

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") is by and between **HAYSTACK HOMES, LLC**, a Vermont limited liability company with a place of business in South Burlington, Vermont ("Haystack") and **KB REAL ESTATE LLC**, a Vermont limited liability company with a place of business in Hinesburg, Vermont ("KB").

Background

Haystack owns and/or controls by executed Purchase & Sale agreement certain parcels of land containing 84 acres, more or less, located in the Village of Hinesburg, Vermont (the "Property").

KB is the owner of a Land Parcel bordered on three sides by the Property and State Rt 116 to the East.

Haystack, has planned a mixed-use development project on the Property (the "Project") as shown on a set of preliminary plans entitled "Haystack Crossing" attached hereto as Exhibit "A" (the "Site Plan").

The development Project will be a phased project that will include a range of housing (which may include single family homes, senior housing, mixed-income apartments, condominiums and townhomes), ground floor retail and commercial office space.

Haystack anticipates that the Project will involve a number of public and private partnerships to address several public benefits of the project, including the funding and construction of a new street grid, to include the future connection to Rt 116 through one (or more) connection points, that will help reduce traffic congestion along the 116 corridor.

KB anticipates that it will, at some future time, develop the KB Property into the maximum commercial development allowed by state and local land use regulations, with access roads and parking lots (the "KB Development").

The parties enter into this MOU to describe the framework for the parties to agree upon the future infrastructure design for the Project.

In consideration of the foregoing, and the covenants and agreements herein contained, the parties hereto do hereby agree as follows:

Section 1. General Statement of Intent. The Parties have reviewed the Preliminary Plans and acknowledge that they generally support the concept of the Project and related proposed street grid, attached hereto as Exhibit "~~B~~" (the "~~Street Plan~~"). This proposal includes an East/West roadway that connects through the KB A

lands to Haystack's proposed street grid to the West end and Rt 116 to the East the "116 Connector"

Section 2. Agreement. The Parties agree to cooperate with the Village of Hinesburg, regarding necessary easements and rights of way for the purpose of creating the proposed street grid.

The parties shall also agree to make the appropriate boundary line adjustments to their respective properties in accordance with Exhibit B, with Haystack retaining the lands immediately to the South of the Connector and KB retaining the lands immediately to the North of the Connector. This adjustment shall take place and the easements and rights of way granted immediately following the issuance of final unappealed permits for Phase 1 of Haystack's Project. Haystack shall be responsible for the construction, maintenance and repair of the connector until such time that it is accepted by the Town as a public highway. Haystack shall bear the cost of preparing, recording and filing the necessary boundary adjustment and rights of way documents and shall reimburse KB at closing for any costs associated, including reasonable attorneys fees.

Haystack agrees to install a curb cut of sufficient width to accommodate commercial development of the KP Property generally as shown on the Bast and Rood sketch plan attached as Exhibit C off of the connector (the new road onto the KB property) and furthermore shall be responsible for the installation of a gravel drive to the house currently located thereon to a standard generally accepted and to be agreed to by the parties for the current rental residential structure. Haystack shall also agree to provide a second curb cut to the KB property, location to be determined at the time of permitting for KB's project and is subject to eventual buildout of Haystacks Project and input from the town through planning and approvals. The curb cuts shall be located and sized to service the KB development.

Haystack shall provide access and rights of way for the KB Property to and for the streets in the Haystack Project until such time as the streets become public highways, and shall provide access and easements to the KB Development for all Haystack Project infrastructures, including sewer lines and utility services, including but not limited to electric and cable lines. KB shall be responsible for the cost of the access connections.

Haystack agrees to provision its stormwater pond design to accept future runoff from a redevelopment of the KB Parcel for a building with a 12,000 square foot footprint and related impervious surface as shown on Exhibit C and to curb cuts as described herein. Haystack shall also size its stormwater system to accept these flows from the aforementioned curb cut. KB shall be responsible for any onsite measures that may be required as a part of their future permitting process. The obligation and duties of Haystack KB are for storm water improvements and infrastructure within the Project and the obligations and duties of KB are on the KB Property.

Provided that all necessary final and unappealed permits are issued for the Project with terms and conditions acceptable to Haystack, Haystack will proceed with the Project and will construct the site work in the Project including all public and private roadways, sewer lines, water lines, stormwater drainage lines and stormwater detention ponds, as well as individual sitework for homesites including basements, driveways and related infrastructure, together with the cost of all bonds required by the Town of Hinesburg for the public infrastructure within the Project (the "Site Work"). All Site Work costs shall be the expense of Haystack, exception being any future contribution requirement for KB to upgrades at the Riggs Road Intersection (corner of the connector and VT Route 116).

Section 3. Joint Obligations of the Parties. During the term of this MOU, Haystack and KB Construction agree as follows:

- (a) To cooperate and communicate with each other on a regular basis so as to permit the orderly and efficient construction and development of the Project and of the future KB Development and to promptly provide progress updates and any required commitments, signatures and or legal documents when requested by the other parties.
- (b) To perform their activities as to the Project in a commercially reasonable manner.
- (c) To act in a manner designed to cause the Project to be placed in service as soon as possible.
- (d) To indemnify and hold harmless from the other from and against any and all costs, expenses, damages and liabilities arising out of or in connection with: (i) breach by such party of its obligations under this MOU; and (ii) any activities of the party with respect to the Project, except to the extent attributable to the fault or neglect of non-indemnifying party.

Section 4. Term. The term of this MOU shall commence on the Effective Date and shall terminate on the date that all of the transactions and responsibilities described herein have been completed or on such earlier date as mutually agreed to by the parties.

Section 5. Dispute Resolution. The development of the Project will involve a number of future decisions among the parties and will require ongoing cooperation and fair dealing. If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions. If the dispute cannot be settled through direct discussions, the parties shall endeavor to settle the dispute by mediation before recourse to any binding arbitration dispute resolution procedures. If neither direct discussions nor mediation successfully resolve the dispute, the parties agree that the dispute shall be submitted to binding arbitration under the Rules of the American Arbitration Association unless the parties mutually agree

otherwise. A written demand for arbitration shall be filed with the American Arbitration Association and the other party to the Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding has run. The arbitration award shall be final. This agreement to arbitrate shall be governed by the Federal Arbitration Act and judgment upon the award may be confirmed in any court having jurisdiction.

In any arbitration proceeding, the arbitrator shall have the authority to award costs and reasonable attorneys' fees to the substantially prevailing party.

Section 6. **Waiver.** The failure of either party to insist on strict performance of any of the provisions of this MOU or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this MOU. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the party granting the waiver.

Section 7. **No Assignment.** Neither party may assign or convey this MOU or its obligations hereunder without the other's prior written consent; provided, however, that Haystack shall be entitled to assign its rights and obligations under this Agreement to a new limited liability company formed as a component of the development of the Project.

Section 8. **Governing Law.** This MOU shall be governed and construed in accordance with the laws of the State of Vermont, without regard to its choice of law rules.

Section 9. **Notices.** Notices and other communications required or allowed by this MOU shall be in writing and sent by U.S. mail, express carried, by hand, or by facsimile transmission as follows:

If to Haystack	Haystack Homes, LLC 68 Randall Street South Burlington, VT 05446 Telephone: (802) 861-1120
With a copy to:	Robert H. Rushford, Esq. Gravel & Shea PC 76 St. Paul Street, 7th Floor P. O. Box 369 Burlington, VT 05402-0369 Telephone No.: (802) 658-0220 Telecopier No.: (802) 658-1456

If to KB: Brian Busier
KB Real Estate, LLC
PO Box 301
Hinesburg, VT 05461
lantmansmarket@yahoo.com
(802) 482-2361

With a copy to: David Rath, Esq.
Kohn Rath
PO Box 340
Hinesburg, VT 05461
davidrath@kohnrathlaw.com
Telephone No.: (802) 482-2905
Telecopier No.: (802) 482-2908

Each such notice shall be deemed delivered: (a) on the date of hand delivery; (b) on the first day after the date of deposit with an overnight courier; (c) on the date of transmission with confirmed answer back if by facsimile; and (d) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed. By giving proper notice as required herein, either party may change its address hereunder.

Section 10. **Survival**. The indemnity provisions set forth in Section 3(d) shall survive termination or expiration of this MOU.

Section 11. **Counterparts**. This MOU may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 12. **Further Assurances**. The parties agree to execute, acknowledge, if necessary, and deliver such documents, certificates or other instruments and take such other actions as may be reasonably required from time to time to carry out the intents and purposes of this MOU.

Section 13. **Waiver of Rule of Construction**. The parties waive the benefit of any rule that this MOU is to be construed against one party or the other.

Section 14. **Severability**. If a court of competent jurisdiction determines that any portion of this MOU is illegal, unenforceable or invalid, then that portion shall be considered to be removed from this MOU, the remainder shall remain in full force and effect, and the parties shall cooperate to modify the MOU to cause it to conform to the original language of the MOU to the extent consistent with the finding of the court.

Section 15. **Entire Agreement**. This MOU and the Site Work Agreement attached at Exhibit "B" constitutes the entire agreement between the parties relating to its subject matter, and supersedes all prior representations, understandings and

agreements, written or oral, express or implied. This MOU can be modified only by written agreement executed by authorized representatives of each party.

IN WITNESS WHEREOF HAYSTACK HOMES, LLC does hereby execute this MOU this 21st day of January, 2019.

IN PRESENCE OF:

HAYSTACK HOMES, LLC



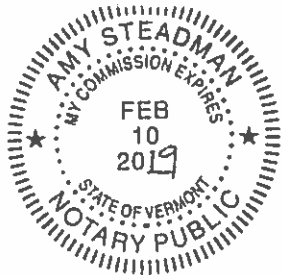
Witness


By: 

Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 21 day of January, 2018, personally appeared Tom Hergenrother, Duly Authorized Agent of HAYSTACK HOMES, LLC, to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of HAYSTACK HOMES, LLC.



Before me, 

Notary Public
My commission expires: 2/10/19

IN WITNESS WHEREOF KB REAL ESTATE, LLC does hereby execute this MOU this 21st day of January, 2019.

IN PRESENCE OF:

KB REAL ESTATE, LLC

Kathie Busier
Witness

By: Brian L Busier
Duly Authorized Agent

STATE OF Florida
COUNTY OF: Charlotte SS.

On this 21st day of January, 2019, personally appeared Brian L Busier, Duly Authorized Agent of KB REAL ESTATE, LLC, to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of KB REAL ESTATE, LLC



Julie Black
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF203921
Expires 2/28/2019

Before me, Julie Black
Notary Public
My commission expires: 2-26-2019

SEAL

Exhibit "A"

Sketch Plan of Project

See Attached

RTS CONSULTING
 1785 RICHMOND AVENUE, SUITE 201
 RICHMOND, VERMONT 05477
 PHONE: (802) 885-1111
 FAX: (802) 885-1112
 WWW: www.rtsconsulting.com

HAYSTACK CROSSING, LLC
 C/O JOSEPH BISSONNETTE
 10 HANCOCK STREET
 SOUTH BURLINGTON, VT 05403

BLACKROCK CONSTRUCTION, LLC
 65 HANCOCK STREET
 SOUTH BURLINGTON, VT 05403

HAYSTACK CROSSING
 100 BURLINGTON FALLS ROAD
 BURLINGTON, VERMONT 05401

PHASE 1

LOCATION MAP

PROPOSED CONDITIONS PLAN

DATE: JAN., 2018
SCALE: 1" = 100'
PROJECT NO.: 101277-00

C1.0

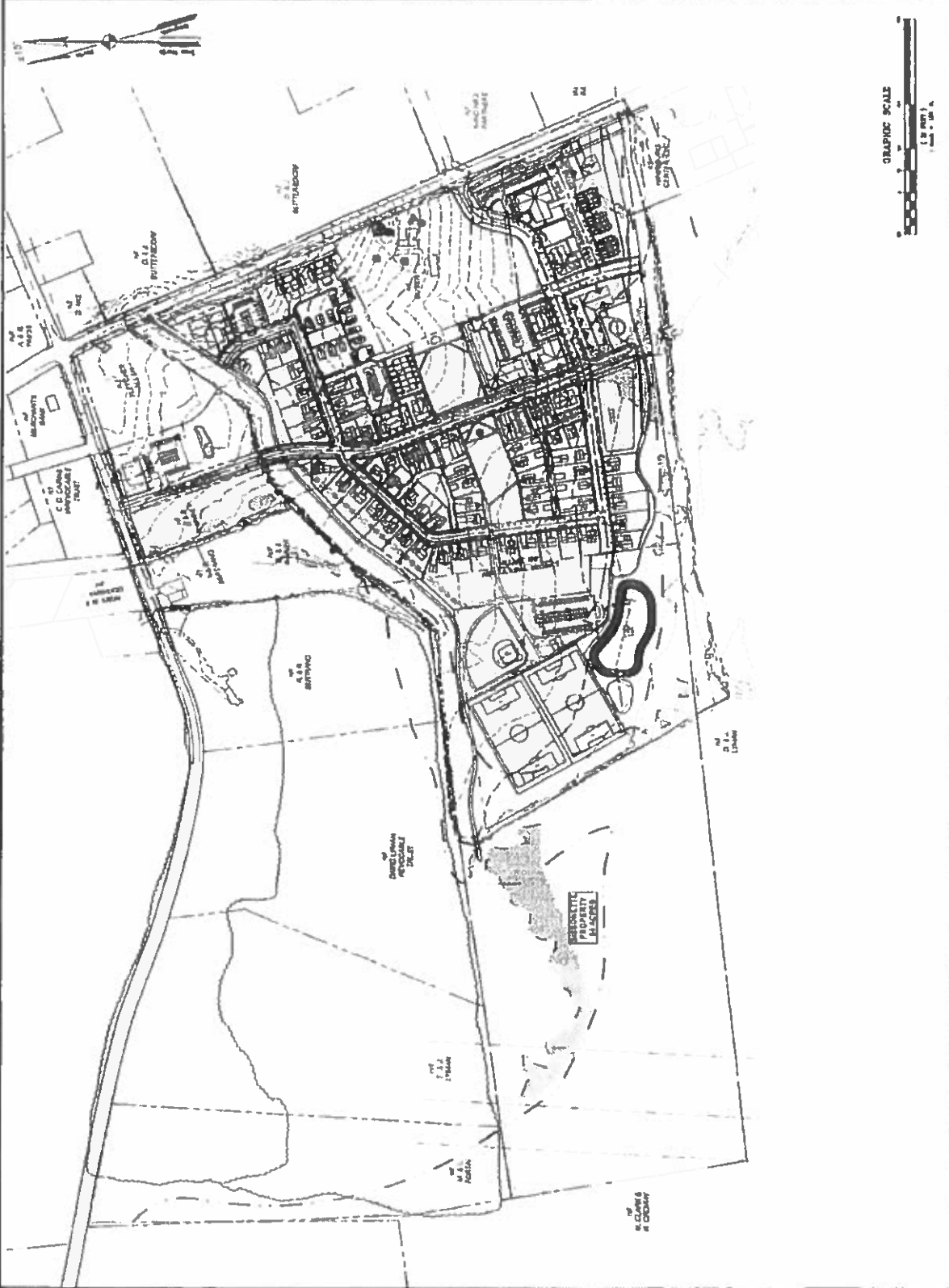
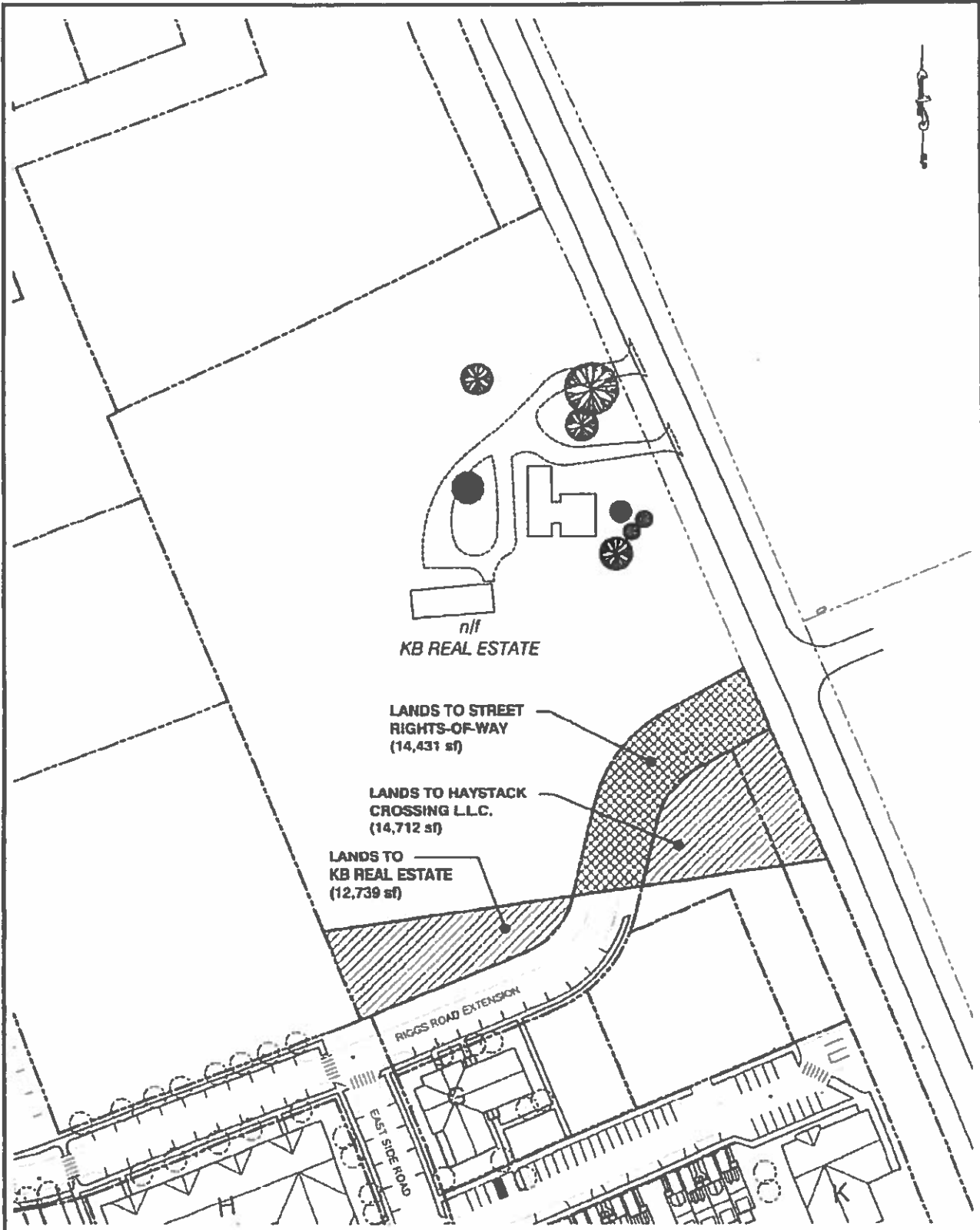


Exhibit "B"

Land Exchange

See Attached]



CIVIL ENGINEERING ASSOCIATES, INC.
 10 MANSFIELD VIEW LN., SO. BURLINGTON, VT 05403
 P. 802-864-2323 FAX: 802-804-2271 web: www.cea-vt.com



Scale: 1" = 120'
 Date: MAY 5, 2018
 Drawn by: SAL
 Checked by: DSM

**KB REAL ESTATE /
 HAYSTACK CROSSING
 LAND EXCHANGE**

HINESBURG VERMONT

Project No.
13177

DRAWING

LS1

Exhibit "C"

KB Project

See Attached

VT ROUTE 119

N/F
BUSIER

A. Ford access point

ESSEX STREET

CL III

CL II

CL II

