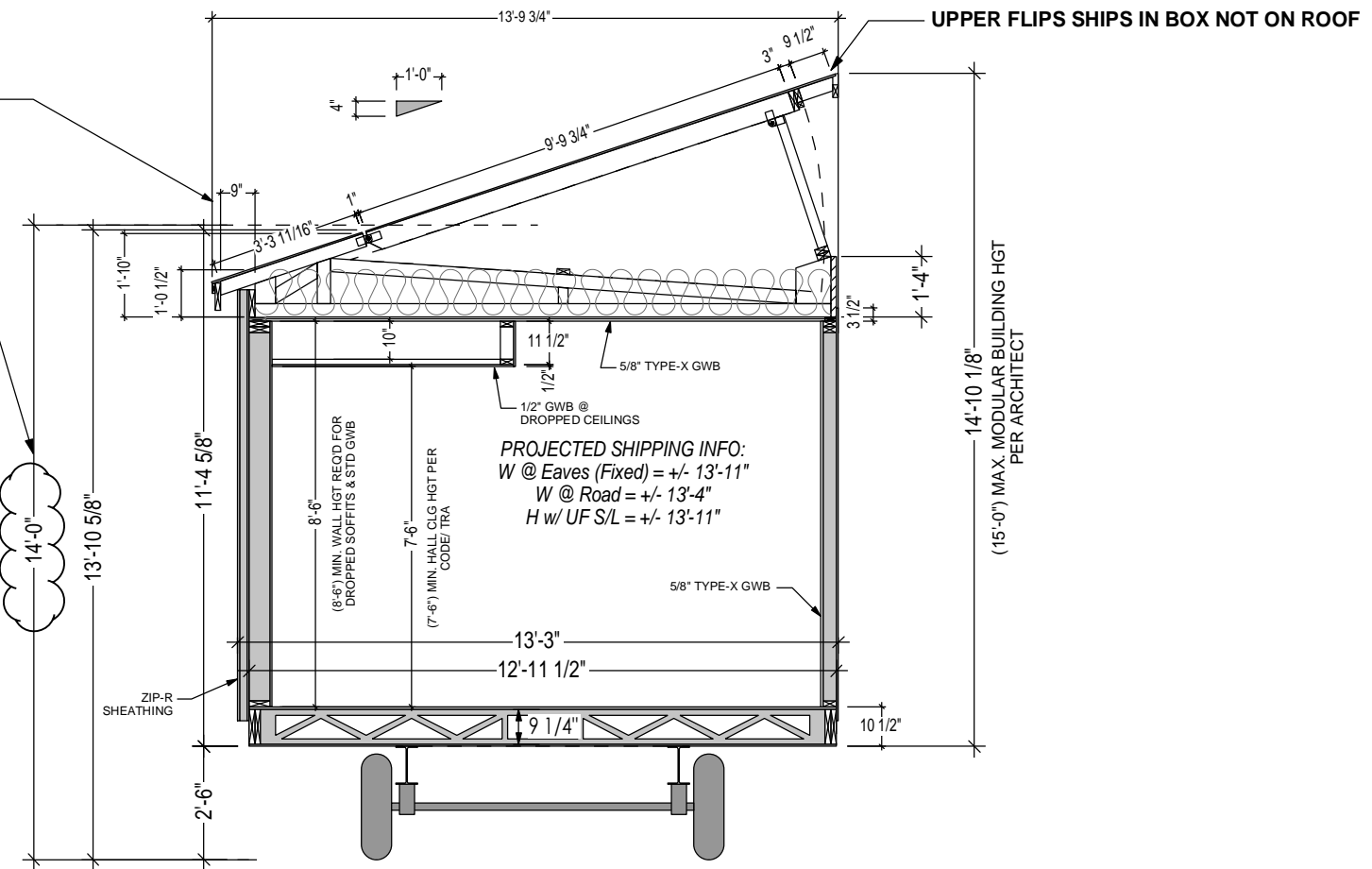
1ST FLR HEAT

SCALE: NONE

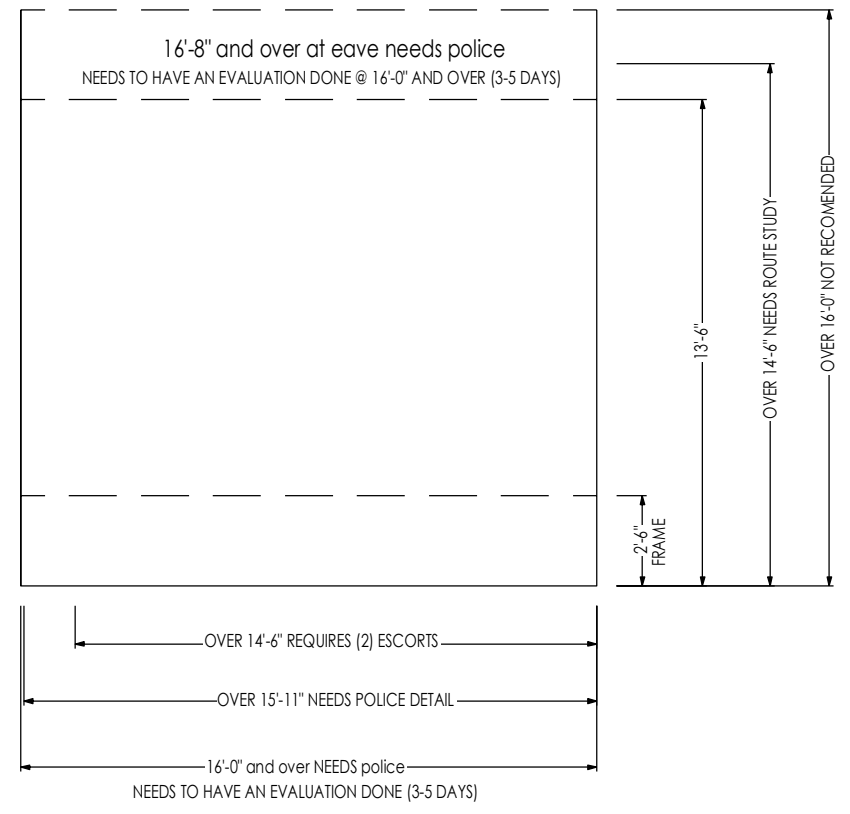
SPECIAL 9" EAVE PROJECTION FOR UNDER 14'-0" SHIPPING WIDTH W/EAVES ATTACHED

Flag over height permit over 13'-6"

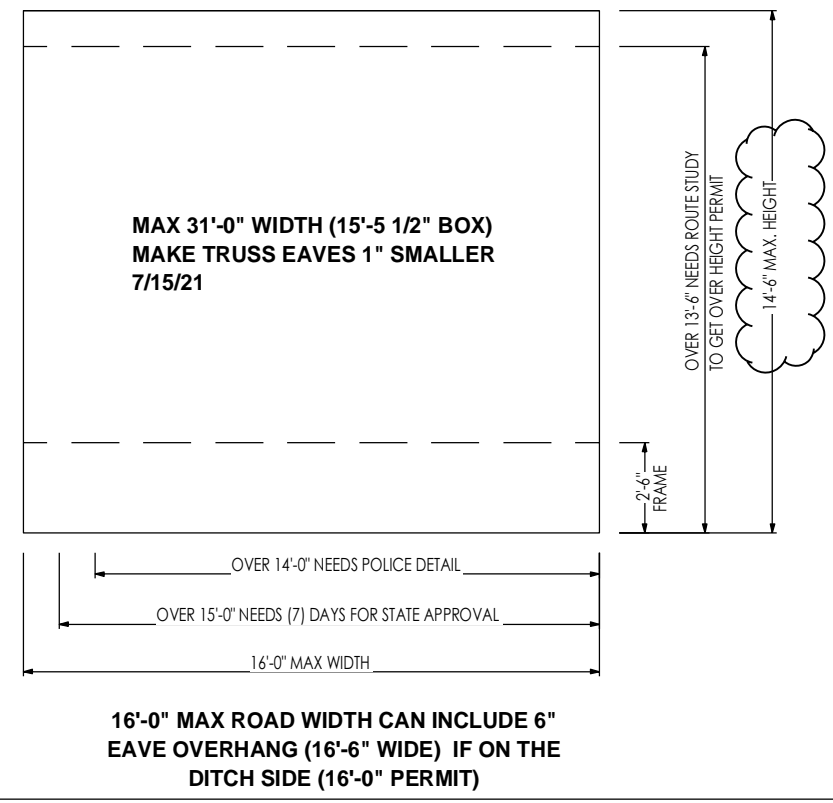
IN BOTH (NH & VT) -THE 14'-0" ROAD HGT (OVER 13'-6") NEEDS ROUTE STUDY TO GET OVER HEIGHT PERMIT
 *** THIS WILL IMPACT SHIPPING DATES ***



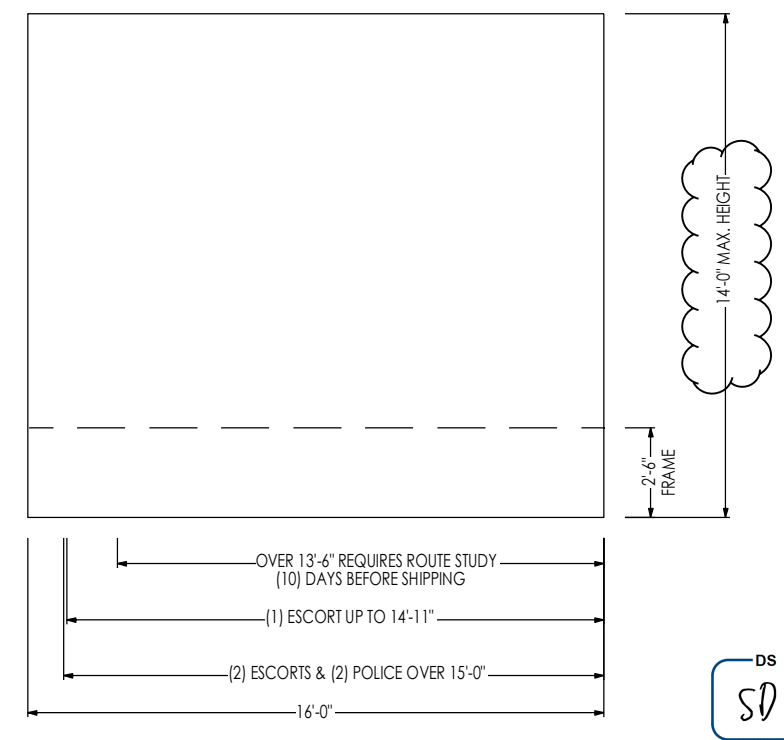
MAINE



NEW HAMPSHIRE



VERMONT



KBS Builders Inc.
 CUSTOM... QUALITY...
 300 PARK STREET
 SOUTH PARIS, ME 04281
 PHONE: 207-739-2400
 FAX: 207-739-2223
 www.kbsbuildersinc.com

BUILDER: Heyward Design Build
 128 Lakeside Ave
 Burlington, VT 05401

JOB NAME: Community Center
 TBD
 Burlington, VT

PERMIT REV#
 DATE:
 REV#/DATE: #2 - RLT - 06/17/2022
 REV#/DATE:
 REV#/DATE:

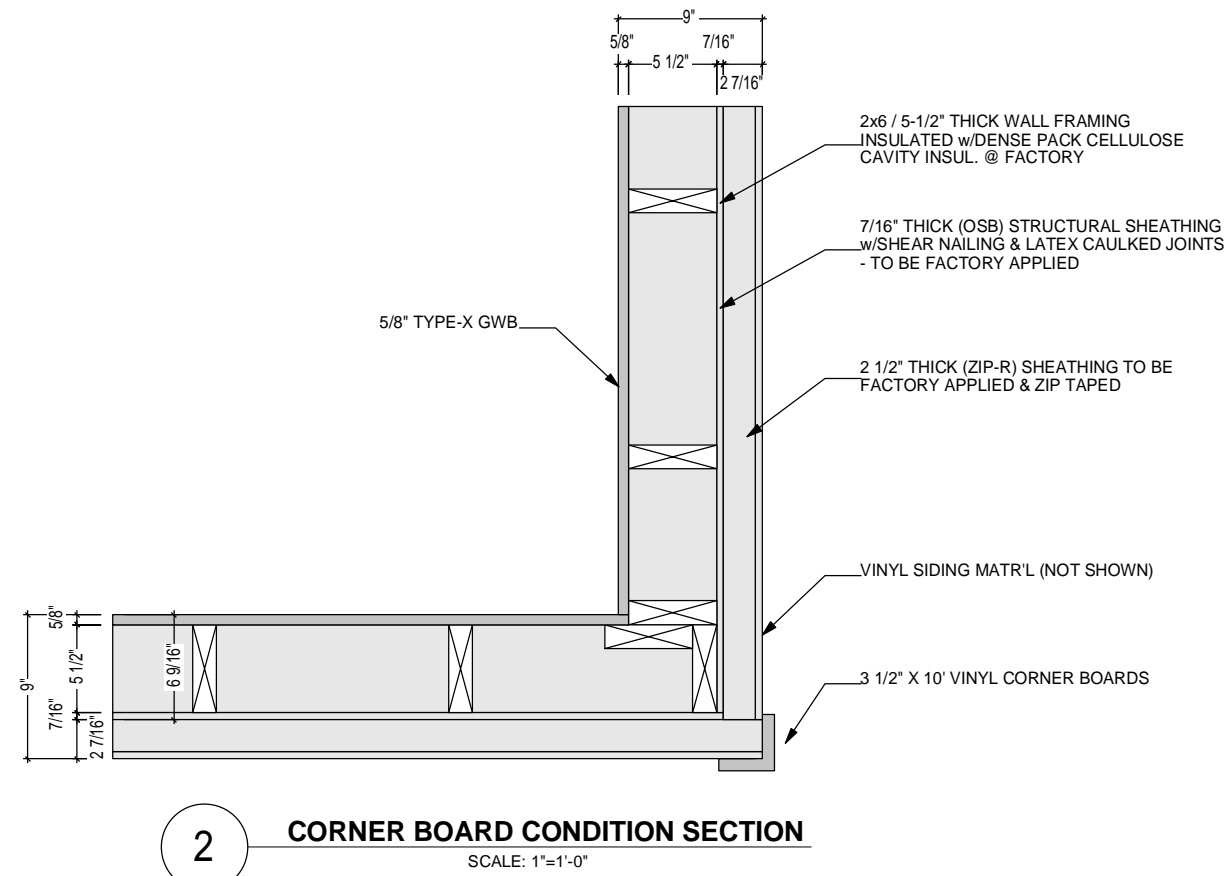
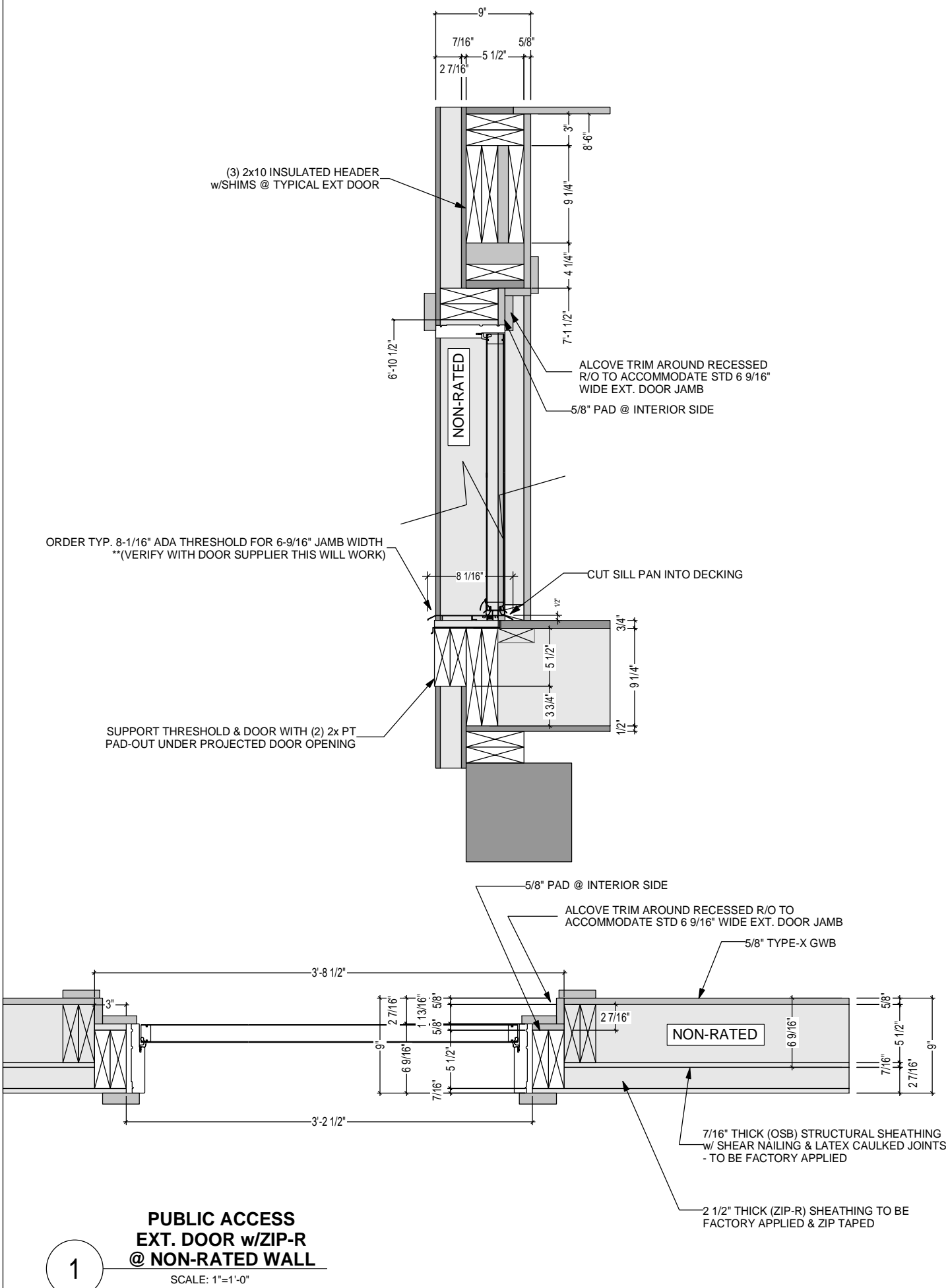
NOTES:
 USE-B; BUSINESS OFFICE
 40# GSL / 115 MPH (Vult) WIND
 Paradigm WINDOWS
 8'-6" 1st CLG HGT
 Seismic

FILE: Q-22-0105-MS
 SERIAL #: KBS-
 DATE: 05/13/2022
 DWN BY: RLT

SECTIONS

SHEET #
P16

SCALE: NONE



Builder: Heyward Design Build
128 Lakeside Ave
Burlington, VT 05401

Job Name: Community Center
TBD
Burlington, VT

PERMIT REV#
DATE:

REV# / DATE: #2 - RLT - 06/17/2022

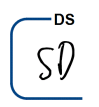
Notes: USE-B; BUSINESS OFFICE
40# GSL / 115 MPH (Vult) WIND
Paradigm WINDOWS
8'-6" 1st CLG HGT
Seismic

FILE: Q-22-0105-MS
SERIAL #: KBS-
DATE: 05/13/2022
DWN BY: RLT

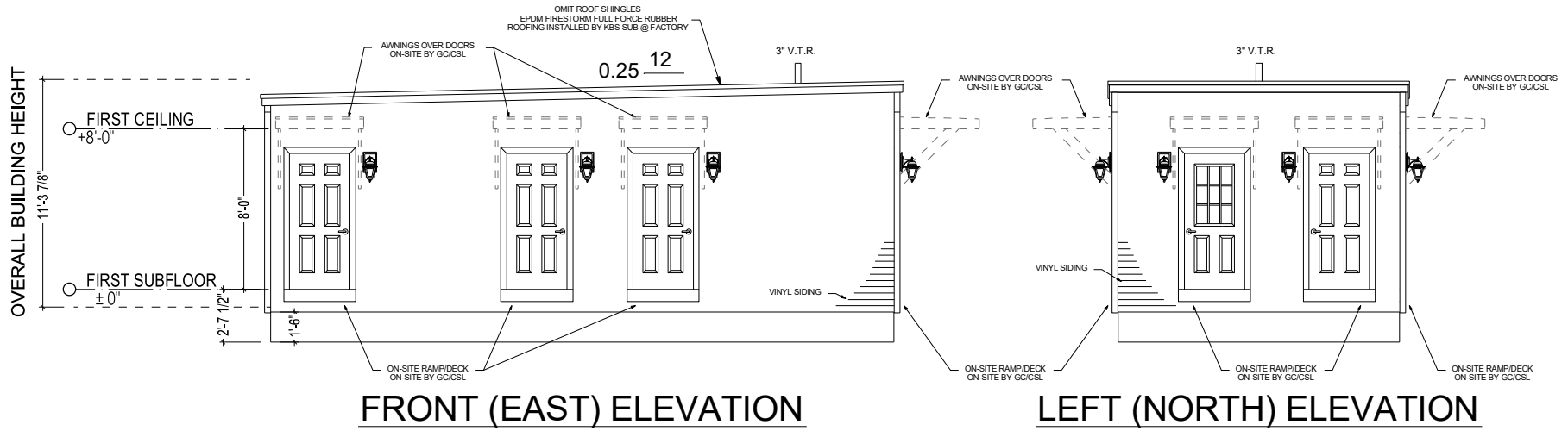
SECTIONS

SHEET #
P17

SCALE: NONE

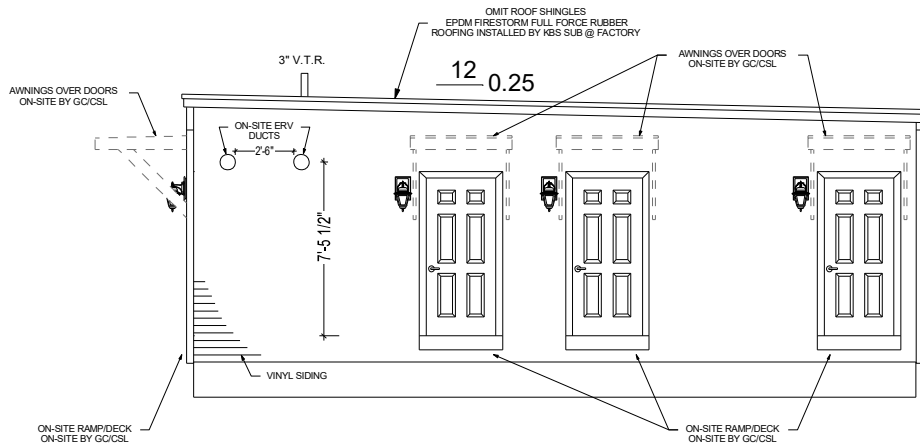


BATH EXHAUSTS ARE TO BE INTERGRATED INTO HVAC SYSTEM PROVIDED & INSTALLED BY GC/CSL

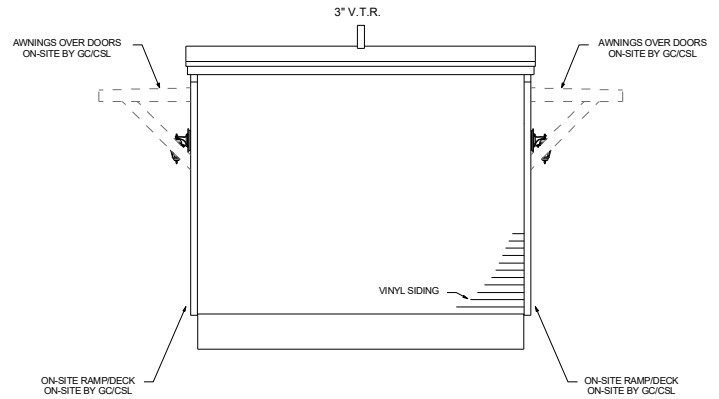


FRONT (EAST) ELEVATION

LEFT (NORTH) ELEVATION



REAR (WEST) ELEVATION



RIGHT (SOUTH) ELEVATION

NOTE:
 - ELEVATIONS ARE FOR GRAPHIC REPRESENTATION ONLY. REFER TO WORK ORDER FORM FOR DETAILED INFORMATION.
 - EXTERIOR RAMPS, STEPS, RAILINGS & LANDINGS ONSITE BY GC/CSL.



Heyward Design Build
 128 Lakeside Ave
 Burlington, VT 05401

Bathroom Pod
 TBD
 Burlington, VT

USE-B; BUSINESS OFFICE
 40# GSL / 115 MPH (Vult) WIND
 Paradigm WINDOWS
 8'-0" 1st CLG HGT
 Seismic

ELEVATIONS

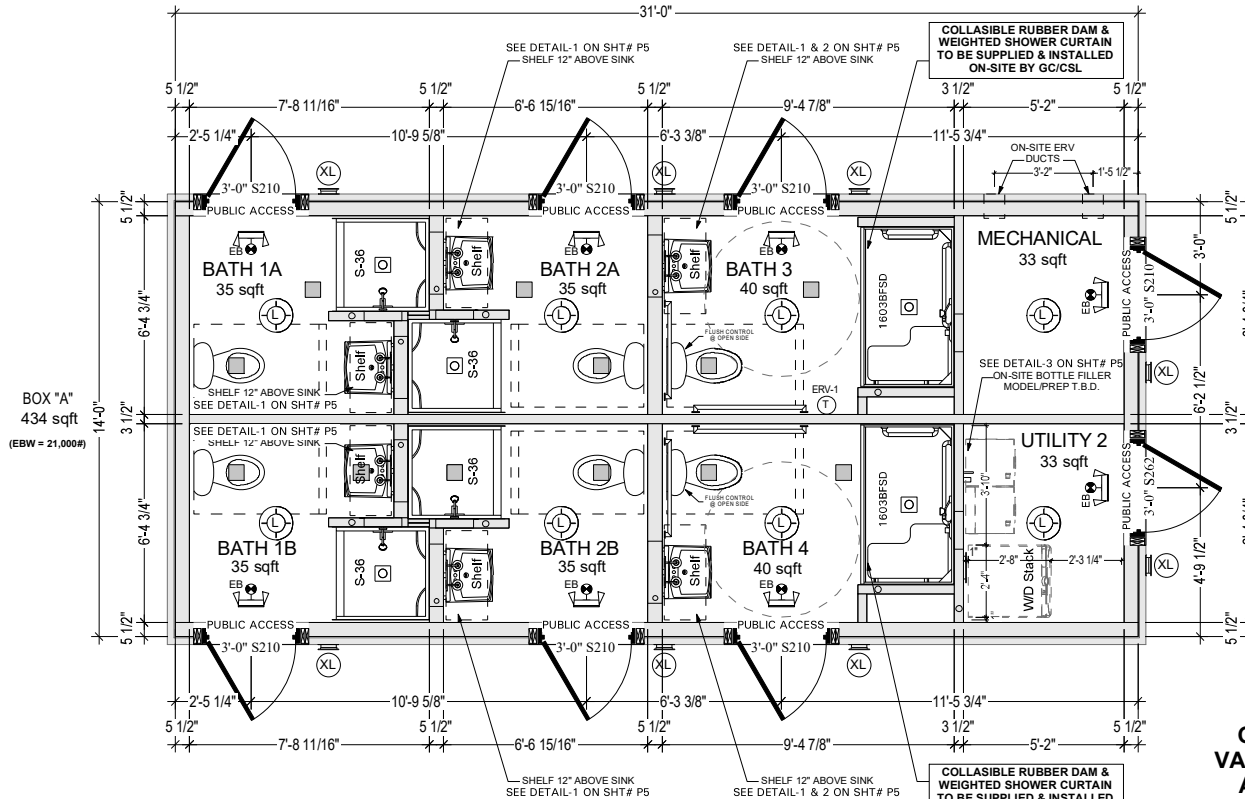
FILE: Q-22-0106-MS
 SERIAL #: KBS-
 DATE: 05/13/2022
 DRAWN BY: RL

SHEET #
P2
 SCALE: NONE



BATH EXHAUSTS ARE TO BE INTERGRATED INTO HVAC SYSTEM PROVIDED & INSTALLED BY GC/CSL

0.25/12 ROOF PITCH



DESIGN CRITERIA:
 USE GROUP:
 B, BUSINESS OFFICE

CONSTRUCTION CLASSIFICATION:
 VB (5B) WOOD FRAME (UNPROTECTED)

DESIGN LOADS:
 LIVE LOADS:
 BATHS - 50 PSF
 MECHANICAL - 50 PSF
 UTILITY - 50 PSF

ROOF - LIVE LOAD TO BE DESIGNED FOR 40 PSF GROUND SNOW LOAD

DEAD LOADS
 10 PSF OR ACTUAL

WIND LOADS, Exposure "B"
 115 MPH (Vult) 89 MPH (Vasd)

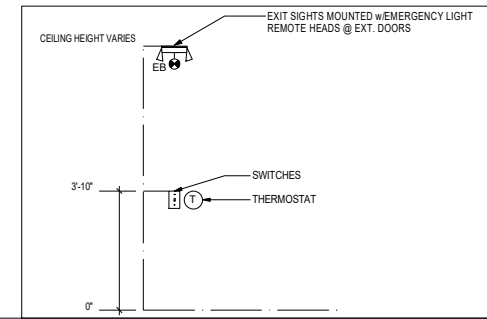
BUILDING INFORMATION:

TOTAL AREA OF 1st FLOOR: 434 Sq. Ft.

VOLUME OF ENCLOSED SPACE: x Cu. Ft.
 HEIGHT ABOVE FOUNDATION: 1 Story; Height: x'-x"
 DESIGN OCCUPANCY LOAD: MAX OCCUPANTS = < 10
 BUSINESS = 1 / 100 Sq. Ft.

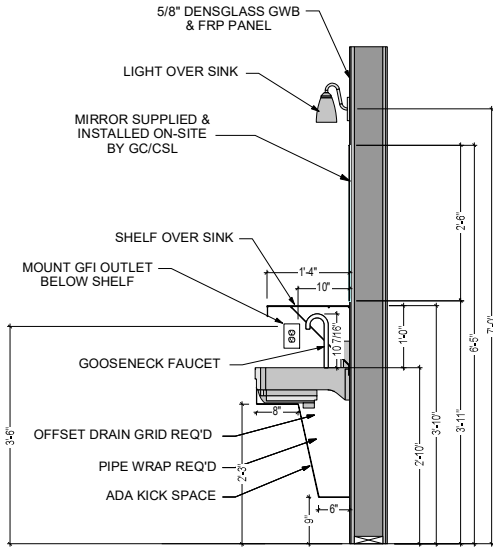
BUILDING LOCATION: MUST BE OUTSIDE FIRE LIMITS
 LOT LINE MINIMUM SET BACKS: GREATER THAN 10'-0"

GC/CSL TO RECIEVE VARIANCE FROM LOCAL AUTHORITY HAVING JURISDICTION FOR NON-ADA COMPLIANT LAUNDRY & DRINKING FOUNTAIN

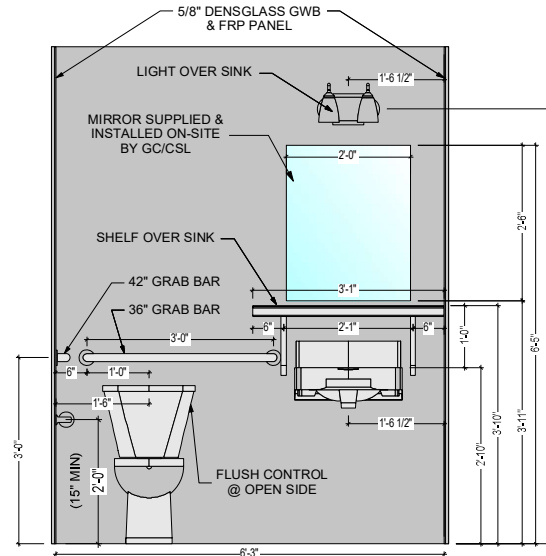


 <p>KBS Builders Inc. 300 PARK STREET SOUTH PARIS, ME 04281 PHONE: 207-735-2400 FAX: 207-735-2223 www.kbsbuildersinc.com</p>	
<p>BUILDER: Heyward Design Build 128 Lakeside Ave Burlington, VT 05401</p>	<p>PERMIT REV# DATE: PERMIT DATE:</p>
<p>JOB NAME: Bathroom Pod TBD Burlington, VT</p>	<p>REV#/DATE: REV#/DATE: REV#/DATE:</p>
<p>NOTES: USE-B; BUSINESS OFFICE 40# GSL / 115 MPH (Vult) WIND Paradigm WINDOWS 8'-0" 1st CLG HGT Seismic</p>	
<p>FILE: Q-22-0106-MS SERIAL #: KBS- DATE: 05/13/2022 DRAWN BY: RLT</p>	<p>1ST FLOOR PLAN</p>
<p>SHEET # P4</p>	<p>SCALE: 1/4" = 1'-0"</p>

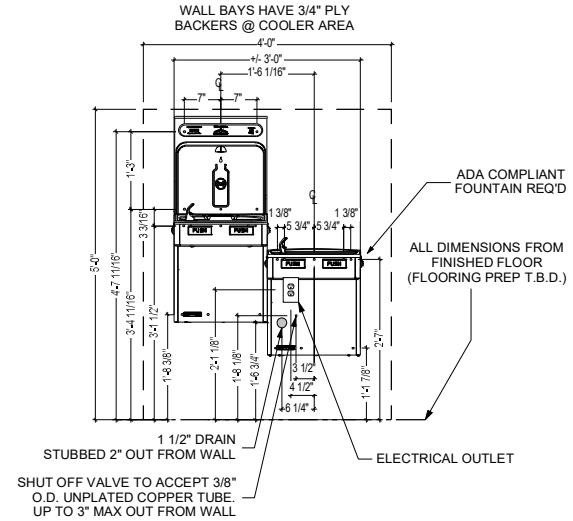




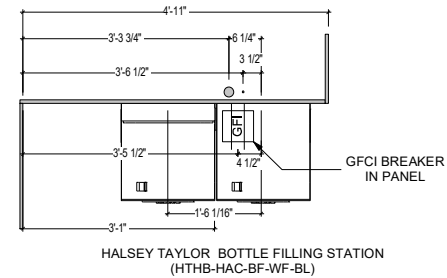
1 TYP. BATH SINK SECTION
SCALE: 1/2"=1'-0"



2 ADA BATH SECTION
SCALE: 1/2"=1'-0"



SHUT OFF VALVE TO ACCEPT 3/8" O.D. UNPLATED COPPER TUBE. UP TO 3" MAX OUT FROM WALL



3 WATER FOUNTAIN
SCALE: 1/2"=1'-0"
GC/CSL TO VERIFY MODEL



Heyward Design Build
128 Lakeside Ave
Burlington, VT 05401

Bathroom Pod
TBD
Burlington, VT

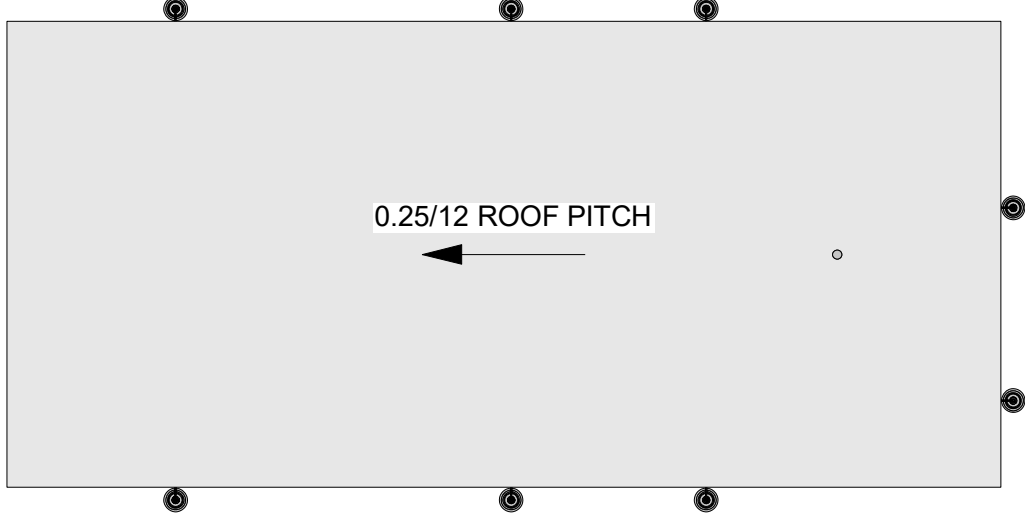
USE-B; BUSINESS OFFICE
40# GFL / 115 MPH (Vult) WIND
Paradigm WINDOWS
8'-0" 1st CLG HGT
Seismic

FILE: Q-22-0106-MS
SERIAL #: KBS-
DATE: 05/13/2022
OWN BY: RL

SHEET #
P5

SCALE: NONE

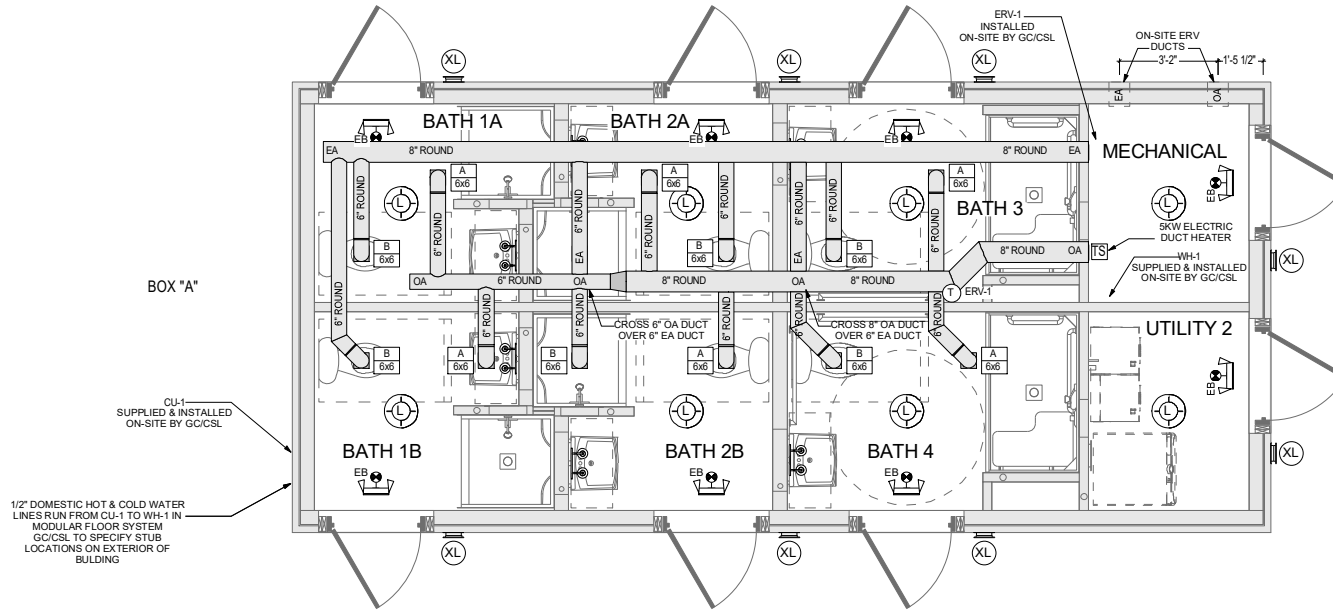




DS
SD

FILE: Q-22-0106-MS SERIAL #: KBS- DATE: 05/13/2022 DRAWN BY: RLT		NOTES: USE-B; BUSINESS OFFICE 40# GSL / 115 MPH (Vult) WIND Paradigm WINDOWS 8'-0" 1st CLG HGT Seismic		JOB NAME Bathroom Pod TBD Burlington, VT		BUILDER Heyward Design Build 128 Lakeside Ave Burlington, VT 05401		 CUSTOM... QUALITY... 300 PARK STREET SOUTH PARIS, ME 04281 PHONE: 207-735-2400 FAX: 207-735-2223 www.kbsbuildersinc.com	
SHEET # P7		SCALE: NONE		REV# / DATE: _____ REV# / DATE: _____ REV# / DATE: _____ PERMIT REV# _____ DATE: _____					

- NOTE:
1. INSULATE REFRIGERATION PIPING WITH CONTINUOUS INSULATION. PIPING HANGERS TO BE OVER THE INSULATION. PROVIDE HEAT TRACE TO PREVENT FREEZING.
 2. INSULATE SUPPLY AIR (SA) DUCTS WITH MIN. R-8 INSULATION TO MEET VT CBES 2020 CODE.
 3. INSULATE OUTSIDE AIR (OA) DUCT TO ERV-1 & EXHAUST AIR (EA) FROM ERV-W TO THE OUTSIDE WALL WITH MIN. R-8 INSULATION TO MEET VT CBES 2020 CODE.
 4. INSTALL CU-1 MIN. 18" ABOVE SNOW LINE.
 5. WALL MOUNT ERV-1 TO ALLOW CONDENSATE DRAINAGE.
 6. PROVIDE 2' OF STRAIGHT DUCT UPSTREAM F ELECTRIC DUCT HEATER.

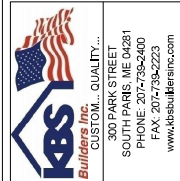


CONDENSING UNIT SCHEDULE (CU)											
MARK	MAKE	MODEL	WATER TEMP	NOMINAL HEATING	GAL	1st HOUR RATING	RECOVERY RATE	POWER	MAX. AMPS	MOCP	NOTES
CU-1	SANCO2	GS4-45HPC	150F	15,400 BTU/HR	119	135 GAL	20 GAL	208-230/60/1	7.2 AMPS	15 AMPS	1, 2, 3, 4 & 5
NOTES:											
1. PROVIDE WITH WALL BRACKET FOR MOUNTING ON SIDE OF BUILDING.				4. PROVIDE HEAT TRACE FOR EXTERIOR PIPING RAYCHEM MODEL# FG2-6L.							
2. STORAGE TANK (SEE WH SCHEDULE).				5. PROVIDE VALVE KIT FOR FREEZE PROTECTION MODEL# FPV KT3540.							
3. MAX PIPING LENGTH OF 66'.											

ENERGY RECOVERY UNIT SCHEDULE (ERV)											
MARK	LOCATION	MAKE	MODEL	OA CFM	EA CFM	VOLTAGE	MAX. AMPS	MOCP	NOTES		
ERV-1	MECH. ROOM	MINNOTAIR	PENACARE V12	250	250	240/60/1	12.3 AMPS	15 AMPS	1, 2, 3, 4 & 5		
NOTES: (**NOTES 2 & 4 ARE SUPPLIED BY MINNOTAIR)											
1. MOUNT OFF FLOOR TO ENABLE CONDENSATE DRAINAGE. PIPE TO DRAIN.				4. PROVIDE WITH FLEXIBLE DUCTWORK.**							
2. PROVIDE WITH STELPRO 5KW INLINE DUCT HEATER MODEL# SDHR8 FOR AUX HEAT.**				5. PROVIDE WITH (6) OCCUPANCY SENSORS, ONE FOR EACH BATHROOM.							
3. PROVIDE WITH MERV 13 FILTERS.											

WATER HEATER SCHEDULE (WH)							
MARK	MAKE	MODEL	TYPE	VOLUME	POWER	ELEMENTS	NOTES
WH-1	VAUGHN	S120D4	STORAGE TANK	119 GAL.	240/60/1	(2) 9KW	1, 2, 3 & 4
NOTES:							
1. PROVIDE WITH 3/4" NON-LEAD THERMOSTATIC MIXING VALVE & TEMP GAUGE.							
2. PROVIDE WITH (2) 9KW 240/60/1 ELECTRIC HEATING ELEMENTS.							
3. PROVIDE WITH HYDRASTONE CEMENT LINING FOR POTABLE WATER APPLICATION.							
2. ORDER TANK WITH (2) TEMP SENSOR WELLS, ONE FOR SANCO2 AND ONE FOR ELECTRIC BACK UP.							

REGISTER GRILLE DIFFUSER SCHEDULE (RGD)							
MARK	MAKE	MODEL	CFM	SIZE	DESCRIPTION	NOTES	
A	PRICE	520D	VARIES	6x6	SUPPLY GRILLE	1	
B	PRICE	80	40	6x6	RETURN GRILLE	2	
NOTES:							
1. USE INTERNAL DAMPER FOR AIR BALANCE							
2. PROVIDE DAMPER ACCESSORY MODEL # VCS3S							



BUILDER:
Heyward Design Build
 128 Lakeside Ave
 Burlington, VT 05401

JOB NAME:
Bathroom Pod
 TBD
 Burlington, VT

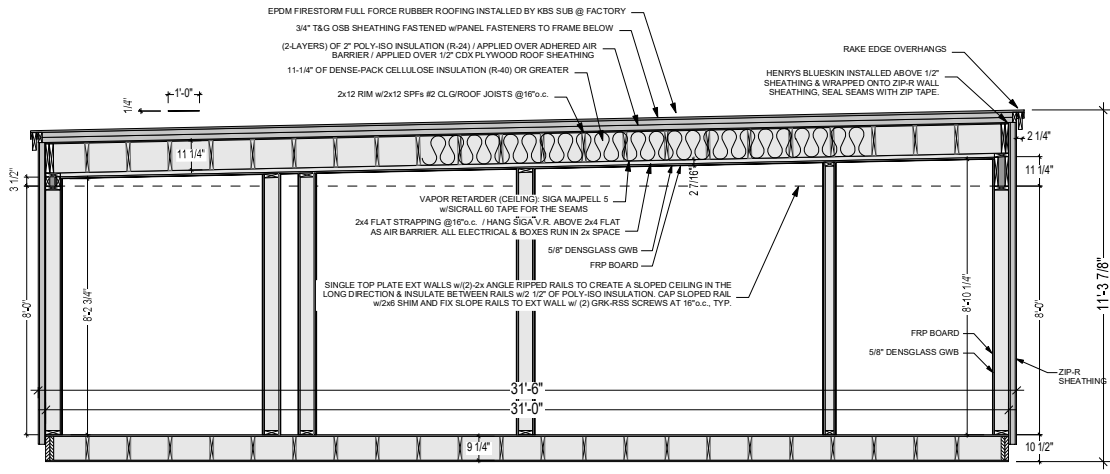
NOTES:
USE-B; BUSINESS OFFICE
 40# GSL / 115 MPH (Vuit) WIND
 Paradigm WINDOWS
 8'-0" 1st CLG HGT
 Seismic

FILE: Q-22-0106-MS
SERIAL #: KBS-
DATE: 05/13/2022
DWN BY: RLT

SHEET #
P13

SCALE: NONE

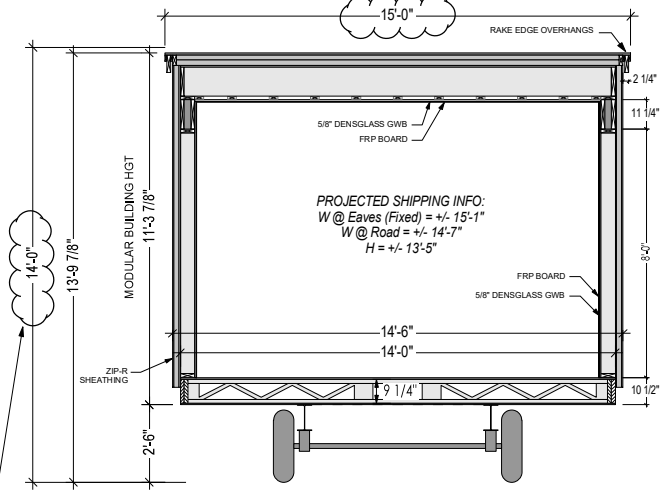




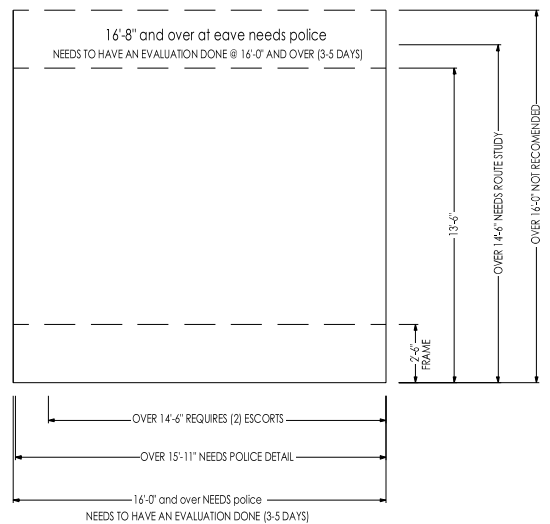
IN BOTH (NH & VT) - THE 14'-0" ROAD HGT (OVER 13'-6") NEEDS ROUTE STUDY TO GET OVER HEIGHT PERMIT
***** THIS WILL IMPACT SHIPPING DATES *****

Flag over height permit over 13'-6"

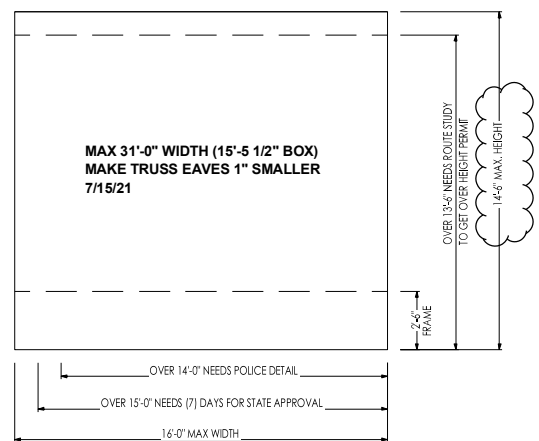
Flag over width permit over 15'-0"



MAINE

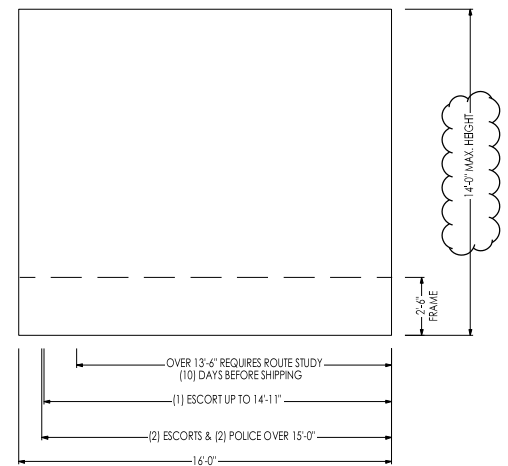


NEW HAMPSHIRE

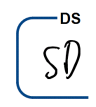


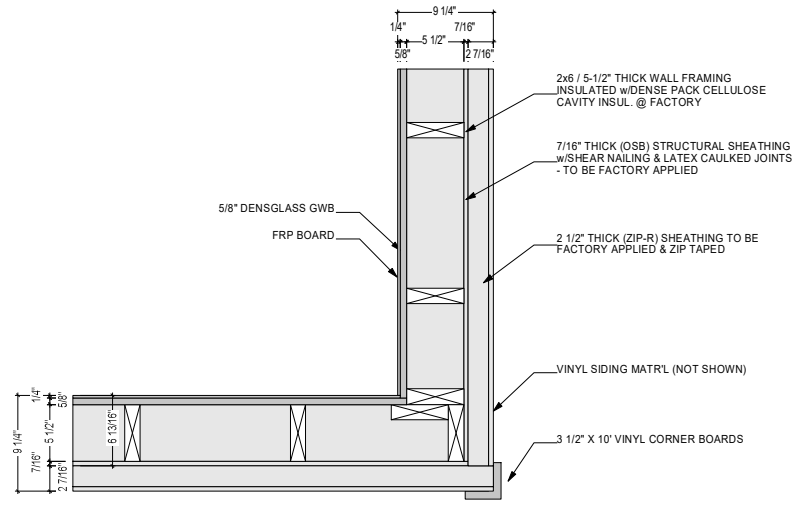
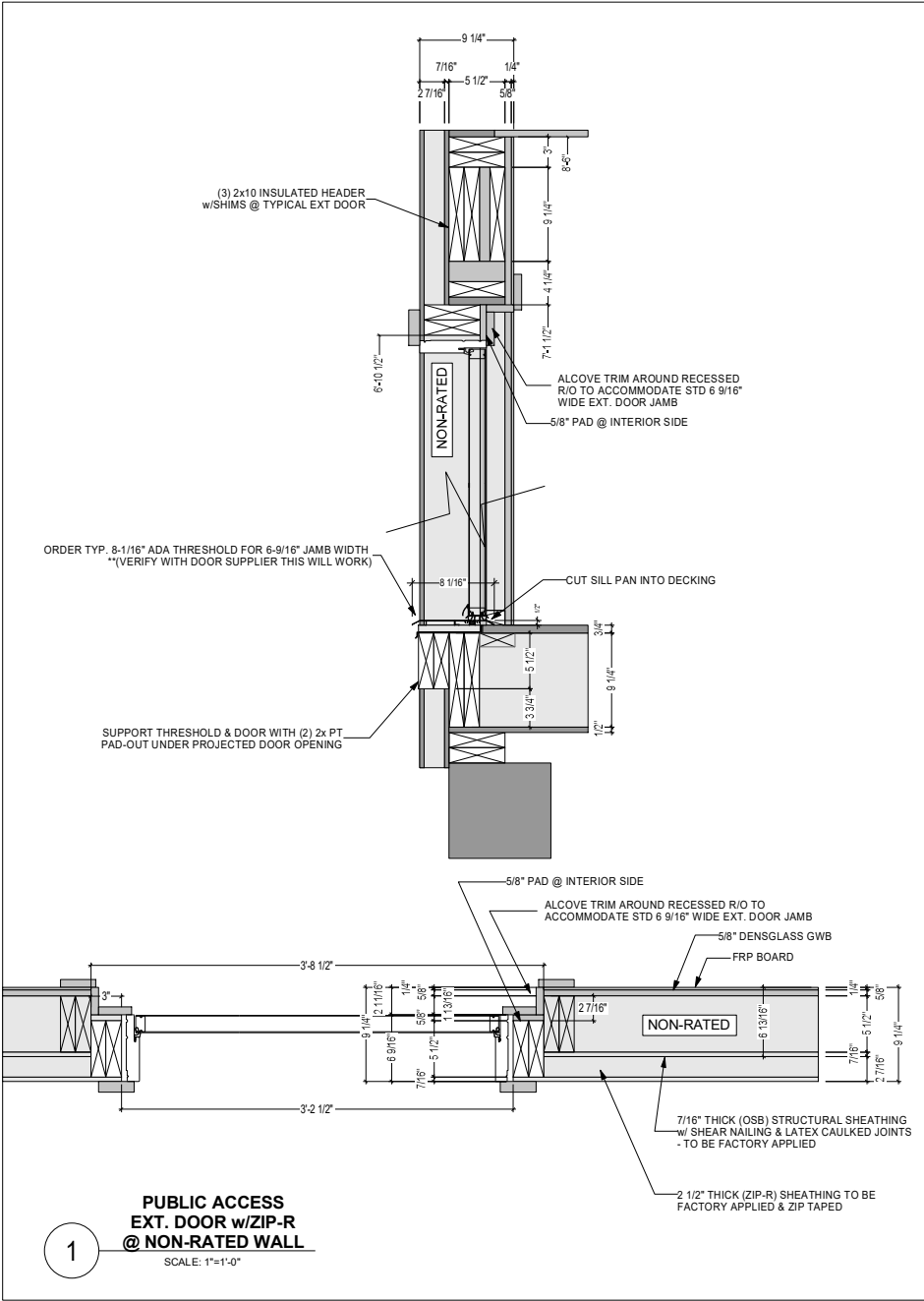
16'-0" MAX ROAD WIDTH CAN INCLUDE 6" EAVE OVERHANG (16'-6" WIDE) IF ON THE DITCH SIDE (16'-0" PERMIT)

VERMONT



BUILDER: Heyward Design Build 128 Lakeside Ave Burlington, VT 05401	
JOB NAME: Bathroom Pod TBD Burlington, VT	
REV/DATE: #2 - RLT - 06/17/2022	PERMIT REV: _____ DATE: _____
NOTES: USE-B; BUSINESS OFFICE 40# GSL / 115 MPH (Vult) WIND Paradigm WINDOWS 8'-0" 1st CLG HGT Seismic	
FILE: Q-22-0106-MS SERIAL #: KBS- DATE: 05/13/2022 DWN BY: RLT	
SECTIONS	
SHEET # P16	
SCALE: NONE	





<p>KBS Builders Inc. 300 PARK STREET SOUTH PARIS, ME 04281 PHONE: 207-735-2400 FAX: 207-735-2223 www.kbsbuildersinc.com</p>	
<p>Heyward Design Build 128 Lakeside Ave Burlington, VT 05401</p>	<p>PERMIT REV# DATE:</p>
<p>Bathroom Pod TBD Burlington, VT</p>	<p>PERMIT REV# DATE:</p>
<p>JOB NAME: Bathroom Pod</p>	<p>REV#/DATE: #2 - RLT - 06/17/2022</p>
<p>NOTES: USE-B; BUSINESS OFFICE 40# GSL / 115 MPH (Vult) WIND Paradigm WINDOWS 8'-0" 1st CLG HGT Seismic</p>	<p>REV#/DATE:</p>
<p>FILE: Q-22-0106-MS SERIAL #: KBS- DATE: 05/13/2022 OWN BY: RLT</p>	<p>SECTIONS</p>
<p>SHEET #</p>	<p>P17</p>
<p>SCALE:</p>	<p>NONE</p>



**2022 MASTER PRODUCT AND SERVICES AGREEMENT
STATEMENT OF WORK A-1**

PROJECT		EFFECTIVE DATE: 03/08/2022
	CUSTOMER: Burlington, VT	PALLET SPC ("PALLET")
Contact Name	Samantha Dunn	Benjamin Simons
Mailing Address	City Hall, 149 Church Street, Room 32 Burlington, VT 05401	1930 Merrill Creek Pkwy, Suite A Everett, WA 98203.
Email Address	sdunn@burlingtonvt.gov	benjamin@palletshelter.com
Telephone	(802) 829-6385	4255954544
UBI/Business License No.		603 622 031
Federal Tax I.D.		8 2 - 1 5 1 6 7 2 2

Product Purchase and Sale:																													
Quantity and Type of Products Purchased:	<table border="1"> <thead> <tr> <th>Product</th> <th>Sales Price</th> <th>Quantity</th> <th>Total Price</th> </tr> </thead> <tbody> <tr> <td>Shelter 64 SQF .5" Insulated</td> <td>\$6,995.00</td> <td>20.00</td> <td>\$139,900.00</td> </tr> <tr> <td>240v Electrical Kit with 4,500w Heater</td> <td>\$999.00</td> <td>20.00</td> <td>\$19,980.00</td> </tr> <tr> <td>Cold Weather Upgrade Package</td> <td>\$585.00</td> <td>20.00</td> <td>\$11,700.00</td> </tr> <tr> <td>Custom Fit Mattress Pad</td> <td>\$249.00</td> <td>25.00</td> <td>\$6,225.00</td> </tr> <tr> <td>Folding Bunk Bed</td> <td>\$299.00</td> <td>25.00</td> <td>\$7,475.00</td> </tr> <tr> <td>Assembly Services</td> <td>\$900.00</td> <td>20.00</td> <td>\$18,000.00</td> </tr> </tbody> </table>	Product	Sales Price	Quantity	Total Price	Shelter 64 SQF .5" Insulated	\$6,995.00	20.00	\$139,900.00	240v Electrical Kit with 4,500w Heater	\$999.00	20.00	\$19,980.00	Cold Weather Upgrade Package	\$585.00	20.00	\$11,700.00	Custom Fit Mattress Pad	\$249.00	25.00	\$6,225.00	Folding Bunk Bed	\$299.00	25.00	\$7,475.00	Assembly Services	\$900.00	20.00	\$18,000.00
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Assembly Services	\$900.00	20.00	\$18,000.00																										
Purchase Price for Products:	\$185,280 Payment Terms: 50% upon signing, remaining 50% upon shipment of products. Customer shall pay the Purchase Price via wire transfer in accordance with the instructions contained in Pallet's invoice.																												
Customer Desired Product Delivery Date:	06/01-07/31 2022																												

Description of Services:	Pallet shall perform the following Services for the Project: Shipping and onsite assembly of shelters and accessories in customer's desired location. Pallet assembly excludes all other services not expressly set forth herein, including, without limitation, site grading, leveling of shelters, electrical or plumbing connections, and staking of units to ground. Customer shall provide 6,000 lbs. forklift with 8 foot forks for delivery and installation.
Payment for Services (Fees):	Assembly: \$18,000 Shipping: \$12,000 Payment Terms: 50% upon signing, remaining 50% upon shipment of products. Customer shall pay all Fees via wire transfer in accordance with the instructions contained in Pallet's invoice.
Tax	N/A
Total Purchase Price:	\$215,280
Payment Terms:	50% upon signing, and the remaining 50% upon shipment of units
Deposit Due Upon Signing:	\$107,640



Subcontractors:	Unknown
Terms and Conditions:	This Statement of Work is subject to the Terms and Conditions attached to Statement of Work A-1, which are incorporated herein by reference. Any and all documents, notes, memoranda or attachments made pursuant hereto are incorporated herein and made a part of this Statement of Work and any future Statement of Work between the parties.

PALLET**PALLET SPC**

a Washington social purpose corporation

By: _____

Amy King, President

DocuSigned by:
Amy King

40CCCD74B0A7428...

CUSTOMER**BURLINGTON, VT**

A Vermont City

By: _____

Brian Pine, CEO Director

DocuSigned by:

Brian T. Pine

4E6820541B8F4FE...

MASTER GOODS AND SERVICES AGREEMENT**TERMS AND CONDITIONS**

1. Terms and Conditions. As of the Effective Date set forth in the Statement of Work (the “**SOW**”), of which these Terms and Conditions are attached and incorporated into by reference (these “**Terms**”), Pallet hereby agrees to: (i) manufacture and sell to Customer temporary emergency shelters commonly known as “Pallet Shelters™” (the “**Shelters**”) and supply related products, items and accessories (collectively with the Shelters, (the “**Products**”) in accordance with the SOW and (ii) provide certain specialized installation services of the Products through its representatives or Subcontractors to and for the benefit of Customer (the “**Services**”), each as set forth in the SOW for the project site described in the SOW, and Customer shall purchase the Products and Services in accordance with these Terms. As consideration for Products delivered and Services to be rendered by Pallet under these Terms, Customer shall pay to Pallet the “Purchase Price” for the Products and all “Fees” Services. For each SOW executed between Customer and Pallet, such SOW shall: (i) be numbered consecutively (e.g., A-1, A-2, A-3, etc.); (ii) expressly state that it is subject to the terms and conditions of these Terms; and (iii) be signed by both parties. As consideration for Products delivered and Services to be rendered by Pallet under these Terms, Customer shall pay to Pallet the “Purchase Price” for the Products and all “Fees” for the Services.

2. Purchase Price; Fees. Payment of the purchase price for the Products (the “**Purchase Price**”), and the fees, costs and expenses for the purchase of the Services (collectively, the “**Fees**”) will be made in accordance with the applicable SOW. Pallet shall invoice the Customer for its Products delivered and Services performed on a periodic basis as set forth in the SOW. Unless otherwise stated herein or in an applicable SOW, Customer shall pay all amounts invoiced from Pallet to Customer within thirty (30) days of the Customer’s receipt of the invoice. Customer shall promptly pay to Pallet any and all Fees and prepaid expenses reasonably incurred by Pallet in connection with the performance of the Services, including, without limitation, transportation, tickets, travel change fees, hotel costs, or any other purchases (the “**Prepaid Expenses**”) in accordance with the applicable SOW.

3. Term; Termination. The term of these Terms shall extend from the Effective Date through the completion of all Services as set forth in the SOW (the “**Term**”), subject to the following termination provisions. Pallet or the City of Burlington may terminate the SOW and these Terms, in whole or in part, for “Cause” upon thirty (30) days prior written notice to either party. For purposes of these Terms, “Cause” includes, but is not limited to, any of the following: (a) a material breach of these Terms or SOW by Pallet or Customer, including, without limitation, any non-payment of the Purchase Price, or any Fees or Prepaid Expenses when due; (b) violation by Pallet or Customer of any applicable federal, state and local laws, rules, order and regulations (collectively, “**Laws**”); or (c) if Pallet or Customer is voluntarily or involuntarily dissolved, or is adjudged to be Bankrupt or is subject to a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of Pallet’s or Customer’s insolvency. For the purpose of this Section, “Bankrupt” shall mean the filing of a voluntary or involuntary petition of bankruptcy or similar relief from creditors, insolvency, the appointment of a trustee or receiver, or any similar occurrence reasonably indicating an imminent inability to perform substantially all of the Customer’s duties under these Terms. Upon any early termination of these Terms or otherwise, Pallet shall submit to Customer a detailed invoice of any Purchase Price remaining unpaid, and all Fees incurred to date, and Customer shall promptly pay the unpaid balance of the Purchase Price and all Fees within thirty (30) days’ of receipt.

4. Products; Shipment of Products.

(a) **Purchase of Products.** As consideration for the sale of the Products, the Customer shall pay to Pallet the total Purchase Price as set forth on the SOW. The Purchase Price is exclusive of any sales or use tax

(b) **Shipment of Products.** Pallet shall use its good faith best efforts to deliver the Products at the project site location set forth in the SOW (the “Project Site”) on the date of delivery as set forth in the SOW. Notwithstanding the foregoing, Pallet will notify the Customer of any delays that may affect the expected delivery date of the Products. If Pallet notifies Customer in accordance with these



Terms, Pallet shall be afforded at least ten (10) additional days to deliver the Products. Unless otherwise set forth in the SOW, Pallet shall be responsible for arranging for and coordinating the shipment of the Products to the Customer. Shipping dates, if any, set forth in the SOW are approximate only and merely represent Pallet's best estimate of the time required to make shipment of the Products.

(c)© **Delivery; Risk of Loss.** Delivery of the Products to Customer will be F.O.B. Project Site, as set forth in the SOW. All Products will be prefabricated at Pallet's factory headquarters and shipped flat-packed in individual panels to the designated Project site. Pallet will not "drop ship" to any other location other than Project site or agreed upon storage site. Unless otherwise instructed in writing by Customer, Pallet will have the sole and exclusive right to select the carrier for the shipment and delivery of the Products. Title and risk of loss to the Products purchased under these Terms shall pass to Customer upon delivery thereof to the Project Site or agreed upon storage site, whether or not the Products conform to these Terms. Seller shall not be liable for any loss or expense incurred by Customer as a result of any delay in delivery for any reason other than arbitrary refusal of Pallet to perform. Pallet may deliver the Products in installments.

(d) **Delay of Product Delivery.** If any shipment of Products is delayed at Customer's request, Pallet may invoice the Customer for such Products, and risk of loss to such products shall pass to Customer on the date Pallet is prepared to make shipment to the Customer. In addition to the foregoing, Pallet shall have the right, in its sole and exclusive discretion, to: (i) invoice the Customer for the Purchase Price of such Products, and such invoice shall be due upon receipt; (ii) store the Products at a location acceptable to Pallet, and charge the Customer all costs and expenses associated with such storage, which Customer shall promptly reimburse to Pallet upon receipt of an invoice for the same; and/or (iv) require the Customer to arrange for and cover all costs and expenses related to the shipment of the Products from the applicable storage location to the Project Site.

(e) **Inspection; No Refunds.** Upon receipt of the Products, Customer shall inspect all Products promptly upon receipt thereof at the Project site and may reject any Products in accordance with this Section 4(d) which fail in any significant, material respect to meet Pallet's current acceptance specifications. Unless a written claim (a "**Rejection Notice**") that a Product is defective is made and delivered to the Pallet within fourteen (14) days from the date of delivery of the Products, the Customer agrees that it shall have knowingly, irrevocably and unconditionally accepted the Products as-delivered, as-is and with all faults and defects. Such Rejection Notice must specify in detail: (i) the total amount of Products that are alleged to be defective; and (ii) the specific details of the alleged defects, including specific defective parts; and (iii) whether the alleged defects breach any express warranty of Pallet. . In the case of any Products manufactured or supplied by any other person, entity or business ("**Third-Party Products**") covered by the warranty of another supplier or manufacturer, Pallet will submit the existing supplier's or manufacturer's warranty to the Customer to the extent reasonably possible, but shall have no liability or responsibility to repair or replace such Third-Party Product. As promptly as possible after receipt by Pallet of the Rejection Notice, Pallet shall report its findings of its investigation of the alleged Defect to the Customer. Provided Pallet determines the alleged defect is covered by Pallet's Warranty, Pallet shall notify Customer of its election to repair or replace said properly rejected Products and shall prepay transportation charges for any shipment of replacement Products back to Customer; provided, however, no refunds shall be given for any defective Products unless otherwise determined by Pallet in its sole and exclusive discretion.

5. Limited Warranty of Pallet. Pallet agrees to warrant select Products in accordance with the terms of its standard limited warranty (the "Limited Warranty"), Pallet's Limited Warranty can be found here: www.palletshelter.com/warranty. In the event the Products that are warranted under the terms of the Limited Warranty fail to comply with Pallet's Limited Warranty and Customer timely reports such failure in accordance with these Terms, Pallet's sole obligation to Customer shall be limited to the repair or replacement, at Pallet's sole and exclusive option, in accordance with the Limited Warranty. Customer acknowledges and agrees that this Limited Warranty extends only to Customer, and does not extend to any subsequent owner, transferee, assignee or user/resident of the Products; provided, however, this Limited Warranty may be assigned to a subsequent owner, transferee or assignee of the Products, subject to Customer's compliance with Section 11(c), below.

6. Customer's Duties. Customer shall fully cooperate with Pallet in its delivery of the Products and performance of the Services, and provide to Pallet true, complete and correct copies of all reasonably requested documentation or information reasonably necessary, desirable or required by Pallet in connection with the delivery of the Products and performance of the Services. Additionally, the Customer shall cooperate in good faith with Pallet to provide Pallet with reasonable access to any Customer facilities, officers, directors, employees, contractors, partners, joint venturers or affiliates as reasonably necessary, desirable or required by Pallet in connection with the performance of the Services. Customer represents and warrants that all documents, intellectual property, disclosures, information and other materials provided by the Customer to Pallet in connection with the Services, including, without limitation, all third party documents, disclosures, and/or information, are true, complete, correct, non-infringing and not materially misleading in any way. Customer represents and warrants that the individual executing the SOW on its behalf has all necessary, legal and requisite power and authority to execute, deliver the SOW and perform these Terms on behalf of the Customer, and all other agreements and instruments to be executed and delivered in connection with these Terms.

While Pallet will provide the Products and Services set forth herein, Customer shall be solely and exclusively responsible and liable for: (i) ensuring that all transactions, documents and operations in connection with these Terms, including, without limitation, all operations at the Project site, are in compliance with all applicable Laws; (ii) procuring all applicable permits, certifications, licenses and approvals necessary under all applicable Laws for the delivery of all Products and performance of all Services; and (iii) cleaning and maintaining the Products including, without limitation, by following all user manuals, cleaning instructions and Product manuals provided by Pallet to Customer; and (iv) ensuring the safety of the Product's (including, without limitation, protecting, monitoring and maintaining all keys, door locks, door handles and entrances to the Shelters), the Product's end users and residents and the Project site after the completion of the Services.



7. Subcontractors. Subject to the terms and conditions of these Terms, Customer hereby grants to Pallet the right to assign its rights, duties or obligations under these Terms to its partners, joint venturers, contractors, agents and subcontractors (collectively, “**Subcontractors**”) with respect to the performance of Services only, on a per Project basis, subject to the limitation set forth in these Terms and any SOW. Pallet shall deliver to Customer written notice of the terms of any proposed subcontractor agreement with any Subcontractors, including the proposed Subcontractor’s identity. In the event of the termination or expiration of these Terms, all subcontract rights will terminate effective as of the termination or expiration of these Terms.

8. Relationship of the Parties; Independent Contractor. These Terms are intended to create an independent contractor relationship between the Parties. Nothing contained herein shall be construed to: (i) give either Party the power to direct or control the day-to-day activities of the other; (ii) constitute the Parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (iii) allow either Party to create or assume any obligation on behalf of the other Party for any purpose whatsoever, including, without limitation, representations, contractual obligations, or obligations based on warranties or guarantees. Pallet shall have and retain sole and exclusive control over the time, place and manner in which it performs the Services.

9. Indemnification; Indemnification Procedure. Reserved.

10. No Warranties; Limitation of Liability.

(a) No Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, PALLET HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, EITHER IN FACT OR BY OPERATION OF LAW, CONCERNING ANY PRODUCT OR ANY SERVICES PROVIDED BY PALLET AND ANY OTHER TECHNICAL INFORMATION, TECHNIQUES, MATERIALS, METHODS, PRODUCTS, PROCESSES, OR PRACTICES AT ANY TIME MADE AVAILABLE BY PALLET, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, PALLET WILL HAVE NO LIABILITY WHATSOEVER TO CUSTOMER OR ANY OTHER PERSON FOR OR ON ACCOUNT OF ANY INJURY, LOSS, OR DAMAGE, OF ANY KIND OR NATURE, SUSTAINED BY, OR ANY DAMAGE ASSESSED OR ASSERTED AGAINST, OR ANY OTHER LIABILITY INCURRED BY OR IMPOSED ON CUSTOMER OR ANY OTHER PERSON, ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM ANY INJURY CAUSED TO ANY PERSON OR PROPERTY BY CUSTOMER OR ANY CUSTOMER PARTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PALLET SHALL NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE. NO EMPLOYEE, SUBCONTRACTOR OR REPRESENTATIVE OF PALLET IS AUTHORIZED TO MODIFY ANY PALLET WARRANTY WITHOUT THE EXPRESS WRITTEN CONSENT OF PALLET’S PRESIDENT.

(b) Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, PALLET WILL NOT BE LIABLE TO CUSTOMER, OR ANY CUSTOMER PARTY OR ANY OTHER PERSON FOR ANY INJURY TO OR LOSS OF GOODWILL, BUSINESS, OR OPPORTUNITIES (REGARDLESS OF HOW THESE ARE CLASSIFIED AS DAMAGES), OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, OR ENHANCED DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY, OR OTHERWISE (INCLUDING THE ENTRY INTO, PERFORMANCE, OR BREACH OF THESE TERMS), REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR THE PARTY AGAINST WHOM SUCH LIABILITY IS CLAIMED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL PALLET’S AGGREGATE LIABILITY EXCEED THE AMOUNT ACTUALLY PAID BY OR DUE FROM CUSTOMER UNDER THE APPLICABLE SOW (WHICHEVER IS LESS) IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

11. Miscellaneous.

(a) Entire Agreement; Conflicts. These Terms and the SOW attached hereto, collectively represent the full, final and comprehensive agreement and understanding of the Parties and any modification thereof shall not be effective unless contained in writing and signed by both Parties. Any prior or contemporaneous agreements, whether oral or written, relating to the subject matter discussed herein have been merged into these Terms. In the event of any conflict between the terms and provisions of these Terms and those of any SOW or other document, the following order of precedence will govern: (a) first, these Terms, excluding the SOW; (b) the SOW; and (c) third, any other documents incorporated herein or in the SOW by reference.

(b) Severability. Each provision of these Terms shall be considered severable such that if any one provision or clause conflicts with existing or future applicable law, or may not be given full effect because of such law, this shall not affect any other provision of these Terms that can be given effect without the conflicting provision of clause; provided however, that such provision shall be modified, to the minimum extent possible and necessary, to be enforceable to the fullest extent and in compliance with any such applicable laws, prior to it being severed from these Terms in its entirety.



(c) No Right to Assign; Third-Party Beneficiaries. Customer may assign an applicable SOW and these Terms (and the Limited Warranty associated herewith) to a subsequent owner, transferee or assignee of the Products herein, provided that the Customer: (i) provides prior written notice of the proposed assignment to Pallet; and (ii) receives the prior written consent of Pallet to the proposed assignment, which may be withheld in Pallet's sole and exclusive discretion. As a condition to Pallet's approval, if given, any potential assignee otherwise approved by Pallet shall assume all obligations of Customer under these Terms (including the Limited Warranty) and each applicable SOW, and shall be jointly and severally liable with the initial Customer, if required by Pallet, for the payment of all Fees and performance of all obligations of Customer under these Terms and any applicable SOW. In connection with any proposed assignment, Customer shall provide Pallet with copies of all assignment and assumption instruments, and any other documentation reasonably requested by Pallet. Any attempted assignment of these Terms or any SOW that does not comply with this Section 11(c) shall be null, void and of no force or effect whatsoever. These Terms are for the sole benefit of the Parties and their respective successors and permitted Assigns and nothing herein, express or implied, is intended to or will confer upon any other person, governmental entity, business or entity, any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of these Terms.

(d) Governing Law; Venue; Arbitration; Equitable Relief.

(i) Governing Law; Venue. Subject to Section 11(d)(ii), below, these Terms shall be governed by and construed in accordance with the domestic laws of the state of Washington without giving effect to any choice of law or conflict of laws provision or rule (whether of the state of Washington or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state of Washington. The Parties hereto agree that the exclusive jurisdiction and venue for any action brought between the Parties under these Terms shall be the Superior Court for King County, Washington, or the federal courts residing in the Western District of Washington, and each of the Parties hereby agrees and submits itself to the exclusive jurisdiction and venue of such courts for such purpose. .

(ii) Arbitration. The parties will first make a good faith effort to settle by negotiation any dispute regarding these Terms. If a settlement has not been reached within fifteen (15) days of commencing that negotiation, then either party may submit the dispute to arbitration administered by the Judicial Arbitration Mediation Service ("JAMS"). There will be one arbitrator selected by the parties within ten (10) days of the notice of the arbitration demand or, if not, by JAMS, from its list of approved arbitrators with experience in hearing related cases. JAMS' "Streamlined Arbitration Rules & Procedures" shall apply to all other claims involving less than \$250,000. All other claims shall be determined in accordance with JAMS Comprehensive Arbitration Rules and Procedures. The award rendered by the arbitrator shall be final and binding on the parties and may be entered and enforced in any court having jurisdiction, and any court where a party or its assets is located (to whose jurisdiction the parties' consent for the purpose of enforcing the award). However, this Section will not apply to (A) actions for equitable relief, or (B) actions to enforce or appeal any arbitration award. Any arbitration under this Section will be conducted in King County, Washington at the offices of Pallet's counsel. In any action under the preceding clause (A) or (B), each party waives any right to a jury trial. The arbitrator shall apply substantive law and may award reasonable attorneys' fees and costs to the substantially prevailing party consistent with these Terms. The award rendered by the arbitrator shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

(iii) Equitable Relief. Each Party acknowledges that a material breach by the other Party of these Terms may cause the non-breaching Party irreparable harm, for which an award of damages would not be adequate compensation and, in the event of such a material breach or threatened breach, the non-breaching Party will be entitled to seek equitable relief, including in the form of a restraining order, orders for preliminary or permanent injunction, specific performance, and any other relief that may be available from any court, and the Parties hereby waive any requirement for the securing or posting of any bond or the showing of actual monetary damages in connection with such relief. These remedies are not exclusive but are in addition to all other remedies available under these Terms at law or in equity, subject to any express exclusions or limitations in these Terms to the contrary.

(e) Survival. The provisions of Sections 2, 3, 6, 8, and 9-11 shall survive the termination or expiration of these Terms.

(f) Notices. Any notice required or permitted by these Terms shall be in writing and delivered in person, sent by documented overnight delivery service, mailed by certified or registered mail, postage prepaid, or sent via email to the appropriate designated address of the intended recipient, transmission verification required, to the appropriate Party or Parties at the addresses referenced in the applicable SOW, or to such other address as the Parties may hereafter designate to the other in writing.

(g) Force Majeure. A Party (referred to in this Section as a "**Force Majeure Party**") shall be excused from the performance of its applicable obligation(s) under these Terms (other than the payment of any monies owed to the other Party, including, without limitation, any Purchase Price or Fees) to the extent that such performance is made commercially impracticable, illegal, or impossible by an event of Force Majeure that is beyond the Force Majeure Party's reasonable control, and the Force Majeure Party provides written notice of the prevention within ten (10) business days of the occurrence of the Force Majeure event to the other Party (including details of the Force Majeure event, its anticipated duration and any action being taken to avoid or minimize its effect) and uses commercially reasonable efforts to avoid the effects of such Force Majeure and to perform the affected obligation(s) to the extent reasonably possible. Such excuse of performance shall be continued for so long as the condition constituting Force Majeure continues and the Force Majeure Party takes reasonable efforts to remove the condition or otherwise perform the affected obligation(s). For purposes of these Terms, "**Force Majeure**" shall mean only acts of God, strikes, civil disturbances, fires, earthquakes, governmental order or proclamation, outbreak or pandemic, supply chain interruption (to the extent such interruption is not caused by the gross negligence of such Party), acts of terrorism, floods, explosions, riots, war, rebellion, sabotage or failure or default of public utilities or common carriers. For clarity, notwithstanding the



existence of a Force Majeure impacting a Party's performance hereunder, such Force Majeure Party shall continue performing all of its other obligations hereunder, and the other Party shall be excused from performing such of its obligations under these Terms that it cannot reasonably perform due to the non-performance by the Force Majeure Party due to such Force Majeure, until such Force Majeure Party completes performance of such obligations that are prevented by such Force Majeure.

(h) No Public Statements. Neither Party may issue or release any announcement, statement, press release, or other publicity or marketing materials relating to these Terms or, unless expressly permitted under these Terms, otherwise use the other party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association, or sponsorship, in each case, without the prior written consent of the other party, which may not be unreasonably withheld, conditioned or delayed or unless otherwise required by law.

(i) Construction. The Parties hereby reaffirm that each has read the foregoing Terms, that each Party has had the opportunity to review, negotiate and participate in the creation of these Terms through independent counsel. The provisions contained herein shall not be construed or interpreted for or against any Party hereto because that Party drafted or caused that Party's legal representative to draft any of its provisions.

**CITY OF BURLINGTON
CONTRACTOR CONTRACT**

This Contractor Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and Up End This, LLC (“Contractor”), a Vermont limited liability company located at 931 VT RT 15, Johnson, VT 05656.

Contractor and the City agree to the terms and conditions of this Contract.

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “Contract Documents”** means all the documents identified in Section 4 (Scope of Work) of this Contract.
- B. “Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- C. “Party”** means the City or Contractor, and “Parties” means the City and Contractor.
- D. “Project”** means the ten (10) modular Shelter Pods to be designed, manufactured and delivered to the Shelter Pod Community site to serve as one component of the Shelter Pod Community.
- E. “Work”** means the services described in Section 5 (Payment for Services) of this Contract, along with the specifications contained in the Contract Documents as defined in Section 4 (Scope of Work) below.

2. RECITALS

- A. Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. Purpose.** The City seeks to employ the Contractor to design, manufacture and deliver 10 Shelter Pods.

3. EFFECTIVE DATE & TERM

- A. Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Contractor for any performance or

expense incurred before the Effective Date or after the expiration or termination of this Contract.

B. Term. This Contract and the Parties' respective performance shall commence on the Effective Date and expire on October 15, 2022 or upon the completion of the Project, unless sooner terminated as provided herein.

4. SCOPE OF WORK

The Contractor shall perform the services listed in Attachments A (Request for Proposals) and B (Contractor's Response to Request for Proposals).

5. PAYMENT FOR SERVICES

A. Amount. The City shall pay the Contractor for completion of the Work in accordance with Attachment B (Contractor's Response to Request for Proposals) and as follows:

Design Fee: \$5,000
10 Shelter Pods: \$178,000

The following items included in the proposal are not currently included in the contract but may be added via addendum:

Trailer and Delivery System (\$5,600)
The Prototype Office Module (\$13,600)

Contractor agrees to accept this payment as full compensation for performance of all services and expenses incurred under this Agreement.

B. Payment Schedule. The City shall pay the Contractor in the manner and at such times as set forth in the Contract Documents as follows:

Design Fee: \$5,000 to be paid upon signing of contract

10 Shelter Pods: \$178,000 to be paid as follows upon receipt of invoice:

1. A 50% deposit (or \$89,000) to be paid upon the execution of the Contract.
2. A payment of \$8,900 upon the delivery and inspection of each module.

C. Delivery Schedule. Contractor shall deliver the Project in accordance with the following schedule:

1. Design process will commence with the target of final design approval by the City on or before May 1, 2022.
2. Subject to final design approval occurring on or before May 1, 2022:
 - i. August 1, 2022 – Five (5) Shelter Pods delivered
 - ii. September 15, 2022 – Five (5) Shelter Pods delivered

D. Maximum Limiting Amount. The total amount that may be paid to the Contractor for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$183,000. Both parties acknowledge that changes to the design may result in additional costs and these costs will be documented via addenda to this contract. The City shall not be liable to Contractor for any amount exceeding the maximum limiting amount without duly authorized written approval.

E. Invoicing and Timing of Payments. The design fee and deposit described in Section 5.B. above shall be paid immediately to Contractor upon the execution of this Contract, Contractor shall submit invoices for the remaining amount payable under this Contract. Each invoice shall set forth the number of modules delivered and the date of delivery. Invoices shall be submitted to the following:

Samantha Dunn
CEDO
Room 32, City Hall, 149 Church Street
Burlington, VT 05401
sdunn@burlingtonvt.gov
(802)829-6385

The City shall pay all invoices within thirty (30) days of the invoice date.

Indemnification; Limitation of Liability. Notwithstanding anything to the contrary in the City's Request for Proposals (attached hereto as Exhibit A), Contractor shall be required to indemnify, defend and hold harmless the City, its officers, and employees from any liabilities, claims, suits, expenses, losses, judgments, and damages directly arising from the Contractor's negligence only. In no event shall Contractor be liable for indirect, incidental, consequential, punitive or any other damages. Contractor's maximum liability under this Contract shall be limited to the amount paid by the City hereunder.

6. SECTION & ATTACHMENT HEADINGS

The article and attachment headings throughout this Contract are for the convenience of City and Contractor and are not intended nor shall they be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

A. Contract Documents. The Contract Documents are hereby adopted, incorporated by reference, and made part of this Contract. The intention of the Contract Documents is to establish the necessary terms, conditions, labor, materials, equipment, and other items necessary for the proper execution and completion of the Work to ensure the intended results.

B. Order of Precedence. To the extent a conflict or inconsistency exists between the Contract Documents, or provisions therein, then the Contract take precedent. Any Invitation for Bids, Additional Contract Provisions, and the City Ordinance Certifications shall prevail over any inconsistency with the Contractor's Scope of Work and Cost Proposal.

The following documents constitute the Contract Documents:

Attachment A: Request for Proposals dated February 3, 2022

Attachment B: Contractor's Response to Request for Proposals dated February 17, 2022

Attachment C: Burlington Standard Contract Conditions for Contractors

Attachment D: Burlington Livable Wage Ordinance Certification

Attachment E: Burlington Outsourcing Ordinance Certification

Attachment F: Burlington Union Deterrence Ordinance Certification

Attachment G: Contractor's Certificate of Insurance

[signature page follows]

SIGNATURE

Persons signing for the Parties hereby swear and affirm that they are authorized to act on behalf of their respective Party and acknowledge that the other Party is relying on their representations to that effect.

Contractor
Up End This, LLC

By: *Milzy*

Date: 3-7-2022

City of Burlington
Community Economic Development Office (CEDO)

By: DocuSigned by:
Brian T. Pine
00EEBA68894F413...

Brian Pine
Director

Date: 3/7/2022

Exhibit A - Request for Proposals

**CITY OF BURLINGTON
REQUEST FOR PROPOSALS**

Issued: February 3, 2022

Due: February 17, 2022

I. PROJECT BACKGROUND

The City of Burlington is seeking proposals for manufacturers qualified to produce small modular shelter units to be used for a dedicated outdoor, safe, equitable, temporary shelter space for persons experiencing homelessness. This is considered an emergency pre-housing and temporary solution. The project is responding to housing and homelessness impacts of the public health emergency.

II. SCOPE OF WORK

This scope of work is for the design, production, delivery and installation of Individual Shelter Units meeting the scope of work and specifications provided below.

- 1) Design – Contractor will meet up to five times with the City and related stakeholders to discuss design options, energy efficiency, mechanical & electrical, and usability. It is anticipated that design work will begin immediately after contractor is selected and last approximately 8 weeks.

Base Specifications:

Size: 64 - 100 square feet

Accessibility: Universally accessible with addition of ramp and/or other minor modifications.

Envelope:

Must meet HUD minimum requirements for manufactured homes in Thermal Zone 3:

Floor R-13 Walls R-22 Ceiling R-30

Energy Star minimum requirements preferred:

Floor E-13 Walls R-30 Ceiling R-38

Entry: Must have individual lockable entrances at least 28 inches wide.

Windows: Minimum of two operable and locking windows.

Roof: must meet VT minimum snow load of 40psf

Furniture: Each unit shall include:

- Single bed with mattress
- Under bed storage (open or drawers)
- Shelving
- Table/desk

Power & Lighting: Each unit shall include:

- One overhead light operable with a switch
- A minimum of two wall outlets

HVAC: Each unit shall include:

- Adequate heating and ventilating for Climate Zone 6
- Individual electric panel
- Power supply compatible with standard camper electrical hook-up

No plumbing included.

2) Production

Contractor will begin production of shelter modules per agreed upon design as soon as possible. Contractor will coordinate with the City during production to identify opportunities for increased efficiency, usability or cost savings.

3) Delivery & Installation

Bid shall include delivery to the site (final site TBD) in Burlington and placement (including any required modifications for stability, etc.). Delivery and installation of the modules should occur as soon as possible. All modules must be delivered no later than September 15, 2022.

III. RESPONSE FORMAT

Bidders should respond in the following format:

- 1) Cover Letter with the following information:

CITY OF BURLINGTON

Modular Home Design, Manufacture, Delivery and Installation Quotation

Project Name: _____

Applicant Organization / Business:

Mailing Address:

Physical Address:

Contact: _____ Title: _____ Phone #: _____

Web Address: _____ E-mail: _____

EIN #:

DUNS #:

Total Value of the Bid (10 Units): \$ _____

- 1) Design Specifications

Bidders should provide as much detail as possible outlining how their proposed design meets the requirements for the items detailed in section II “Scope of Work” above. As much information should be provided as possible, including photographs or design sketches where appropriate. Design aspects that can be customized based on the City’s preference should be clearly noted.

In addition to the details of the design provided for the items themselves, bidders should provide details on how these items will be installed, including any infrastructure requirements or on-going servicing required.

- 2) Cost Proposal

Bidders should provide the per unit design manufacturing, delivery and installation cost. Please provide cost proposal for:

Single unit

Five Units

Ten Units

15 Units

20 Units

Any specifications that must be decided by the City should be clearly marked to allow the City to calculate how specific design choices will impact the overall cost of the project.

3) Schedule

Please provide proposed schedule for the items detailed in section II “Scope of Work” above. If all units will not be delivered at once, please provide proposed schedule for unit delivery.

IV. CONTRACTOR SELECTION

The selected contractor must have a proven track record producing modular shelter units and accompanying infrastructure or similar items.

The contractor will be selected based on the price, conformance with the requested specifications, schedule and overall quality of the design of the proposed items.

No proposal will be considered accepted until all necessary City authorizations, including those required by Board of Finance and City Council if necessary, have been received and an agreement is executed by both parties.

V. SUBMISSIONS

Proposals must be submitted no later than 4pm on February 17, 2022 in electronic form to: CEDO Assistant Director for Community Works, Samantha Dunn at SDunn@burlingtonvt.gov.

VI. EXHIBITS

- A. Exhibit A: Prequalification Contract
- B. Exhibit B: Draft Contract
- C. Exhibit C: Burlington Standard Contract Conditions
- D. Exhibit D: Burlington Livable Wage Ordinance Certification
- E. Exhibit E: Burlington Outsourcing Ordinance Certification
- F. Exhibit F: Burlington Union Deterrence Ordinance Certification

Bid documents include this main body of the request for proposals and all exhibits.

VII. CONTRACTING

The contractor must qualify as an independent contractor and, prior to being awarded a contract, must apply for registration with the Vermont Secretary of State's Office to do business in the State

of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1101, PH: 802-828-2363, Toll-free: 800-439-8683; Vermont Relay Service – 711; web site: <https://www.sec.state.vt.us/>. The contract will not be executed until the consultant is registered with the Secretary of State's Office.

Prior to beginning any work, the consultant shall obtain Insurance Coverage in accordance with the Burlington Contract Conditions (Exhibit C in this RFP). The certificate of insurance coverage shall be documented on forms acceptable to the City.

VIII. AGREEMENT REQUIREMENTS

The selected consultant will be required to execute a contract with the City on the terms and conditions required by the City, including but not limited to those in the Burlington Contract Conditions (Exhibit C) and the attached Draft Agreement (Exhibit B).

IX. LIMITATIONS OF LIABILITY

The City assumes no responsibility or liability for the response to this Request for Proposals.

X. COSTS ASSOCIATED WITH PROPOSAL

Any costs incurred by any person or entity in preparing, submitting, or presenting a proposal are the sole responsibility of that person or entity, including any requests for additional information or interviews. The City will not reimburse any person or entity for any costs incurred prior to the issuance of the contract.

XI. INDEMNIFICATION

Any party responding to this Request for Proposals is acting in an independent capacity and not as an officer or employee of the City. Any party responding to this Request for Proposals will be required to indemnify, defend, and hold harmless the City, its officers, and employees from all liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the responding party's acts and/or omissions in or related to the response.

XII. REJECTION OF PROPOSALS

The City reserves the right to reject any or all proposals, to negotiate with one or more parties, or to award the contract to the proposal the City deems will meet its best interests, even if that proposal is not the lowest bid. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals. This Request for Proposals in no way obligates the City to award a contract.

XIII. OWNERSHIP OF DOCUMENTS

Any materials submitted to the City in response to this Request for Proposals shall become the property of the City unless another arrangement is made by written agreement between the City and the responding party. The responding party may retain copies of the original documents.

XIV. DUTY TO INFORM CITY OF BID DOCUMENT ERRORS

If a bidder knows, suspects, or has reasonable cause to believe, that an error or omission exists in

any bid documents, including but not limited to unit prices and rate calculations, the bidder shall immediately give the City written notice thereof. Contractor shall not cause or permit any work to be conducted that may related to the error or omission without first receiving written acknowledgment from the City that City representatives understand the possible error or omission and have approved the requested modifications to the bid or contract documents or that the contractor may proceed without any modification being made to the bid or contract documents.

XV. PUBLIC RECORDS

Any and all records submitted to the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act. The determination of how those records must be handled is solely within the purview of City. All records the responding party considers to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, or that the responding party otherwise seeks to have the City consider as exempt must be identified clearly and specifically at the time of submission. It is not sufficient to merely state generally that a proposal is proprietary, contains a trade secret, or is otherwise exempt. Particular records, pages, and sections which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

XVI. PUBLIC HEALTH EMERGENCIES

Bidders are advised that public health emergencies, as declared by the City, the State of Vermont, or the Federal Government, including the current pandemic of Novel Coronavirus (COVID-19), may introduce significant uncertainty into the project, including disruption of timelines or revised practices. Contractors shall consider public health emergencies as they develop project schedules and advance the work.

The City may require a public health emergency plan be submitted as part of the bid. This plan will contain:

- 1) Measures to manage risk and ensure that potential impacts to safety and mobility are mitigated in accordance with health and safety standards and guidelines proposed by local, state, and federal agencies (see attached Draft Contract, Sections 15 and Exhibit C);
- 2) A schedule for possible updates to the plan in advance of the start of work (see attached Draft Contract, Section 15); and
- 3) Means to adjust the schedule and sequence of work should the emergency change in nature or duration.

The City will have sole discretion to approve, deny, or require changes to this plan as a condition of consideration of the bid, will retain the right to inspect all work to ensure compliance with health and safety standards, and may at any time require the contractor to stop work because of the emergency.

If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays

related to public emergencies, including the current pandemic of Novel Coronavirus (COVID-19), will be excusable, but will not be compensable.

Exhibit B - Contractor's Proposal

February 17, 2022

Dear Samantha Dunn,

I am so excited to be finally handing this over!

This project is a perfect fit for Up End This. In mission and spirit. In design and production. And in serendipity of timing.

Thank you for taking the time to review this proposal. I am happy to clarify any questions and offer up more information.

Sincerely,



Michael Zebrowski

Project name: Shelter Pods

Business Name: Up End This LLC

Mailing Address: PO Box 213 Johnson VT 05656

Physical Address: 931 VT RT 15 Johnson VT 05656

Contact: Michael Zebrowski Owner and Chief Design Officer

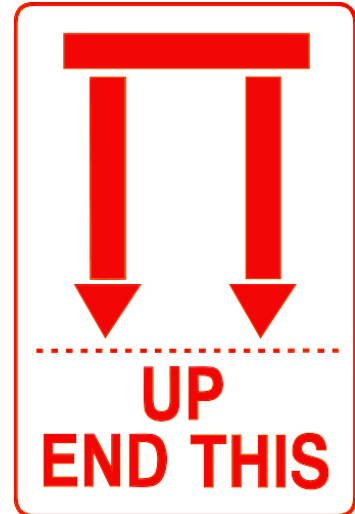
Number: 716-515-8649

Web: www.upendthis.com

Email: zebrowski@upendthis.com EIN: 85-2733795 DUNS: 048513994

Up End This
PO Box 213
Johnson Vermont
05656

www.upendthis.com

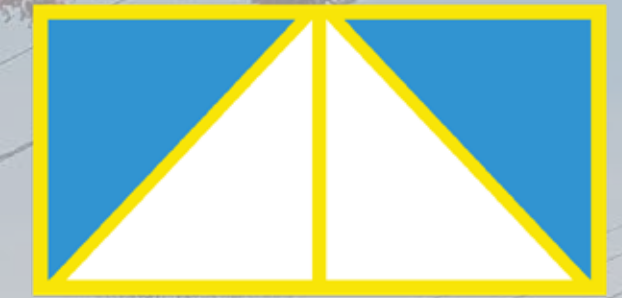


Up End This
PO Box 213
Johnson Vermont
05656

www.upendthis.com



Find Your Orbit
www.upendthis.com



SATELLITE

BY



City of Burlington

Shelter Pods

Shelter Pods



2022 Shelter Pods

Our Shelter Pods are designed to provide folks, experiencing some of the most difficult times in their lives, a quality space with a light and airy interior and solid environmental controls to provide: fresh air year round, warmth in the winter and a comfortable temperature when the mercury rises.

Our Shelter Pods are designed to provide the City of Burlington with a quality work of relocatable architecture that will endure the elements year after year and remain flexible to adapt to changes in use over the products lifespan.





Shelter Pod Exterior Specifications

Dimensions

64 Square Feet
Overall 10' - 2" x 8' - 4" x 9' - 10" (L x W x H)
Integral Legs telescope 4" to 18"
Weight 2800lbs (estimated)

Accessibility

32" all steel door with commercial locking door handle
Integral 12" x 96" stoop
Optional ramp and zero barrier threshold possible

Envelope

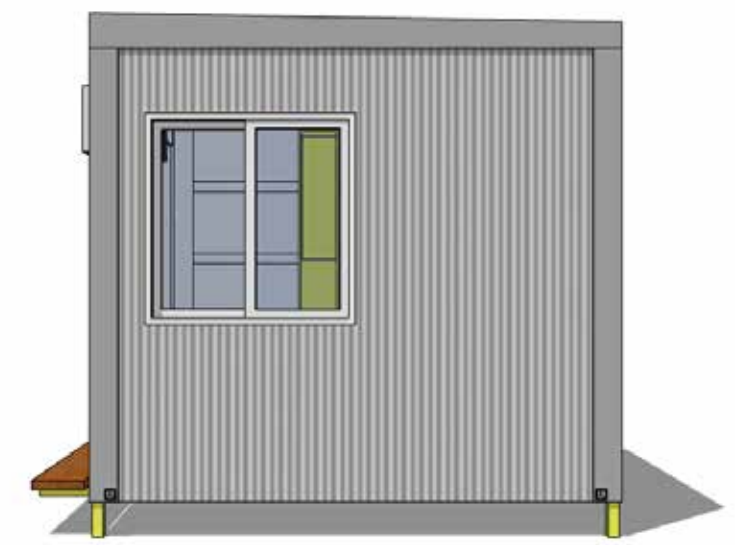
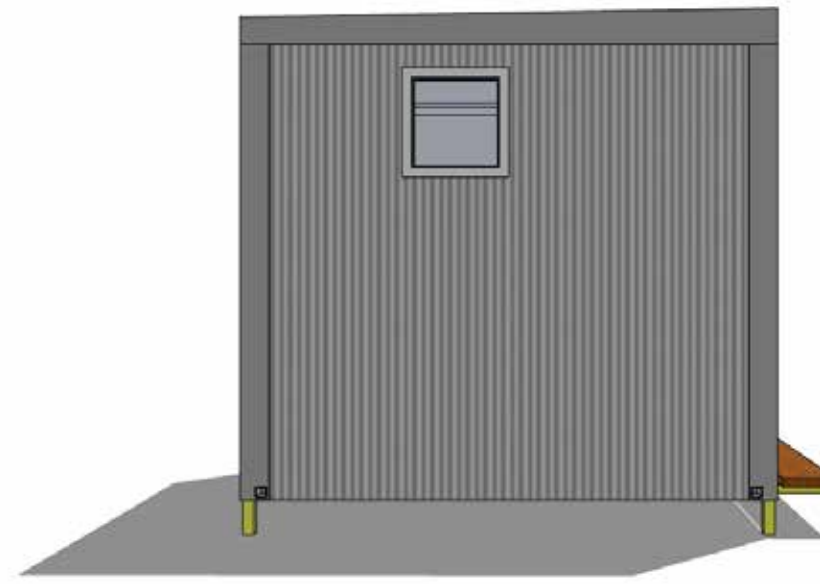
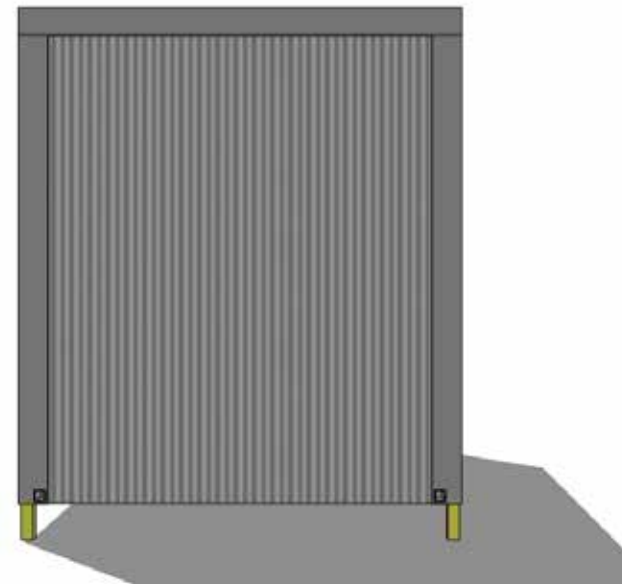
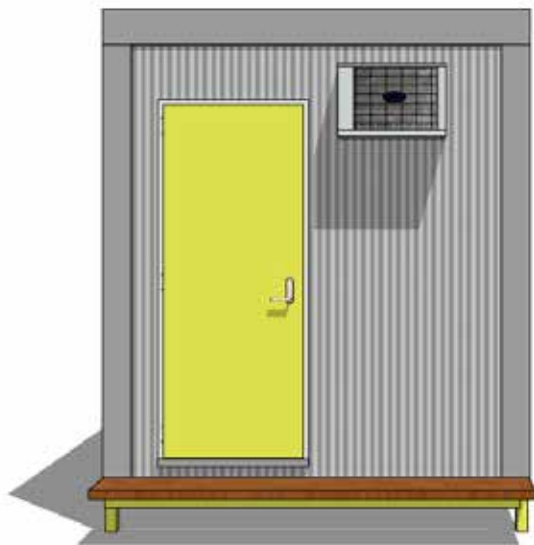
Exterior siding: Corrugated Metal
Exterior Corners: Painted Steel
Roof Material: Corrugated Metal
R Values: Floor (R-22) Walls (R-22) Ceiling (R30)
24" x 24" operable awning window
48" x 48" operable sliding window (egress rated)
Roof meets 40psf snow load

Power and Lighting

30 amp panel with 25' RV power cord
(x4) 20 amp electrical outlets
Solar motion detection light at entry door
15 amp overhead light fixture with wall switch at door

Environmental Controls

5500 BTU in wall heating and air conditioner unit
15 amp Heat Recovery Ventilator in ceiling





Shelter Pod Interior Specifications

Flooring

Resilient and sustainable solid bamboo flooring

Walls

1/2" Poplar plywood with high gloss white finish
Integral cleat system for easy installation and repositioning of CRATE options

Ceiling

1/2" Poplar plywood with high gloss white finish

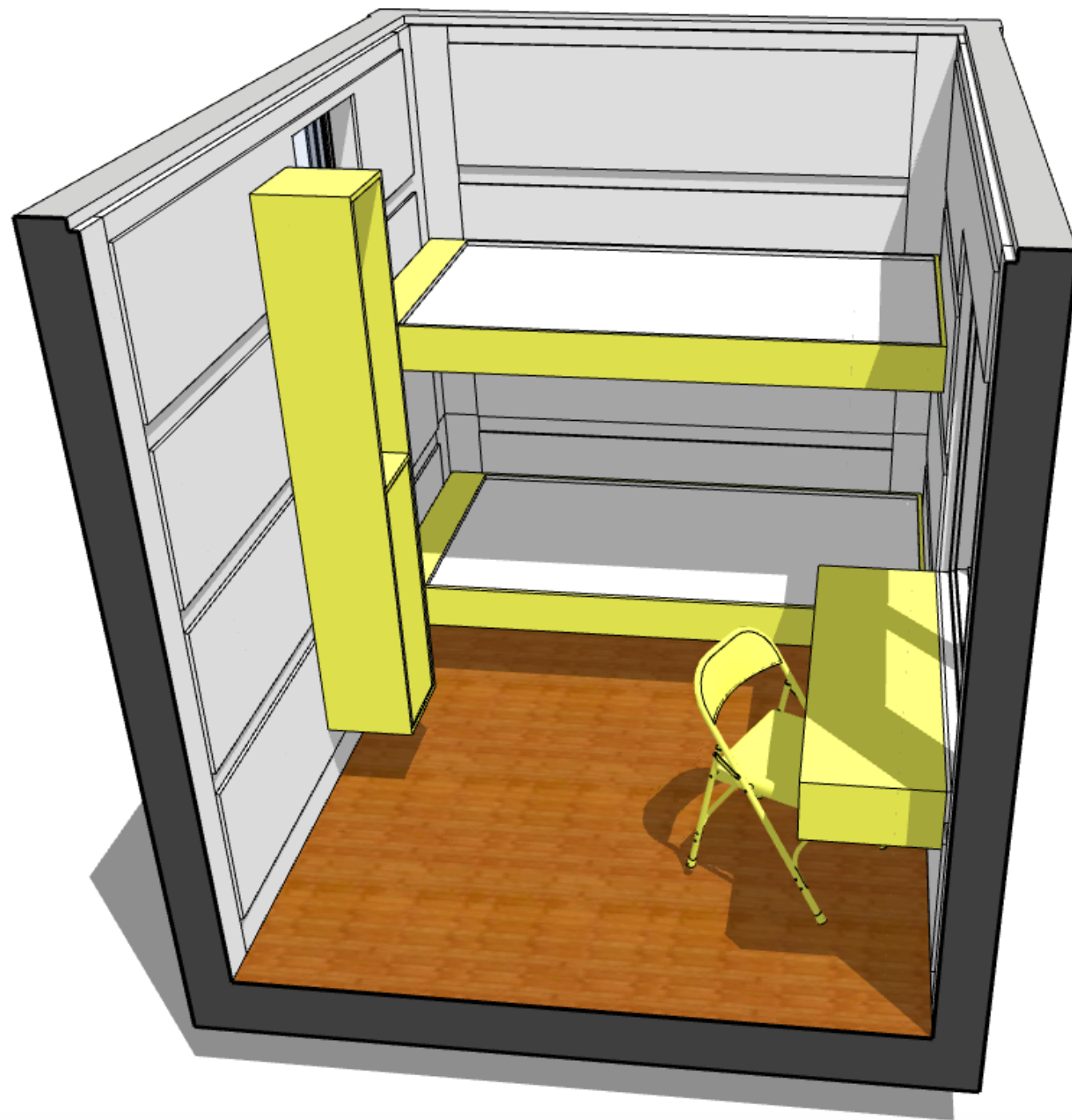
Dimensions

Ceiling Height 8' - 0"

Width 7' - 2"

Length 9' - 2"





Accessories Included

Our furniture options are called CRATEs. They are modular in nature and work directly with our innovative and integrated wall cleat system. All CRATEs are made of high quality furniture grade plywood. Parts are made using the CNC router and assembled with precision. A high gloss paint finish is on all surfaces.

Shelter Pods are equipped with:

(x1) CRATE Beds (two shown in rendering)

6" Twin Mattresses fit our bed frames (not included). The frames attach to our wall cleat system with four adjustable wall brackets. The bed frame securely attaches to the brackets so they will not move. At the head of the bed is a shelf to place a phone and a bottle of water. Cleaning under this bed is easy as there are no legs to sweep around. This also makes for great storage space for important belongings. The beds have a 400lb weight capacity.

(x1) CRATE Locker

This Locker is 12" x 12" x 70". It has a lower door that can be locked using a padlock and an open upper cabinet with one adjustable shelf. Hooks are integral in the lower cabinet and on the sides of the Locker.

(x1) CRATE Desk

The Desk is 48" x 16" x 8". It has two interior shelves for books and papers. An integral outlet built in that plugs into the wall outlet of the module. This outlet has one USB port and two 15 amp outlets. This Desk is designed to be a bench if installed lower on the wall or a shelf if installed higher. It has a 350lb weight capacity.

(x1) CRATE Cleat for hanging two folding chairs

This simple Cleat is rated for 350lbs and in this module will hold two metal folding chair when not in use (chairs not included). It can also easily handle the weight of a large backpack.



Shelter Pod Delivery Specifications

One of our key innovations with our SATELLITEs is our unique delivery/installation system. It keeps our modules relocatable and easy to install/level on a variety of ground types and slopes.

Each one of our modules is designed with corner nodes that have inputs for our jacks and also telescopic leveling legs.

Heavy duty Trailer 15' x 8' x 32" with 3500 GVW
(x4) 7000lb hand crank jacks

We are recommending that the City of Burlington purchase one of our custom delivery trailers with the integrated jacking system. This will allow for in house ability to relocate and reposition the modules. Up End This does offer relocation service that starts at \$250 per move within 50 miles. Initial Delivery for all modules is included in the per unit cost.



Shelter Pod Costs

Due to the investment necessary by Up End This LLC to design and manufacture the Shelter Pod, we are only able to fulfill an order of 10 Shelter Pods or more. Delivery and Installation Costs are included in all unit costs.

These are projected costs based on the current concept design for the Shelter Pod and current material costs. Costs are expected to go up or down based on actual design and actual material costs once design is complete.

50% payment of that month's production work is required for work to begin. The remaining 50% due on delivery of each unit/batch.

Design Fee

A flat design fee of \$5000 will cover all design meetings, detail design and parts drawings for manufacturing. This needs to be paid as a retainer when contract is signed.

Trailer and delivery system

Cost per unit - \$5,600

Prototype Office Module

We currently have a prototype module that is at 50% completion. We can offer this module discounted at the following price. It is the same interior dimensions as the Shelter Pod. Design as per City of Burlington spec is included in the design fee. This price is for the unit only with no options.

Cost per unit - \$13,600

10 Shelter Pods

Cost per Shelter Pod - \$17,800

Total Cost - \$178,000

15 Shelter Pods

Cost per Shelter Pod - \$16,600

Total Cost - \$249,000

20 Shelter Pods

Cost per Shelter Pod - \$15,900

Total Cost - \$318,000

Shelter Pod Schedule

To ensure delivery of 10 to 20 Shelter Pods by September 15, 2022 the following scheduling milestones need to be met.

If there are delays in any of the early milestones in contract negotiation or pre-production design an appropriate extension of the September 15, 2022 delivery deadline will be made and communicated. We will be dedicating our entire production team and facility from June 1 to September 15 2022. It is critical that the City of Burlington work to meet these milestones so we can lock in that production time and space.

March 1, 2022

Contract Negotiation complete with signed contract and \$5000 retainer for design fees made.

April 15, 2022

Design of Shelter Pod is signed off on by the City of Burlington.

June 1, 2022

The Prototype Office Module is delivered.

July 1, 2022

(x6) Shelter Pods delivered

(x1) Trailer and Delivery System delivered

August 1, 2022

(x6) Shelter Pods delivered

September 1, 2022

(x6) Shelter Pods delivered

September 15, 2022

(x2) Shelter Pods delivered

For 10 and 15 units dates would be identical with proportional shifts.

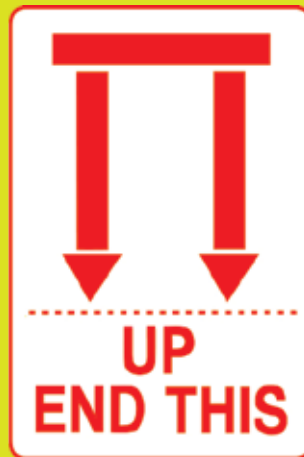
Up End This



This is a SATELLITE.

A relocatable modular architectural product that provides healthy living and working space to any individual or business.

Find Your Orbit
www.upendthis.com



Our Company

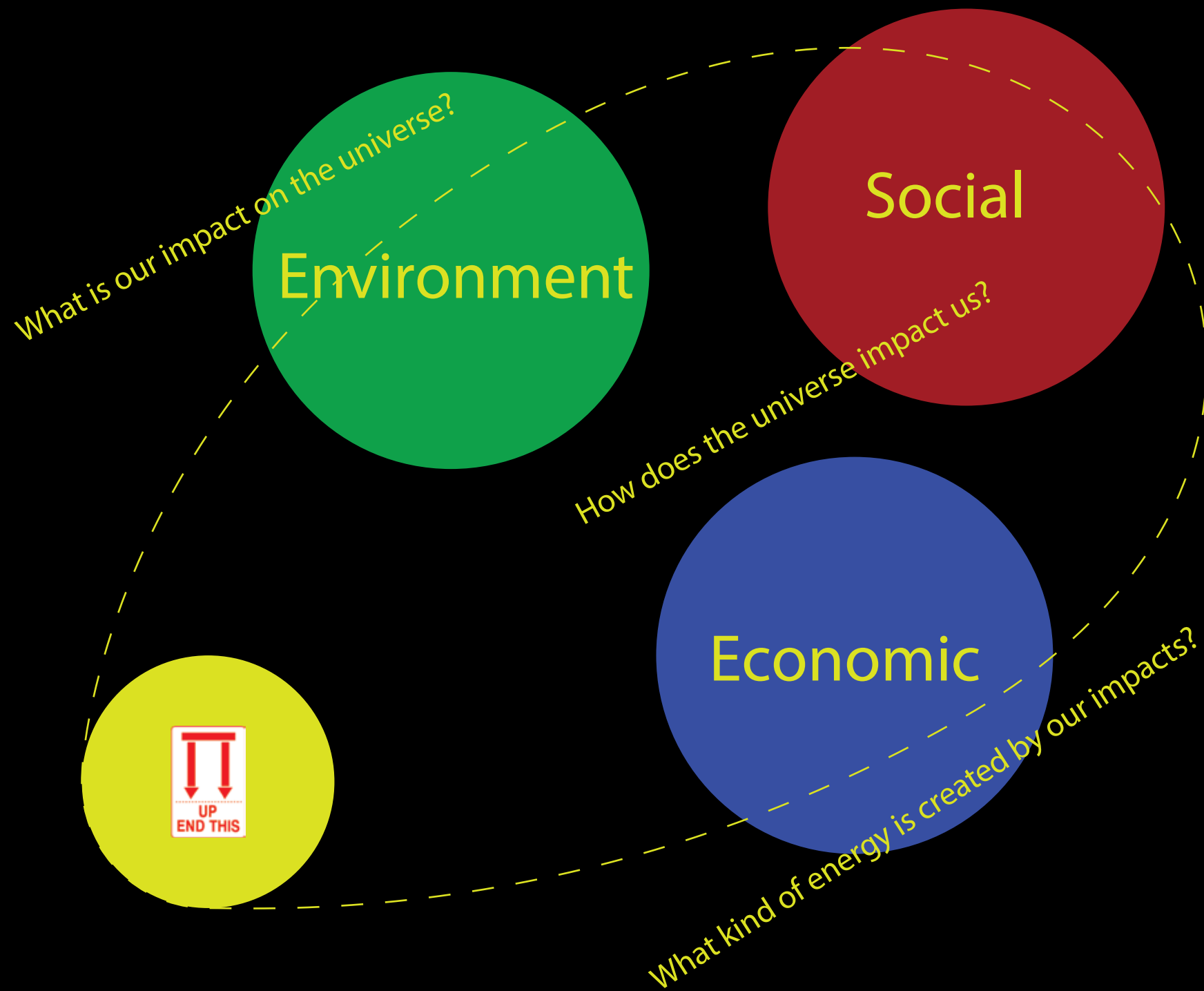
Up End This is a design and manufacturing think tank. Our architectural products called SATELLITEs aim to help solve spatial problems of the day for commercial and residential uses.

We are a VERMONT based company. Our ethos is VERMONT based. Our goal is to provide quality products that improve quality of life. Our SATELLITEs have a positive impact on the social, environmental and economic constructs around us.

Our roots are punk rock and DIY, evident in our moniker. We hope to be a part of a smart, equitable, robust and conscientious evolution of how we live and how we work over the next 30 years.



An alternative perspective is required to live and work in this rapidly changing world.



Our Value Proposition

Everyday we look for sustainable and equitable solutions to the true problems of the day, today and tomorrow. We look forward.

We are design innovators and pioneers in manufacturing architectural products.

We seek out the advantages in sustainable materials and processes.

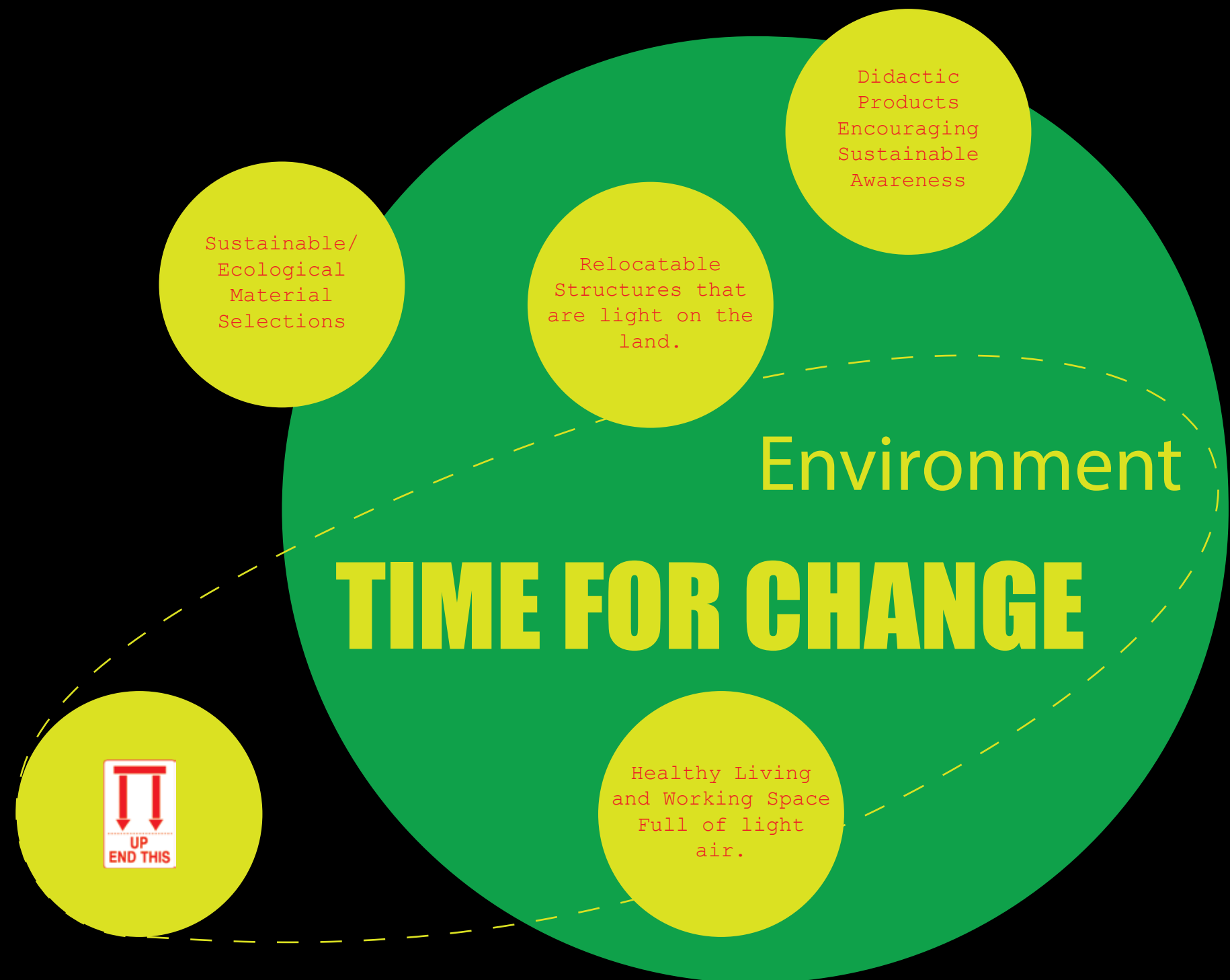
We use digital fabrication technology to efficiently make precision made but affordable and flexible architectural solutions.

We aim to bring joy and health to our customers lives. We look to build and educate a community of stewards of the social, environmental and economic fabric that we aim to positively contribute to.

We listen.



We are a design and manufacture think tank.
We tell the story of how our collective impact is felt on micro and **MACRO** levels.



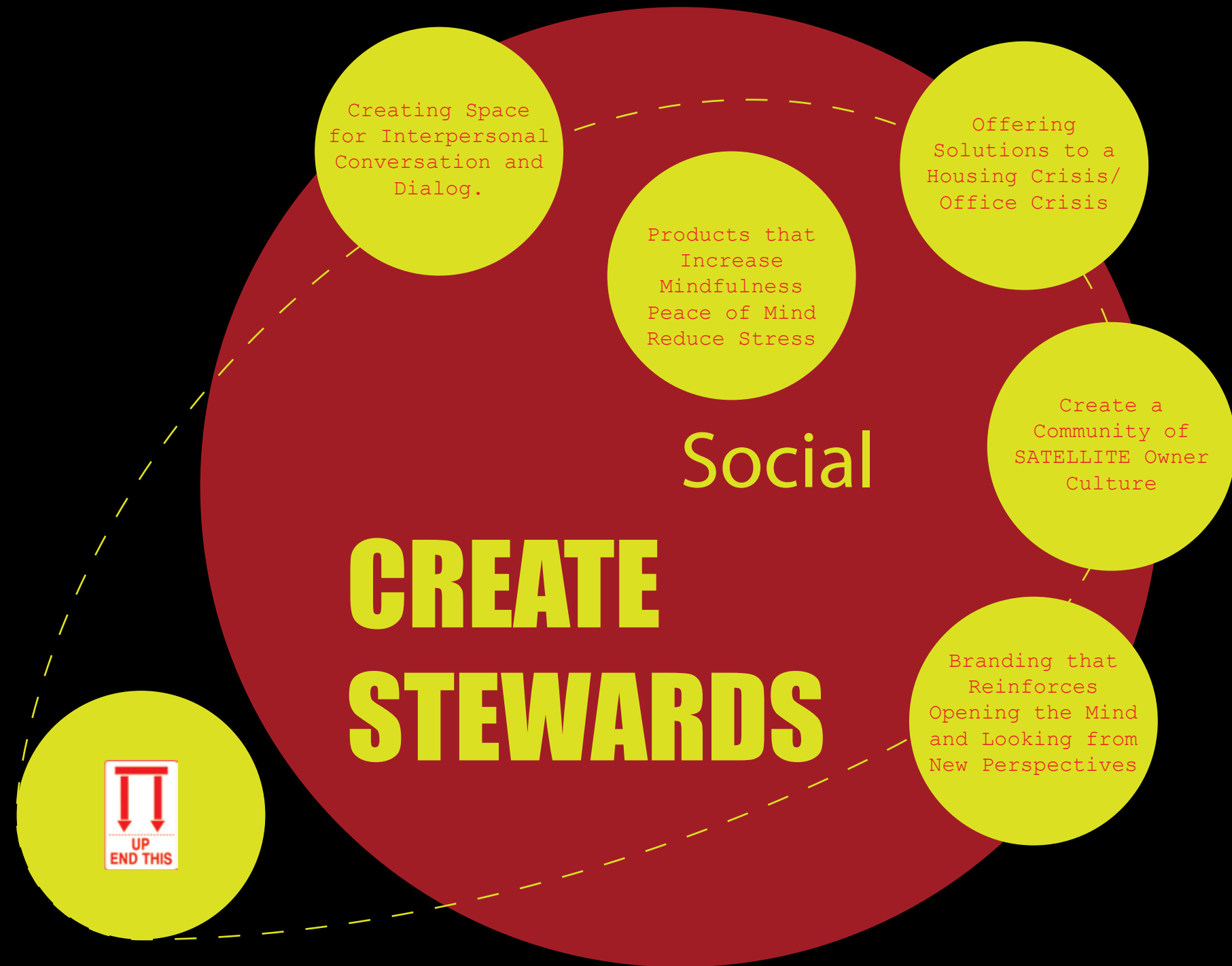
Time for Change

We are at the precipice of an environmental industrial revolution. The environment is having an impact more and more on the kinds of products we make, on how we make products and what we put in them.

We are a leader in this revolution. We believe that our innovations will allow for a successful practiced business model that will evolve at a high level of growth in scale year to year.



We are stewards of the environment.
We aim to share and suggest ways of evolving in a time of climate crisis.



Create a community of stewards

We are committed to Social Justice. Economic Justice and environmental Justice.

We aim to create a community of stewards. We aim to bring together a group of diverse individuals and entities that will support and enhance the social evolution that is before us.

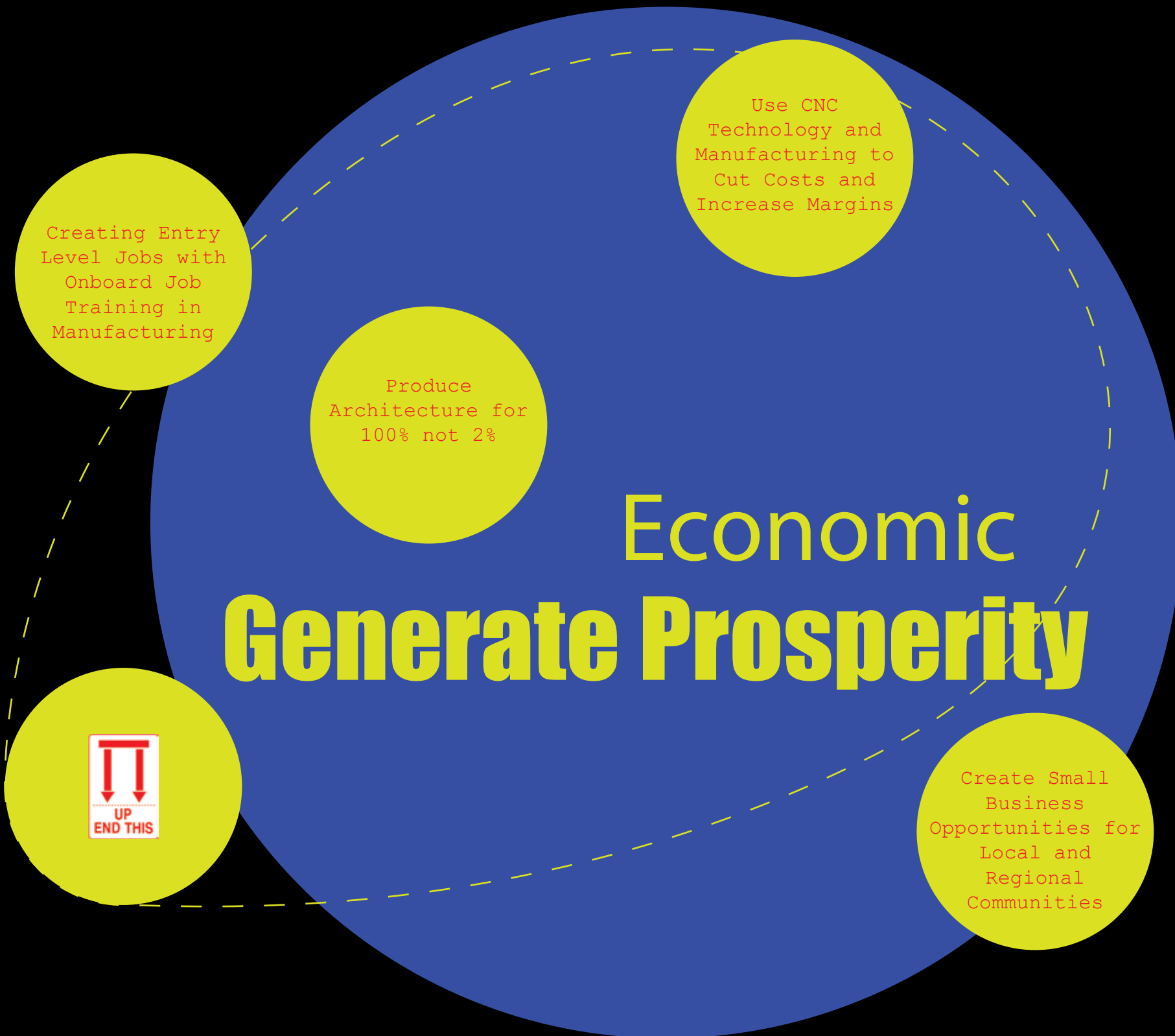
We are advocates of social justice.
We aim to support positive growth for all who are impacted by our reach.

Generate Prosperity

We will bring folks from inside our tiny state's borders and from well beyond to purchase our modules for the great value they will bring to their lives.

We will create quality jobs in the State of Vermont.

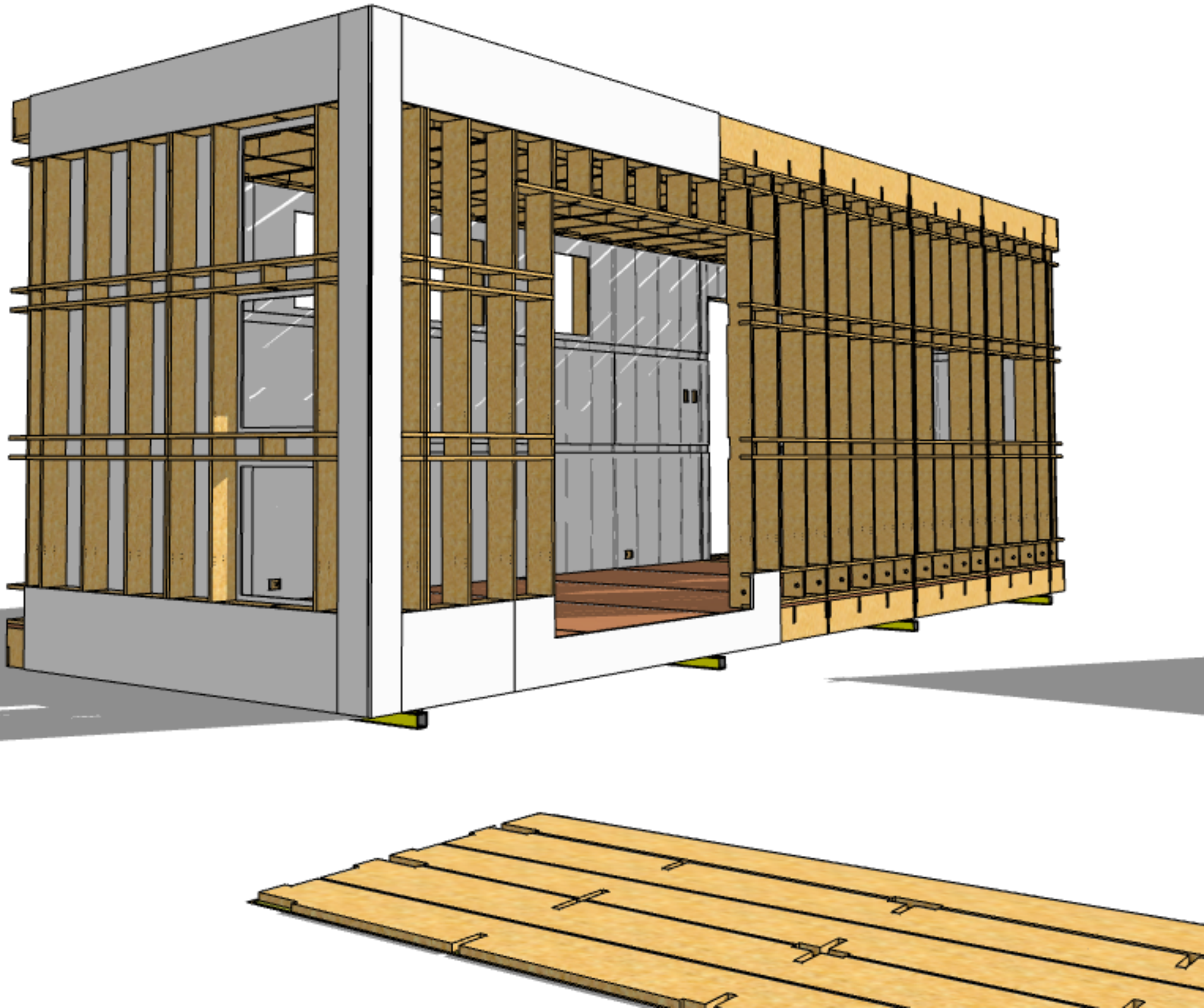
We will bring another strong business to Johnson Vermont in the heart of Lamoille county.



We embody an ethos rooted in economy of means practice and theory.
We aim to generate prosperity of many forms for all who engage our process.



SATELLITES



Our Innovations

We are innovating in the following ways:

Our company is looking towards the future and responding to how we will need to change our buildings now as we transition to a future where a climate crisis challenges our socio-economic construct day to day in new ways.

We are developing a new way to construct buildings using CNC (computer numerically controlled) cutting equipment and well trained inexperienced labor to make a high quality and affordable architectural product. We also are innovating in our delivery process.

Our products are didactic, they are teaching tools. We aim to encourage our customers to learn about ways to sustain their environment and themselves while becoming more self sufficient and more flexible.

We deliver a turn key product. No need to weekend warrior to complete your project. Our delivery system is a critical part of helping our customers receive a ready to occupy product as well as move the SATELLITE to new locations.



Manufacturing SATELLITEs

We use CNC routing technology to CUT our COSTS and increase our efficiencies and quality.

All of our framing parts, sheathing parts and even steel components are cut using Computer Numerically Controlled (CNC) Routers, Plasma Cutters and Water Jet Cutters.

The parts are easy to assemble into componets using unskilled but well trained labor. And components are incredibly strong and lighter than traditional methods of wood framing.

We use GARNICA plywood for all of our wood parts. The material is high quality and sustainably produced with plantation raised Spanish/French poplar. The sheets are made without toxic elements found in most common plywood. The plywood is imported from Spain. We have secured a distributor out of Walpole Mass that can bring us a pallet to a shipping container load.

Aquisition of our own CNC Router will be critical to Up End This achieving our projected margins. The purchase and set up of this MULTICAM machine in Johnson Vermont is a large part of our second stage funding campaign. We currently have two employees that are trained to operate CNC equipment and they both do so at Generator Makerspace in Burlington Vermont. We will be using equipment there and relying on outside suppliers until our machine is set up Summer 2022.



Needed space.
Better space.
For all.



PROBLEM

Home office space, affordable housing, ADUs, quarantine suites, Airbnb suites, granny pods, she sheds, artist studio space, off grid cabins, coffee and bake goods cart, outdoor market portable merchant space, yoga and meditation space, emergency shelter, psychologist office, and music room, green room, the list seems to keep growing...

Now more than ever our customers are looking for solutions to their spatial needs. The pandemic coupled with the onset of climate change have created all kinds of problems for many Americans. We are a fresh and timely foil to these problems.



SOLUTION

We ease the pain of the times with these innovative products by providing a light and airy interior and features that will make life flexible and gratifying. All the while taking care of your basic needs in a sustainable way.

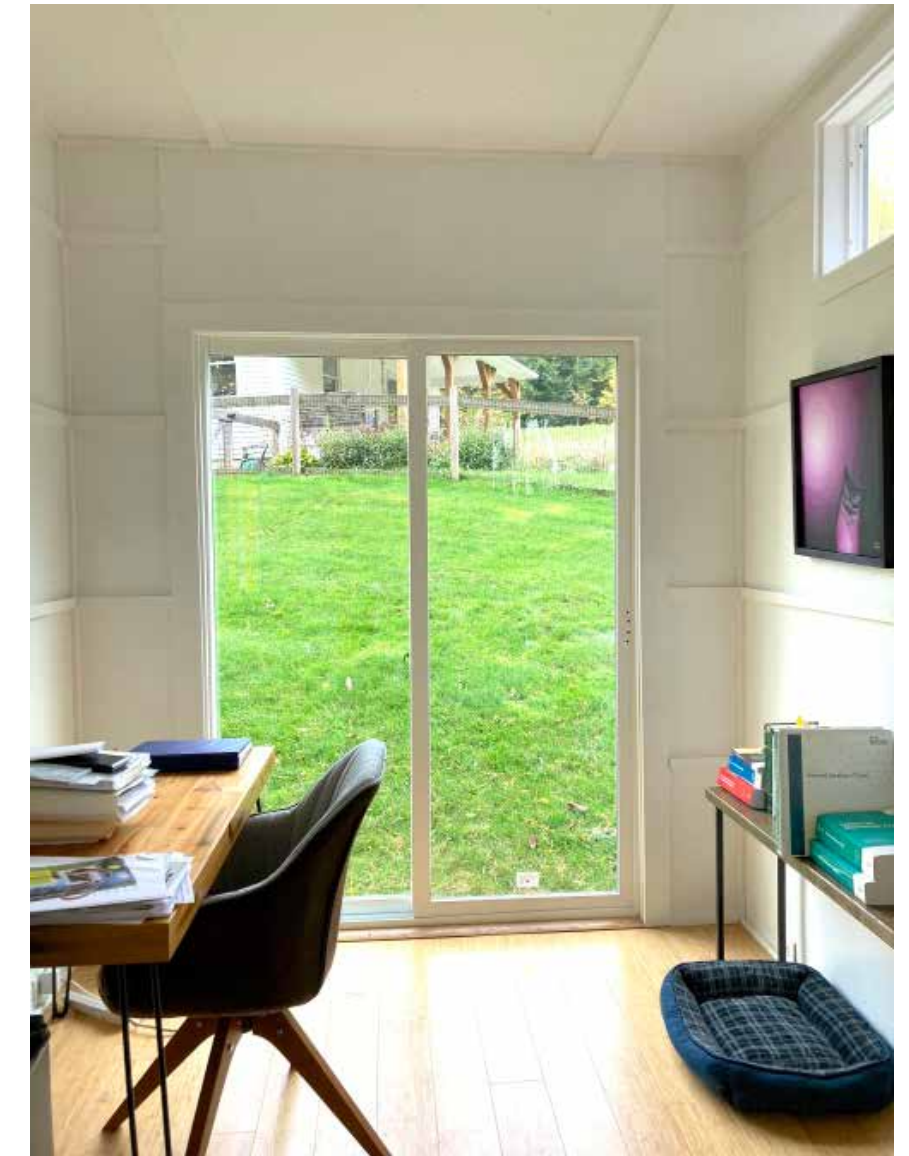
The problems our modular relocatable architectural solutions can solve for our customers are vast. And our solutions ease their pain while also creating new joys for them as our SATELLITEs are affordable and relocatable. They are also environmentally healthy. For the macro environment, because they are made of sustainable and durable, energy friendly materials, are passive solar in design and they promote a more sustainable off-grid lifestyle for life and work. They are also engineered to be healthy for the occupant because they are well insulated, well ventilated and have a great quality of natural light.





2021 Service Module

Our first sale and delivered Service Module is owned and operated by Front Seat Coffee. Their brick and mortar location is in Hardwick VT. The owner wanted to expand their business and opted for our Service Module. The module was delivered to the Village Green in Johnson Vermont and earned on average \$500 a day through the 2021 Summer season. Up End This relocated the module in the Fall to Craftsbury Outdoor Center where the module is operating today and through the Winter season. In the Spring Up End This will move the Front Seat Coffee Satellite back to Johnson where it will anchor the corner of the new Up End This headquarters on Main Street in Johnson. This customer represents our sojourner/hospitality market segments.



2021 Task Module

Our first sale and delivered Task Module is a home office oasis for an Attorney living in Charlotte Vermont. The module is outfitted with an optional deck, we call it a dock, and this provides easy entry on the sloping site and also floating outdoor space.

While the module is coveted space away from the busy house, the matriarch of the family does allow occasional visitors and has converted her office into a guest bedroom for a visiting niece. However her dog is always welcome and is at home in the SATELLITE.

This customer represents an example of our wellness/hospitality market segments.

FIND YOUR ORBIT

Exhibit C - Burlington Standard Contract Conditions

**ATTACHMENT C:
BURLINGTON STANDARD CONTRACT CONDITIONS
FOR CONTRACTORS**

1. DEFINITIONS:

- A. The “Contract” shall mean the Contract between Contractor and the City to which these conditions apply and includes this Attachment C.
- B. The “Contractor” shall mean Up End This, LLC.
- C. The “City” shall mean the City of Burlington, Vermont or any of its departments.
- D. The “Effective Date” shall mean the date on which the Contract becomes effective according to its terms, or if no effective date is stated, the date that all parties to it have signed.
- E. The “Parties” shall mean the parties to this Contract.
- F. The “Work” shall mean the services being provided by the Contractor, as provided in the Contract.

2. REGISTRATION: The Contractor agrees to be registered with the Vermont Secretary of State’s office as a business entity doing business in the State of Vermont at all times this Contract is effective. This registration must be complete prior to Contract execution.

3. INSURANCE: Prior to beginning any work, the Contractor shall obtain the following insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). The certificate of insurance coverage shall be documented on forms acceptable to the City. Compliance with minimum limits and coverage, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the City, must be received prior to the Effective Date of the Contract. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the City. If this Contract extends to more than one year, evidence of continuing coverage must be submitted to the City on an annual basis. Copies of any insurance policies may be required. Each policy (with the exception of professional liability and worker’s compensation) shall name the City as an additional insured for the possible liabilities resulting from the Contractor’s actions or omissions. The liability insurance furnished by the Contractor is primary and non-contributory for all the additional insured.

The Contractor is responsible to verify and confirm in writing to the City that: (i) all sub-contractors must comply with the same insurance requirements as the Contractor; (ii) all coverage shall include adequate protection for activities involving hazardous materials; and (iii) all work activities related to the Contract shall meet minimum coverage and limits.

No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor’s operations. These are solely minimums that have been developed and must be met to protect the interests of the City.

A. General Liability And Property Damage: With respect to all operations performed by the Contractor, sub-contractors, agents or workers, it is the Contractor’s responsibility to

ensure that general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors'/Consultants' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses

Coverage limits shall not be less than:

1.	General Aggregate	\$2,000,000
2.	Products-Completed/Operations	\$2,000,000
3.	Personal & Advertising Injury	\$1,000,000
4.	Each Occurrence	\$1,000,000
5.	Damage to Rented Premises	\$ 250,000
6.	Med. Expense (Any one person)	\$ 5,000

B. Workers' Compensation: With respect to all operations performed, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all sub-contractors carry the same workers' compensation insurance for all work performed by them under this Contract. Minimum limits for Employer's Liability:

1. Bodily Injury by Accident: \$500,000 each accident
2. Bodily Injury by Disease: \$500,000 policy limit,
\$500,000 each employee

C. Professional Liability Insurance:

1. General: The Consultant/Contractor shall carry appropriate professional liability insurance covering errors and omissions made during their performance of contractual duties with the following minimum limits:
 - (a) \$3,000,000 - Annual Aggregate
 - (b) \$2,000,000 - Per Occurrence
2. Deductibles: The Contractor is responsible for any and all deductibles.
3. Coverage: Prior to performing any work, the Contractor shall provide evidence of professional liability insurance coverage defined under this section. In addition, the Contractor shall maintain continuous professional liability coverage for the period of the Contract and for a period of five years following substantial completion of construction.

D. Automobile Liability: The Contractor shall carry commercial automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the Contract. Each policy shall provide coverage with a limit not less than: \$1,000,000 Combined Single Limit for each occurrence.

E. Valuable Papers And Records Insurance: The Contractor shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the City or developed by the Contractor, sub-contractor, worker, or agent, in the event of loss, impairment, or destruction. Such coverage shall remain in force until the final plans as well as all related materials have been delivered by the Contractor to, and accepted by, the City. Unless otherwise provided, Valuable Papers and Records Insurance shall provide coverage on an “individual occurrence” basis with limits in the amount of one hundred and fifty thousand dollars (\$150,000) when the insured items are in the Contractor’s possession, and in the amount of forty thousand dollars (\$40,000) regardless of the physical location of the insured items.

F. Umbrella Liability:

1. \$1,000,000 Each Event Limit
2. \$1,000,000 General Aggregate Limit

4. CONFLICT OF INTEREST: The Contractor shall disclose in writing to the City any actual or potential conflicts of interest or any appearance of a conflict of interest by the Contractor, its employees or agents, or its sub-contractors, if any.

5. PLANS, RECORDS, AND AVAILABLE DATA: The City agrees to make available, at no charge, for the Contractor’s use all available data related to the Contract including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plats, or any other pertinent public records.

6. PERSONNEL REQUIREMENTS AND CONDITIONS: The Contractor shall employ only qualified personnel with appropriate and valid licensure, to the extent a license is required for the work performed. The City shall have the right to approve or disapprove key personnel assigned to administer activities related to the Contract.

Except with the approval of the City, during the life of the Contract, the Contractor shall not employ:

1. Any City employees who are directly involved with the awarding, administration, monitoring, or performance of the Contract or any project(s) that are the subjects of the Contract.
2. Any person so involved within one (1) year of termination of employment with the

City.

The Contractor warrants that no company or person has been employed or retained, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that no company or person has been paid or has a contract with the Contractor to be paid, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this warranty, the City shall have the right to annul the Contract, without liability to the City, and to regain all costs incurred by the City in the performance of the Contract.

The City reserves the right to require removal of any person employed by a Contractor, from work related to the Contract, for misconduct, incompetence, or negligence as determined by the City, in the due and proper performance of Contractor's duties, or for neglecting or refusing to comply with the requirements of the Contract.

7. **PERFORMANCE:** Contractor warrants that performance of Work will conform to the requirements of this Contract. Contractor shall use that degree of ordinary care and reasonable diligence that an experienced and qualified provider of similar services would use acting in like circumstances and experience in such matters and in accordance with the standards, practices and procedures established by Contractor for its own business.
8. **DESIGN STANDARDS:** Unless otherwise specifically provided for in the Contract, or directed in writing, Contractor services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data shall be in conformance with applicable City, state, and federal specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted prior to or during the duration of this Contract. In case of any conflict with the guidelines referenced, the Contractor is responsible to identify and follow any course of direction provided by the City.
9. **RESPONSIBILITY FOR SUPERVISION:** The Contractor shall assume primary responsibility for general supervision of Contractor employees and their sub-Contractors for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Contract. The Contractor shall be responsible to the City for all acts or omissions of its sub-contractors and any other person performing work under this Contract.
10. **UTILITIES:** Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Contractor will counsel with the City, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Contractor shall inform the City, in writing, of any such contacts and the results thereof.
11. **INSPECTION OF WORK:** The City shall, at all times, have access to the Contractor's work

for the purposes of inspection, accounting, and auditing, and the Contractor shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Contractor shall permit the City or representative for the City the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Contractor pursuant to the Contract, as well as any preparatory work, work-in-progress, or completed work at a field site, where applicable.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the City.

12. REVIEWS AND ACCEPTANCES: All preliminary and detailed designs, plans, specifications, estimates or other documents prepared by the Contractor, shall be subject to review and endorsement by the City.

Approval for any inspections or sequences of progress of work shall be documented by letters, memoranda or other appropriate written means.

A frequency for formal reviews shall be set forth in the Contract. Informal reviews, conducted by the City will be performed as deemed necessary. The Contractor shall respond to all official comments regardless of their source. The Contractor shall supply the City with written copies of all correspondence relating to formal and informal reviews.

No acceptance shall relieve a Contractor of their professional obligation to correct any defects or errors in their work at their own expense.

13. PUBLIC RELATIONS: Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Contractor will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Contractor shall conduct themselves with propriety. The Contractor agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the City, in accordance with 19 V.S.A. § 35 and §.503, to accomplish the work under the Contract. The Contractor agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Contractor, the City shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Contractor is acting as an agent of the City.

14. ACKNOWLEDGEMENTS: Acknowledgment of the City's support must be included in any and all publications, renderings and project publicity, including audio/visual materials developed under this Contract.

15. APPEARANCES:

A. Hearings and Conferences: The Contractor shall provide services required by the City and necessary for furtherance of any work covered under the Contract. These services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify,

explain and defend its contractual services covered under the Contract.

The Contractor shall perform any liaison that the City deems necessary for the furtherance of the work and participate in conferences with the City, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Contract.

The Contractor further agrees to participate in meetings with the City and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Contract.

The Contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract.

- B. Appearance as Witness:** If and when required by the City, the Contractor, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related contract, on behalf of the City. The Contractor shall be equitably paid, to the extent permitted by law, for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract.

- 16. PAYMENT PROCEDURES:** The City shall pay, or cause to be paid, to the Contractor or the Contractor's legal representative payments in accordance with the Contract. All payments will be made in reliance upon the accuracy of all representations made by the Contractor, whether in invoices, progress reports, emails, or other proof of work. When applicable, for the type of payment specified in the Contract, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Contract number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Contract, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont's labor contract, and need not be receipted. All other expenses are subject to approval by the City and must be accompanied with documentation to substantiate their charges.

No approval given or payment made under the Contract, shall be conclusive evidence of the performance of the Contract, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The City agrees to pay the Contractor and the Contractor agrees to accept, as full compensation, for performance of all services rendered and expenses incurred, the fee specified in the Contract.

Upon completion of all services covered under the Contract and payment of the agreed upon fee, the Contract with its mutual obligations shall end.

17. DUTY TO INFORM CITY OF CONTRACT DOCUMENT ERRORS: If Contractor knows, or has reasonable cause to believe, that a clearly identifiable error or omission exists in the Contract Documents, including but not limited to unit prices and rate calculations, Contractor shall immediately give the City written notice thereof. Contractor shall not cause or permit any Work to be conducted which may relate to the error or omission without first receiving written notice by the City that City representatives understand the possible error or omission and have approved of modifications to the Contract Documents or that Contractor may proceed without any modification being made to Contract Documents.

18. NON-APPROPRIATION: The obligations of the City under this Contract are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Contract shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. The decision whether or not to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Contractor as soon as practicable of any non-appropriation, and Contractor shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

19. CHANGES AND AMENDMENTS: No changes or amendments to the Work of the Contract shall be effective unless documented in writing and signed by authorized representatives of the City and the Contractor.

20. EXTENSION OF TIME: The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Contractor for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Contract. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the City may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Contractor and without the fault or negligence of the Contractor.

21. PUBLIC HEALTH EMERGENCY:

Compliance with Mandates and Guidance: The Contractor is advised that public health emergencies—meaning public health emergencies, as declared by the City, the State of Vermont, or the Federal Government—may introduce significant uncertainty into the project. The Contractor must comply with all local, state, federal orders, directives, regulations, guidance, advisories during a public health emergency. Contractor shall adhere to the below provisions and consider public health emergencies as it develops project schedules and advances the Work.

A. City Liability Relating to Potential Delays: If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays related to a public health

emergency will be excusable, but will not be compensable.

22. FORCE MAJEURE: Neither Party to this Contract shall be liable to the other for any failure or delay of performance of any obligation under this Contract to the extent the failure or delay is caused by acts of God, public health emergencies, epidemics, 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 under its control (“Force Majeure”). To assert Force Majeure, the nonperforming party must prove that a) it made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, b) diligently pursued performance of its obligations, c) substantially fulfilled all obligations that could be fulfilled, and d) timely notified the other part of the likelihood or actual occurrence of a Force Majeure event. If any such causes for delay are of such magnitude as to prevent the complete performance of the Contract within two (2) years of the originally scheduled completion date, either Party may by written notice request to amend or terminate the Contract. The suspension of any obligations under this section shall not cause the term of this Contract to be extended and shall not affect any rights accrued under this Contract prior to the occurrence of the Force Majeure. The Party giving notice of the Force Majeure shall also give notice of its cessation.

23. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The City may, in writing, and without invalidating the Contract, require changes resulting from revision or abandonment of work already performed by the Contractor or changes in the scope of work.

The value of such changes, to the extent not reflected in other payments to the Contractor, shall be incorporated in an amendment and be determined by mutual agreement. Any adjustments of this nature shall be executed under the appropriate fee established in the Contract, based on the adjusted quantity of work.

No changes for which additional fee payment is claimed shall be made unless pursuant to a written order from the City, and no claim for payment shall be valid unless so ordered.

The Contractor agrees to maintain complete and accurate records, in a form satisfactory to the City for all time devoted directly to same by Contractor employees. The City reserves the right to audit the records of the Contractor related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Contract. When changes are so ordered, no additional work shall be performed by the Contractor until a Contract amendment has been fully executed, unless written notice to proceed is issued by the City. Any claim for extension of time that may be necessitated as a result of extra work or additional services and changes shall be given consideration and evaluated insofar as it directly relates to the change.

24. FAILURE TO COMPLY WITH TIME SCHEDULE: If the City is dissatisfied because of slow progress or incompetence in the performance of the Work in accordance with the schedule for completion of the various aspects of construction, the City shall give the Contractor written notice in which the City shall specify in detail the cause of dissatisfaction. Should the Contractor fail or refuse to remedy the matters complained of within five days after the written notice is received by the Contractor, the City shall have the right to take control of the Work and either make good the deficiencies of the Contractor itself or direct the activities of the

Contractor in doing so, employing such additional help as the City deems advisable. In such events, the City shall be entitled to collect from the Contractor any expenses in completing the Work. In addition, the City may withhold from the amount payable to the Contractor an amount approximately equal to any interest lost or charges incurred by the City for each calendar day that the Contractor is in default after the time of completion stipulated in the Contract Documents.

25. RETURN OF MATERIALS: Contractor agrees that at the expiration or termination of this Contract, it shall return to City all materials provided to it during its engagement on behalf of City.

26. ACCEPTANCE OF FINAL PAYMENT; RELEASE: Contractor's acceptance of the final payment shall be a release in full of all claims against the City or its agents arising out of or by reason of the Work. Any payment, however, final or otherwise, shall not release the Contractor or their sureties from any obligations under the Contract Documents or any performance or payment bond.

27. OWNERSHIP OF THE WORK: The Contractor agrees that the ownership of all studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM and other material prepared or collected by the Contractor, hereafter referred to as "instruments of professional service", shall become the property of the City as they are prepared and/or developed during execution of the Contract. The Contractor agrees to allow the City access to all "instruments of professional service" at any time. The Contractor shall not copyright any material originating under the Contract without prior written approval of the City. No publications or publicity of the work, in part or in total, shall be made without the express written agreement of the City, except that Contractor may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.

28. PROPRIETARY RIGHTS: The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed by the Contractors under the Contract, all rights accruing from such discoveries or inventions shall be the sole property of the Contractor. The Contractor, however, agrees to and does hereby grant to the City an irrevocable, nonexclusive, non-transferable, and royalty-free license to the manufacture, use, and disposition of any discovery or invention that may be developed as a part of the Work under the Contract.

29. PUBLIC RECORDS: The Contractor understands that any and all records related to and acquired by the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act and that the determination of how those records must be handled is solely within the purview of City. The Contractor shall identify all records that it considers to be trade secrets as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act and shall also identify all other records it considers to be exempt under the Act. It is not sufficient to merely state generally that the record is proprietary or a trade secret or is otherwise exempt. Particular records, pages or section which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing

explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

- 30. RECORDS RETENTION AND ACCESS:** The Contractor agrees to retain, in its files, and to produce to the City—within the time periods requested—all books, documents, Electronic Data Media (EDM), accounting records, and other records produced or acquired by the Contractor in the performance of this Contract which are related to the City, at any time during this Contract and for a period of at least three (3) years after its completion or termination. In addition, if any audit, claim, or litigation is commenced before the expiration of that three (3) year period, the records shall be retained until all related audits, claims, or litigation are resolved. The Contractor further agrees that the City shall have access to all the above information for the purpose of review and audit during the Contract period and anytime within the aforementioned retention period. Copies of all of the above referenced information shall be provided to the City, if requested, in the format in which the records were obtained, created, or maintained, such that their original use and purpose can be achieved. Contractor, sub-Contractors, or their representatives performing work related to the Contract, are responsible to ensure that all data and information created or stored on EDM is secure and can be duplicated and used if the EDM mechanism is subjected to power outage, obsolescence, or damage.
- 31. CONTRACT DISPUTES:** In the event of a dispute between the parties to this Contract each party will continue to perform its obligations unless the Contract is terminated in accordance with these terms.
- 32. SETTLEMENTS OF MISUNDERSTANDINGS:** To avoid misunderstandings and litigation, it is mutually agreed by all Parties that in the case of disputes, both parties agree to discussions between parties and, if necessary, non-binding mediation.
- 33. CITY'S OPTION TO TERMINATE:** The Contract may be terminated in accordance with the following provisions, which are not exclusive:
- A. Termination for Convenience:** At any time prior to completion of services specified under the Contract, the City may terminate the Contract for any reason by submitting written notice via certified or registered mail to the Contractor, not less than fifteen (15) days prior to the termination date, of its intention to do so. If the termination is for the City's convenience, payment to the Contractor will be made promptly for the amount of any fees earned to the date of the notice of termination and costs of materials obtained in preparation for Work but not yet installed or delivered, less any payments previously made. However, if a notice of termination is given to a Contractor prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Contractor will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the City's approval. The Contractor shall make no claim for additional compensation against the City by reason of such termination.

B. Termination for Cause:

- i. Breach: Contractor shall be in default if Contractor fails in any manner to fully perform and carry out each and all conditions of this Contract, including, but not limited to, Contractor's failure to begin or to prosecute the Work in a timely manner or to make progress as to endanger performance of this Contract; failure to supply a sufficient number of properly skilled employees or a sufficient quantity of materials of proper quality; failure to perform the Work unsatisfactorily as determined by the City; failure to neglect or refuse to remove materials; or in the event of a breach of warranty with respect to any materials, workmanship, or performance guaranty. Contractor will not be in default for any excusable delays as provided in Sections 19-21.

The City may give Contractor written notice of such default. If Contractor does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by the City, then the City may terminate this contract for cause.

- ii. Proceedings for Relief of Debtors: If a federal or state proceeding for relief of debtors is undertaken by or against Contractor, or if Contractor makes an assignment for the benefit of creditors, then the City may immediately terminate this contract.
- iii. Dishonest Conduct: If Contractor engages in any dishonest conduct related to the performance or administration of this Contract then the City may immediately terminate this contract.
- iv. Cover: In the event the City terminates this contract as provided in this section, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Contractor shall be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services, interest, or other charges the City incurs to cover.
- v. Rights and Remedies Not Exclusive: The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

34. GENERAL COMPLIANCE WITH LAWS: The Contractor and any sub-contractor approved under this Contract shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance, the Non-Outsourcing Ordinance, and the Union-Deterrence Ordinance and shall provide the required certifications attesting to compliance with these ordinances (see attached ordinances and certifications).

Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties. If, for any reason,

a provision in the Contract is unenforceable or invalid, that provision shall be deemed severed from the Contract, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Contract.

35. CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Contract, the Contractor will not discriminate against any employee or applicant for employment because of religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status, or genetic information. Contractor, and any sub-contractors, shall comply with any Federal, State, or local law, statute, regulation, Executive Order, or rule that applies to it or the services to be provided under this contract concerning equal employment, fair employment practices, affirmative action, or prohibitions on discrimination or harassment in employment.

36. CHILD SUPPORT PAYMENTS: By signing the Contract, the Contractor certifies, as of the date of signing the Contract, that the Contractor (a) is not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Contractor is a sole proprietorship, the Contractor's statement applies only to the proprietor. If the Contractor is a partnership, the Contractor's statement applies to all general partners with a permanent residence in Vermont. If the Contractor is a corporation, this provision does not apply.

37. TAX REQUIREMENTS: By signing the Contract, the Contractor certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, that the Contractor is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Contract.

38. INDEMNIFICATION:

A. Indemnification by Contractor: Except for the active negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns and successors in interest, Contractor undertakes and agrees to defend, indemnify and hold harmless the City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and Contractors), damages or liability of any nature whatsoever, for death or injury to any person, including Contractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by Contractor or its sub-contractors of any tier.

B. Notice of Claims & City's Right to Participate: If the City, its officers, agents, or employees are notified of any claims asserted against it to which this indemnification provision may

apply, the City shall immediately thereafter notify the Contractor in writing that a claim to which the indemnification provision may apply has been filed. Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The City retains the right to participate, at its own expense, in the defense of any claim, and to approve all proposed settlements of claims to which this provision applies.

C. City's Rights and Remedies: Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States and the State of Vermont.

D. No Indemnification by City: Under no conditions shall the City be obligated to indemnify the Contractor or any third party, nor shall the City be otherwise liable for expenses or reimbursement including attorney's fees, collection costs, or other costs of the Contractor or any third party.

39. NO GIFTS OR GRATUITIES: The Contractor shall not make any payment or gift or donation of substantial value to any elected official, officer, employee, or agent of the City during the term of this Contract.

40. ASSIGNMENT: Contractor shall not sublet or assign this Work, or any part of it, without the written consent of the City. If any sub-contractor is approved, Contractor shall be responsible and liable for all acts or omissions of that sub-contractor for any Work performed. If any sub-contractor is approved, Contractor shall be responsible to ensure that the sub-contractor is paid as agreed and that no lien is placed on any City property.

41. TRANSFERS, SUBLETTING, ETC: The Contractor shall not assign, sublet, or transfer any interest in the work, covered by this Contract, without prior written consent of the City, and further, if any sub-contractor participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the City. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Contractor of responsibility for the performance of that portion of the work so transferred. The form of the sub-contractor's contract shall be as developed by the Contractor and approved by the City. The Contractor shall ensure that insurance coverage exists for any operations to be performed by any sub-contractor as specified in the insurance requirements section of this Contract.

The services of the Contractor, to be performed under the Contract, shall not be transferred without written authorization of the City. Any authorized sub-contracts shall contain all of the same provisions contained in and attached to the original Contract with the City.

42. CONTINUING OBLIGATIONS: The Contractor agrees that if because of death, disability, or other occurrences, it becomes impossible to effectively perform its services in compliance with the Contract, neither the Contractor nor its surviving members shall be relieved of their obligations to complete the Contract unless the City agrees to terminate the Contract because it determines that the Contractor is unable to satisfactorily execute the Contract.

43. INTERPRETATION & IMPLEMENTATION: Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties.

44. ARM'S LENGTH: This Contract has been negotiated at arm's length, and any ambiguity in any of its terms or provisions shall be interpreted in accordance with the intent of the Parties and not against or in favor of either the City or Contractor.

45. RELATIONSHIP: The Contractor is an independent contractor and shall act in an independent capacity and not as officers or employees of the City. To that end, the Contractor shall determine the method, details, and means of performing the work, but will comply with all legal requirements in doing so. The Contractor shall provide its own tools, materials, or equipment. The Parties agree that neither the Contractor nor its principal(s) or employees are entitled to any employee benefits from the City. Contractor understands and agrees that it and its principal(s) or employees have no right to claim any benefits under the Burlington Employee Retirement System, the City's worker's compensation benefits, health insurance, dental insurance, life insurance, or any other employee benefit plan offered by the City. The Contractor agrees to execute any certifications or other documents and provide any certificates of insurance required by the City and understands that this Contract is conditioned on its doing so, if requested.

The Contractor understands and agrees that it is responsible for the payment of all taxes on the above sums and that the City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

46. CHOICE OF LAW: Vermont law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by operation of this provision shall not invalidate the remainder of this Contract to the extent capable of execution.

47. JURISDICTION: All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.

48. BINDING EFFECT AND CONTINUITY: This Contract shall be binding upon and shall inure to the benefit of the Parties, their' respective heirs, successors, representatives, and assigns. If a dispute arises between the Parties, each Party will continue to perform its obligations under this Contract during the resolution of the dispute, until the Contract is terminated in accordance with its terms.

49. SEVERABILITY: The invalidity or unenforceability of any provision of this Contract, shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

50. ENTIRE CONTRACT & AGREEMENT: This Contract constitutes the entire Contract, agreement, and understanding of the Parties with respect to the subject matter of this Contract.

Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

- 51. APPENDICES:** The City may attach to these conditions appendices containing various forms and typical sample sheets for guidance and assistance to the Contractor in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the City as occasions may require. It is the responsibility of the Contractor to ensure that they have the latest versions applicable to the Contract.
- 52. NO THIRD PARTY BENEFICIARIES:** This Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.
- 53. WAIVER:** A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**Exhibit D - Burlington Livable Wage Ordinance
Certification**

ARTICLE VI. LIVABLE WAGES¹

21-80 Findings and purpose.

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its employees have an opportunity for a decent quality of life and are compensated such that they are not dependent on public assistance to meet their basic needs;
- (c) The City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-81 Definitions.

As used in this article, the following terms shall be defined as follows:

- (a) *Contractor or vendor* is a person or entity that has a service contract with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor.
- (b) *Grantee* is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants, including any contractors or subgrantees of the grantee, that exceed fifteen thousand dollars (\$15,000.00) for any twelve (12) month period.

(c) *Covered employer* means the City of Burlington, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.

(d) *Covered employee* means an "employee" as defined below, who is employed by a "covered employer," subject to the following:

(1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington, notwithstanding that the employee may be a temporary or seasonal employee;

(2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the City of Burlington is a "covered employee."

(e) *Designated accountability monitor* shall mean a nonprofit corporation which has established and maintains valid nonprofit status under Section [501\(c\)\(3\)](#) of the United States Internal Revenue Code of 1986, as amended, and that is independent of the parties it is monitoring.

(f) *Employee* means a person who is employed on a full-time or part-time regular basis. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four (4) years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six (6) months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

(g) *Employer-assisted health care* means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)

(h) *Livable wage* has the meaning set forth in Section [21-82](#).

(i) *Retaliation* shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.

(j) *Service contract* means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property). A contract involving the furnishing of financial products, insurance products, or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-82 Livable wages required.

(a) Every covered employer shall pay each and every covered employee at least a livable wage no less than:

(1) For a covered employer that provides employer-assisted health care, the livable wage shall be at least fifteen dollars and thirty-five cents (\$15.35) per hour on the effective date of the amendments to this article.

(2) For a covered employer that does not provide employer-assisted health care, the livable wage shall be at least sixteen dollars and seventy-four cents (\$16.74) per hour on the effective date of the amendments to this article.

(3) Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage compensation will at least equal the livable wage as established under this article.

(b) The amount of the livable wage established in this section shall be adjusted by the chief administrative officer of the city as of July 1 of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the Joint Fiscal Office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to May 1 preceding any such adjustment and prior to

May 1 of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by posting a written notice in a prominent place in City Hall by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information to the chief administrative officer, by notice to each such covered employer. However, once a livable wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.

(c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, personal, or combined time off leave.

(Ord. of 11-19-01; Ord. of 5-2-11; Ord. of 6-13-11; Ord. of 10-21-13)

21-83 Applicability.

(a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.

(b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the funds awarded by the City of Burlington are being expended by the covered employer.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-84 Enforcement.

(a) Each service contract or grant covered by this article shall contain provisions requiring that the covered employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this article. The covered employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The covered employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief

administrative officer of the City of Burlington, within ten (10) business days from receipt of the City of Burlington's request.

(b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to:

- (1) Verification of an individual employee's compensation;
- (2) Production of payroll, health insurance enrollment records, or other relevant documentation; or
- (3) Evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

(c) The City of Burlington shall appoint a designated accountability monitor that shall have the authority:

- (1) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;
- (2) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;
- (3) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their initial credibility; and
- (4) To refer credible complaints to the city attorney's office for potential enforcement action under this article.

The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

(d) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the city attorney's office within one (1) year after the alleged violation. The city attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the

complaint. Prior to ordering any penalty provided in subsection (e), (f), or (g) of this section, the city attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing officer appointed by the city attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the city attorney's office and the covered employer.

(e) The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with a covered employer from any court of competent jurisdiction, if the covered employer has not complied with this article.

(f) Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.

(g) A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.

(h) If a complaint is received that implicates any City of Burlington employee in a possible violation of this article, that complaint will be handled through the City's personnel procedures, not through the process outlined in this article.

(i) Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:

(1) The difference between the livable wage required under this article and the amount actually paid to the covered employee;

(2) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;

(3) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or fifty dollars (\$50.00) for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;

(4) Reinstatement in employment and/or injunctive relief; and

(5) Reasonable attorneys' fees and costs.

(j) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

(Ord. of 11-19-01; Ord. of 2-17-04; Ord. of 5-2-11; Ord. of 10-21-13)

21-85 Other provisions.

(a) No covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this subsection shall be deemed a violation of this article subject to the remedies of Section [21-84](#).

(b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the livable wage as a result of amendments to this article.

(c) Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection (d) of this section, shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

(d) Notwithstanding subsection (c) of this section, where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.

(e) Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.

(f) The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-86 Exemptions.

An exemption from any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage would cause substantial economic hardship;
and
- (b) By the City of Burlington where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this section may reapply for an exemption upon the expiration of the exemption. Requests for exemption may be granted by majority vote of the city council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee of the City of Burlington shall first consider such request and make a recommendation to the city council. The decision of the city council shall be final.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-87 Severability.

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-88 Annual reporting.

On or before April 15 of each year, the city attorney's office shall submit a report to the city council that provides the following information:

- (a) A list of all covered employers broken down by department;
- (b) A list of all covered employers whose service contract did not contain the language required by this article;
and
- (c) All complaints filed and investigated by the city attorney's office and the results of such investigation.

(Ord. of 10-21-13)

21-89 Effective date.

The amendments to this article shall take effect on January 1, 2014, and shall not be retroactively applied.

(Ord. of 10-21-13)

**Exhibit E - Burlington Outsourcing Ordinance
Certification**

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, _____, on behalf of

_____ (Contractor) and in connection with the

_____ [project], hereby certify under oath that (1) Contractor shall comply with the City of Burlington's Outsourcing Ordinance (Ordinance §§ 21-90 – 21-93); (2) as a condition of entering into this contract or grant, Contractor confirms that the services provided under the above-referenced contract will be performed in the United States or Canada.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

Subscribed and sworn to before me: _____
Notary

**Exhibit F - Burlington Union Deterrence Ordinance
Certification**

ARTICLE VIII. UNION DETERRENCE

21-100 Policy.

It is the policy of the City of Burlington to limit letting contracts to organizations that provide union deterrence services to other companies.

(Ord. of 3-27-06/4-26-06)

21-101 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Union deterrence services.* Services provided by a contractor, subcontractor or vendor that are not restricted to advice concerning what activities by an employer are prohibited and permitted by applicable laws and regulations, but extend beyond such legal advice to encouraging an employer to do any of the following:

- 1) Hold captive audience, (i.e., mandatory) meetings with employees encouraging employees to vote against the union;
- 2) Have supervisors force workers to meet individually with them to discuss the union;
- 3) Imply to employees, whether through written or oral communication, that their employer may have to shut down or lay people off if the union wins the election;
- 4) Discipline or fire workers for union activity;
- 5) Train managers on how to dissuade employees from supporting the union.

(d) *Substantial portion of income.* For the purposes of this article, substantial portion of income shall mean greater than ten (10) percent of annual gross revenues or one hundred thousand dollars (\$100,000.00), whichever is less.

(Ord. of 3-27-06/4-26-06)

21-102 Implementation.

- (a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who
- 1) Advises or has advised an employer to conduct any illegal activity in its dealings with a union.
 - 2) Advertises union deterrence services as specialty services;
 - 3) Earns a substantial portion of its income by providing union deterrence services to other companies in order to defeat union organizing efforts.
- (b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that it has not advised the conduct of any illegal activity, it does not currently, nor will it over the life of the contract provide union deterrence services in violation of this article.

(Ord. of 3-27-06/4-26-06)

21-103 Enforcement.

- (a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or provided union deterrence services during the life of a contract for a government funded project shall be deemed to be in violation of this article.
- (b) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 3-27-06/4-26-06)

21-104—21-110 Reserved.

Exhibit G - Contractor's Certificate of Insurance

Resolution Relating to

REQUEST FOR 2.975M IN AMERICAN RESCUE PLAN FUNDS TO ADDRESS AND AMELIORATE HOMELESSNESS IN THE CITY OF BURLINGTON AND TO CREATE THE POSITION OF SPECIAL ASSISTANT TO END HOMELESSNESS.

RESOLUTION 6.03

Sponsor(s): Councilor(s) *Carpenter, Hightower, Magee*

Introduced: 02/07/22

Referred to: _____

Action: adopted

Date: 02/07/22

Signed by Mayor: 02/18/22

CITY OF BURLINGTON

In the year Two Thousand Twenty-Two

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, in the American Rescue Plan (ARPA) of 2021, Congress has allocated \$27.3 million to
2 Burlington for COVID recovery funds; and

3 WHEREAS, those funds have been partially dispersed to the City of Burlington in May 2021 and
4 September 2021; and

5 WHEREAS, the City has actively engaged the public so as to best understand their desires for the
6 investment of the ARPA funds; and

7 WHEREAS, the results of the City engagement has indicated that the Burlington community strongly
8 desire to use the expenditure of ARPA funds to address chronic homelessness and to implement solutions to
9 find humane housing for all; and

10 WHEREAS, that the action items for which the administration is seeking ARPA funding are consistent
11 with the City Council resolution adopted on October 25, 2021 calling for the use of ARPA funds to meet the
12 needs of those experiencing homelessness; and

13 WHEREAS, Kara Alnasrawi, Economic Recovery Director, Brian Pine, CEDO Director, and Kerin
14 Durfee, Human Resources Director , have outlined a plan of action by the City to address the issue of chronic
15 homelessness through the expenditure and use of ARPA funds per the attached memo; and

16 WHEREAS, as part of the plan of action to end homelessness, the position of “Special Assistant to
17 End Homelessness” is proposed. This position will oversee, coordinate, manage and implement CEDO-led
18 initiatives to end homelessness, as well as support homeless families and individuals throughout the
19 community;

20 NOW, THEREFORE, BE IT RESOLVED that to carry out the action plan intended to address the
21 issue of chronic homelessness in Burlington, as outlined in the attached memo, the City Council approves the
22 allocation of \$2.975M in ARPA funds, subject to the approval of expenditures by the CAO and pursuant to the
23 City’s spending policies; and

* * * * *

DISTRIBUTION:

I hereby certify that this resolution has been sent to the following department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

Attest:

* * * * *

Resolution Relating to REQUEST FOR 2.975M IN AMERICAN RESCUE PLAN FUNDS TO ADDRESS AND AMELIORATE HOMELESSNESS IN THE CITY OF BURLINGTON AND TO CREATE THE POSITION OF SPECIAL ASSISTANT TO END HOMELESSNESS.

24 BE IT FURTHER RESOLVED, that the City Council approve and authorize the creation of the
25 Special Assistant to End Homelessness, a Regular, Full-Time, Exempt, Non-Union, Grade 21 role in the
26 Community and Economic Development Office.

27

28

29 TM/KA/Resolutions 2022/REQUEST FOR 2.975M IN AMERICAN RESCUE PLAN FUNDS TO ADDRESS AND AMELIORATE
30 HOMELESSNESS IN THE CITY OF BURLINGTON AND TO CREATE THE POSITION OF SPECIAL ASSISTANT TO END
31 HOMELESSNESS

32 2/3/2022

* * * * *

ORIGINAL

DISTRIBUTION:

I hereby certify that this resolution has been sent to the following department(s) on

HR
CEDO Director Pine

RESOLUTION RELATING TO

Request For 2.975M In American Rescue Plan Funds To Address And Ameliorate Homelessness In The City Of Burlington And To Create The Position Of Special Assistant To End Homelessness

Adopted by the City Council

February 7, 2022
Clerk

Approved February 16, 2022
Mayor

Attest:

Lora Olberg

Licensing, Voting and Records Coordinator

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