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2 **Resolution Relating to**
3
4

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

Introduced: 08/08/11
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

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

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13 **CITY OF BURLINGTON**

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

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

20 WHEREAS, DOBRA TEA desires to place 2 tables and 4 chairs in the public right-of-
21 way in front of its establishment at 80 Church Street; and

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

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

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

30 NOW, THEREFORE, BE IT RESOLVED that this City Council hereby authorizes
31 DOBRA TEA to place 2 tables and 4 chairs on a portion of the public right-of-way adjacent to its
32 establishment at 80 Church Street as indicated in and pursuant to its License Agreement upon
33 entering into the License Agreement in substantially the form attached hereto; and

35 **Resolution Relating to**
36

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

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

44

45

46

47 lb/c; Resolutions 2011/License Agree for Encumbrance – DOBRA TEA, 80 Church St. (Tables & Chairs) 2011
48 8/2/11

LICENSE AGREEMENT FOR TABLES AND CHAIRS
WITH DOBRA TEA
2011-2012 SEASON

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and CAMELLIA ALLIANCE, LLC d/b/a DOBRA TEA, a commercial establishment located at 80 Church Street, Burlington, Vermont (hereinafter DOBRA TEA or LICENSEE).

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

WHEREAS, DOBRA TEA stated on its application (attached hereto as Exhibit A) that it wishes to place 2 tables and 4 chairs on the sidewalk area in front of the building at 80 Church Street; and

WHEREAS, DOBRA TEA has stated in its permit application that there are no physical barriers around the tables and chairs and they will cover a 30 sq. ft. area; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H :

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

1. TERM

The CITY grants to DOBRA TEA (hereinafter LICENSEE) a license to place 2 tables and 4 chairs on the public right-of-way for a term commencing as of the date of execution of

this Agreement and terminating on April 30, 2012 or sooner as provided herein.

2. LOCATION

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

3. MAINTENANCE

- a. LICENSEE shall maintain the tables and chairs in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the tables and chairs and any damage to the tables and chairs is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the tables and chairs, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.
- c. The tables and chairs shall be placed in accordance with all conditions set by the Department of Public Works and shall not impede the CITY'S ability to maintain the road, sidewalk, parking meters or greenbelt.
- d. The tables and chairs shall not cause an obstruction or inconvenience to members of the public using the sidewalk, parking meters or street.
- e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way.

4. LICENSE FEE

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable immediately to the Burlington City Clerk's Office. **Failure to pay the annual fee shall result in the immediate revocation of the license.**

5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the tables and chairs. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the tables and chairs and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. INSURANCE

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the

CITY is named as an additional insured and shall be given 30 days written notification prior to cancellation of such insurance. The certificate shall be attached to this Agreement as Exhibit D.

c. It is the responsibility of LICENSEE to ensure that a current certificate of insurance is on file with the CITY at all times. **Failure to furnish a current certificate of insurance will result in immediate revocation of this license.**

7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, prior to placement of the tables and chairs.

9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the

use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

DATED at Burlington, Vermont this _____ day of _____,

2011.

CITY OF BURLINGTON

By: _____
Bob Kiss, Mayor
Duly Authorized

Witness

CAMELLIA ALLIANCE, LLC d/b/a
DOBRA TEA

By: _____
Duly Authorized

Witness

l/c: NAF 2011/License Agree for Encumbrance – DOBRA TEA, 80 Church St. (Tables & Chairs) 2011
7/26/11

Need updated ins endorsement



CITY ATTORNEY'S OFFICE
JUN - 8 2011
RECEIVED

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

Encumbrance Application / Renewal

Effective 05/01/2011 - 04/30/2012

ANDREW SNAVELY
DOBRA TEA
80 CHURCH STREET
BURLINGTON, VT 05401

DATE: Thursday, January 13, 2011
PHONE: 802-951-2424 cell 578-7949
FAX:
EMAIL:

DBA NAME: DOBRA TEA

COMPANY: DOBRA TEA

LOCATION: 80 CHURCH STREET

Permission is requested to allow/continue the encumbrance in the following area and manner (please describe fully, including size and physical barriers around area i.e. trees, grates, parking meters, etc with photos, diagrams, blueprints; may reference prior application):

Placement of Encumbrance: 2 tables and four chairs in front of 80 Church St.

Conditions: Keeping public ways clear

Total Square Feet (\$1.00 per SF): 30

PLEASE ATTACH:

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

Encumbrance Fee	\$30.00
Application Fee	\$25.00
Total	\$55.00

Signature ANDREW SNAVELY Date _____

For office use only: Amount received \$ _____ on _____ Check # _____
Sent to Attorney: _____

Exhibit A



OFFICE OF THE CLERK/TREASURER

City of Burlington

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

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142

email:smeehan@ci.burlington.vt.us

January 13, 2011

Encumbrance Applicant

I am enclosing the Encumbrance Renewal Application for your establishment. Please complete it as soon as possible, make any changes necessary and return form to this office together with your payment so that it can be completed on time. Please fill in Email address on renewal form.

We require specific wording on the Certificate of Liability Insurance which your agency can fax to this office attention Susan Meehan. The Certificate should read **exactly as follows** or the attorney's office will not accept it.

- Coverage in an amount not less than \$1,000,000 each occurrence and \$2,000,000, Aggregate
- A "detailed" description of the address and the property that will be encumbering the City's property (i.e. 60 Main Street – number of tables and chairs, etc) under Description of Operations/Locations on the insurance certificate
- The City named as an additional-insured (under Description of Operations/Locations also)
- 30 days notice to the City of cancellation of the policy
- Certificate holder should be listed as follows:
City of Burlington
City Clerk's Office/Encumbrance Application Division
149 Church Street
Burlington, VT 05401

Please enclose a sketch or rough drawing of the proposed encumbrance.

Please call me if you need additional information. My telephone number is 865-7135.

Sincerely,

Susan Meehan

P.S. Please respond by January 31, 2011. Thank you.

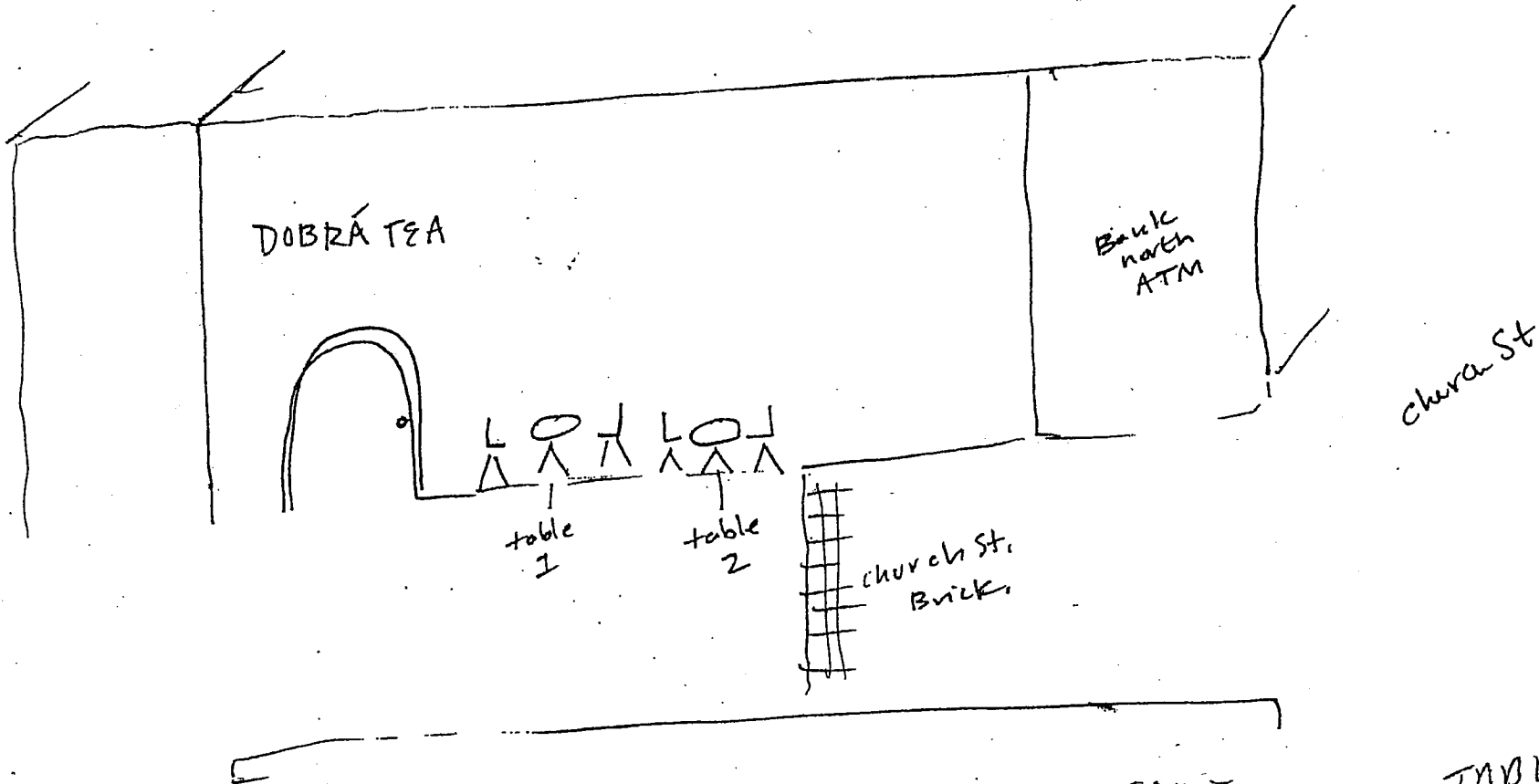
DOBRA TEA
ENCUMBRANCE APP.

2 TABLES, 4 CHAIRS

Contact: Amanda Verdery
802.578.7949

802 598 5036
ANDREW (MANAGER)

Exhibit C



Bank St.

SIDEWALK IN PAINT
2 @ 6'-3"
12'-6"
BLK TO CURB

TABLES
30x30
3-CHAIRS



CERTIFICATE OF LIABILITY INSURANCE

LCH

DATE (MM/DD/YYYY)

7/29/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER (802) 658-3500 Hickok & Boardman, Inc. 346 Shelburne Road PO Box 1064 Burlington, VT 05402-1064		CONTACT NAME: Louise C Harris PHONE (A/C, No, Ext): (802) 383-1626 FAX (A/C, No): (802) 658-0541 E-MAIL ADDRESS: lharris@hbinsurance.com PRODUCER CUSTOMER ID #: DOBRTEA-02	
INSURED Camellia Alliance LLC DBA Dobra Tea 80 Church Street Burlington, VT 05401		INSURER(S) AFFORDING COVERAGE INSURER A: The Hartford INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	04 SBA VU6838	7/3/2011	7/3/2012	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 2,000,000 \$ 300,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	\$ \$ \$ \$
	UMBRELLA LIAB EXCESS LIAB DEDUCTIBLE RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE AGGREGATE	\$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	04WECIT3792	7/3/2011	7/3/2012	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Business Owners Policy		04 SBA VU6838	7/3/2011	7/3/2012	Business Personal Propert	\$78,400

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder is included as additional insured in regard to General Liability Coverage. Encumbrance consists of 2 small tables and 4 chairs located at 80 Church Street, Burlington VT 05401.

CERTIFICATE HOLDER**CANCELLATION**

City of Burlington
 Clerk & Treasurers Office Encumbrance Application Division
 149 Church Street
 Burlington, VT 05401-

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Louise C Harris

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POLICY NUMBER: 04 SBA VU6838



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

30 DAY NOTICE OF CANCELLATION

IN CONSIDERATION OF NO CHANGE IN PREMIUM, IT IS HEREBY AGREED AND UNDERSTOOD THAT FORM SS 12 20 0810 IS ADDED PER THE ATTACHED.

00540

*2100204VU68380112



Form IH 12 00 11 85 T SEQ. NO. 003 Printed in U.S.A. Page 001

Process Date: 05/03/11

Expiration Date: 07/03/12

INSURED COPY