HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

DATE: **March 12, 2014 (Wednesday)**
TIME: **5:30-7:30 p.m.**
LOCATION: **Room 209, Second Floor**
Portland City Hall

A G E N D A

1. Review and accept Minutes of previous meeting held on February 26, 2014.

2. **Updated Citizen Participation Plan –** Mary Davis and Maeve Pistrang
Review and Recommendation to City Council (Public Comment will be accepted as time allows.)

3. **Renewal of Cumberland County HOME Consortium –** Mary Davis
Review and Recommendation to City Council (Public Comment will be accepted as time allows.)

4. **Downtown/Transit-Oriented Tax Increment Finance District –** Greg Mitchell
Review and Discussion to give guidance to staff (Public Comment will be accepted as time allows.)

5. **Nova Star Cruises Limited Lease at Ocean Gateway –** Greg Mitchell
Review and Possible Recommendation to City Council (Public Comment will be accepted as time allows.)

   NOTE Pursuant to 1 M.R.S.A. 405(6)(C) and (F) and 5 M.R.S.A. 13119-A, to provide City staff direction, the Committee may go into executive session to discuss facility/space lease negotiations on City property at Ocean Gateway Terminal with Nova Star Cruises Limited.

6. **2014 HCDC Work Plan –** Mary Davis, Jeff Levine, Greg Mitchell
Review and Discussion (Public Comment will be accepted as time allows.)

Next Meeting: March 26, 2014 Councilor Kevin Donoghue, Chair

Housing & Community Development Committee

February 26, 2014

A meeting of Portland City Council's Housing and Community Development Committee (HCDC) was held on Wednesday, February 26, 2014 at 5:30 p.m. in Room 209 on the second floor of Portland City Hall. Present from the HCDC was its Chair Councilor Kevin Donoghue, and member Councilors Jon Hinck and Nicholas Mavodones; Committee member Councilor John Coyne could not be present. City staff present included Housing & Community Development Division Director Mary Davis, Planning and Urban Development Director Jeff Levine, Economic Development Director Greg Mitchell, City Manager Mark Rees, and HCD office assistant Maeve Pistrang (note taker).

Item #1 – Review and accept minutes from previous meeting held on February 12, 2014

Councilor Hinck asked for clarification in the minutes on page 8 of 13 where it states "In her work as an attorney with Bernstein Shur, TIFs have proved to be very successful for municipalities/towns to offset costs and save from tax sheltering." Mr. Mitchell suggested that the phrase was meant to express the benefits associated with tax sheltering that result in savings. On motion made and seconded, the Committee voted unanimously to accept the minutes as published.

Item #2 – Housing Program Budget

Ms. Davis presented the proposed Housing Program budget for 2014-15, which is comprised of federal HOME funds. The budget along with CDBG allocation recommendations will go to Council for approval in March. Ms. Davis summarized that the anticipated funding from HUD would be a slight, but not significant increase from last year. The total entitlement allocation for the Cumberland County HOME Consortium is estimated to be $866,153, of which $515,239 goes to Portland and the remaining $350,914 goes to the rest of the County. When combined with $200,000 in 2013-14 program income and an additional $213,335 in HDF program income, the total Housing budget is $928,574. Ms. Davis recommended allocating the same percentage of funding as last year for housing rehabilitation, affordable housing development, tenant based rental assistance (TBRA), Community Housing Development Organizations (CHDOs), and administration.

Councilor Donoghue asked whether there was any data yet on the change from a homeownership program to tenant based rental assistance, and how many people were now utilizing the housing vouchers. Ms. Davis responded that there was not. Councilor Hinck asked about which county communities participate in the Consortium. Ms. Davis replied that all of the communities in Cumberland County are participants. Portland and Brunswick are each separate members and the Cumberland County Municipal Oversight Committee represents the remaining county communities. Individual communities in the county do not receive allocations; residents from in each community apply on a first-come-first-served based. Mr. Levine added that since Portland administers the consortium, they are the only community to receive administration funds. Ms. Davis also noted that the county is considering a TBRA program as well, instead of homeownership and that she is working with Social Services to see how they might coordinate, especially for assisting non Portland residents who access services in Portland.

Mr. Rees asked about CHDO funding and Ms. Davis explained that CHDO is a special identifier that HUD uses to describe a community-based organization whose primary objective is housing. For example, Avesta, CHOM, and Shalom House would all qualify as CHDOs. Ms.

Davis and Mr. Levine clarified that the CHDO money in the budget must go to a specific type of organization, but is bid in a competitive process.

Councilor Donoghue opened the meeting for public comment; there was none. On motion made and seconded, the Committee voted to recommend the Housing budget to Council.

Item #3 –Review of City Sites for Residential Development

Councilor Donoghue clarified that there was no need to go into Executive Session at this time, but that the Committee reserved the right to do so if appropriate. Ms. Davis went on to review several City-owned properties currently used as parking lots, and described their potential for housing development:

83 Middle Street

This lot is currently used for police parking with 23 spaces used over several shifts, accommodating about 50 employees throughout the day. The land value of the parcel is assessed at $277,800, and is located in a B2b zone where a maximum of 21 dwelling units would be allowable on the site. The Tax Acquired Property Committee (TAPC), which oversees disposition of City property, surveyed City departments for feedback about the parcel. Comments from departments included a recommendation that if developed, the site should preserve use for the police department, and that any development should be considered along with the India Street planning process currently underway.

John Peverada of the parking division investigated parking alternatives and compared prices to potential annual tax revenue. The projections were based on parking for 50 people, and do not take availability in to account. Ms. Davis recommended examining this lot at a later date, especially when the India Street and Franklin Arterial efforts are farther along.

Councilor Donoghue asked if shift sharing would no longer be an option in other garages since all the projections are based on 50 spaces instead of 23. He also noted that the tax comparisons were all to affordable developments and questioned whether they were the most appropriate comparisons. Staff indicated they could explore those questions further. Ms. Davis also directed the Councilors to an email from Christian Milneil that provided an alternative analysis of the costs to the City. Councilor Donoghue also asked what alternatives exist for employee parking. Mr. Rees commented that, as it is, parking at Middle Street is not adequate and he recognizes that this lot has merit for a higher and better use, so alternative options should be explored. Councilor Hinck asked about the area parking garages and whether they can be expanded in height to increase parking availability. Mr. Levine said he could look at the ability to increase capacity.

Michael Sauschuck, the Portland Police Chief was in attendance and spoke to the issue. He said he sees the merit of developing this lot, but that over the years because of various issues, police parking has been moved numerous times, including to the Cumberland County garage and Top of the Old Port lot, but has always been removed from private lots due to cost. Furthermore, parking spots keep getting farther away from the station, such as current parking at Ocean Gateway, and alternative options continue to diminish. He indicated that the department would like to remain part of the conversation and keep exploring innovative solutions, and that parking is a serious issue for them. Chief Sauschuck said he supports the recommendation to wait and find a solution in conjunction with the Franklin Arterial and India Street efforts.

<u>Adams School lot</u>

Ms. Davis reviewed the site plan for the Adams School lot and differentiated between the area that is already developed, the playground, current open space, and the current parking lot. The site is located in the R6 zone and the combined open space and parking lot could accommodate 27 dwelling units and the parking lot alone could accommodate 6 units. The TAPC survey yielded no opposition to developing this site.

Ms. Davis discussed the environmental assessments of the site, the majority of which is covered by a VRAP no action assurance letter. However, the parking lot was not included in that assessment, so an additional assessment would be needed before any development could occur. Ms. Davis estimated that such an assessment would cost between $10,000-$15,000. Also, the existing VRAP was an assessment only and further site clean-up or remediation might be required.

Ms. Davis then discussed development scenarios with the Committee, including rental units vs. homeownership and integration with the surrounding neighborhood height and neighboring buildings.

<u>98 High Street</u>

Ms. Davis presented additional information not included in the original packet about 98 High Street. She noted that previous discussions indicated revisiting this site later, but that the Chair requested another overview at this time. Ms. Davis explained that the parcel is in the B3 zone, and has no density requirement. The survey through TAPC generated responses from the Parking division encouraging retaining the lot for parking, and from the Planning division encouraging reserving the discussion about this lot in conjunction with Congress Square, because it has potential to become open space.

Ms. Davis explained that this parcel was deeded to the City from the Maine Department of Transportation (MDOT) with the restriction that it be used for "parking or some other public purpose," and recent attempts to contact MDOT about lifting the restriction or whether housing could be considered a public purpose, have not been responded to. Ms. Davis said Larry Walden of Corporation Counsel is of the opinion that housing may not qualify as a public purpose.

Councilor Donoghue said he sees the merits of this parcel for development and would like to get more information, and Councilor Mavodones agreed that he is anxious to hear a response from MDOT. Councilor Donoghue commented that the Adams School sites seems like the easiest to move forward with at the moment, though the environmental assessments and remediation still need to be performed. He asked if staff had a sense of the cost of the remediation. Mr. Levine responded that it is hard to project about remediation costs but they could explore grant funding options.

Councilor Mavodones commented that he is comfortable waiting to pursue the police parking lot and that he would like to see more information about the High Street lot, and that though they may need to find money for the environmental assessment, the Adams lot could move forward. He said he has no strong preference on which portion of the lot would be available for development, and Councilor Hinck agreed. Councilor Donoghue said he would prefer looking at just the parking lot portion of the site because it would be more straightforward infill and the addition of new snowstorm parking in the neighborhood means more flexibility for this lot. He also said he is undecided about what kind of development to incentivize in terms of affordability or rental/ownership, and commented that it could be incorporated into an RFP when it gets to that point in the process. He also noted that he is concerned about the height of development there because it could potentially block sunlight on the playground. Mr. Levine said they can investigate minimizing shadow impacts at the site. Councilor Mavodones agreed about focusing on the parking lot and commented that the area could benefit from more housing instead of a parking lot.

Ms. Davis said she will try to get more information from MDOT about the High Street lot to bring back to the Committee next month. Councilor Donoghue commented that he thinks housing would be more beneficial than a park at 98 High Street and that the connection to Congress Square is tenuous. Councilor Hinck commented that a park at that location could be beneficial, not just political, and that he is interested in learning more about whether parking supply can be increased in this area. Mr. Levine said discussions can continue with the Police department and they will take a needs-based approach.

Ms. Davis confirmed that she would follow up on information regarding the funding of an environmental assessment at Adams School, and on the deed restriction through MDOT. Also the group agreed to table the Middle Street lot for the moment and Councilor Donoghue commented that parking supply can also be explored through the India Street effort. He also noted that he wants identification of potential housing development locations to be ongoing for the Committee.

Item #4 - Executive Session: Discussion of facility/space lease negotiations of City property at Ocean Gateway Terminal with new Nova Scotia ferry operator

Pursuant to 1 M.R.S.A. 405(6)(C) and (F) and 5 M.R.S.A. 13119-A, in order to provide direction to City staff, the Committee voted to go in to Executive Session at 6:35pm. At approximately 7:15pm the Committee voted to come out of Executive Session and adjourn the meeting.

Mary Davis
Division Director, Housing & Community Development Division

AGENDA ITEM #2

TO: Councilor Donoghue, Chair
Members of the Housing and Community Development Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

DATE: March 7, 2014

SUBJECT: Adoption of Updated Citizen Participation Plan

I. SUMMARY OF ISSUE

As a HUD entitlement community, the City is required to have a Citizen Participation Plan. The City Council adopted Portland's Citizen Participation Plan as part of the five year Consolidated Plan for 2010-2015 and adopted the plan it as a stand-alone plan on July 15, 2013. Upon submitting the plan to HUD we were notified that modifications to the plan would be required.

II. REASON FOR SUBMISSION

HUD requires that the Citizen Participation Plan be adopted by the governing body of the entitlement community. In order to recognize the City's Citizen Participation Plan, a public comment period and public hearing process must be observed.

III. INTENDED RESULT

If adopted by the Council, the Citizen Participation Plan would be the guiding document which outlines community involvement in the allocation of HUD funded programs such as the Community Development Block Grant Program, the HOME Program and the ESG Program.

IV. COUNCIL GOAL ADDRESSED

HUD Program funds are an important resource utilized by the City to meet several of the Council Goals including:

Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

Mary Davis
Division Director, Housing & Community Development Division

Develop a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use and walking.

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the homelessness task force

V. FINANCIAL IMPACT

The City of Portland would not be eligible to receive HUD funding without an approved Citizen Participation Plan.

VI. STAFF ANALYSIS

The Citizen Participation Plan describes the processes and procedures the City follows in order to ensure that there is an open and effective public process for the allocation of Community Development Block Grant and other HUD program funds. The plan encourages input to the process, and accessibility of information for all Portland residents, regardless of physical ability or English proficiency. It also prioritizes encouraging participation from low and moderate income residents of Portland.

This newest version of the plan does not significantly alter any processes and procedures currently followed, but instead more accurately articulates and clarifies current practices, and refines others to better adhere to HUD regulations, such as timing of public comment periods.

VII. RECOMMENDATION

Staff requests that the attached stand-alone Citizen Participation Plan, with minor grammatical and technical revisions as suggested on the attached document be approved and adopted by the Council at its March 17 meeting so that it can be submitted to HUD with our FY 2014-2015 Annual Action Plan.

City of Portland, Maine

Citizen Participation Plan

Adopted as Part of the 2014-2015 Consolidated Annual Action Plan
May, 2014
Updated

Prepared by
Housing & Community Development Division
City of Portland, Maine
389 Congress Street Room 312
Portland, ME 04101

CITY OF PORTLAND, MAINE
Citizen Participation Plan

The Citizen Participation Plan describes the processes and procedures the City follows in order to ensure that there is an effective public process for the allocation of Community Development Block Grant and other U.S. Department of Housing and Urban Development (HUD) Program funds. These programs are meant to benefit the community, particularly low to moderate income Portland residents. Thus, the Plan encourages input and participation from all citizens, non-profit organizations, other interested parties, especially low-income persons and public housing residents, and organizations representing these groups. This plan is in accordance with federal regulations at 24 CFR Part 91.105.

The Plan also details how residents can access meetings, information and public hearings on the Consolidated Housing and Community Development Plan, the Annual Action Plan, the Consolidated Annual Performance and Evaluation Reports (CAPER), and the Analysis of Impediments to Fair Housing. Housing and Community Development Division staff, who administer the programs, is available to provide technical assistance and facilitate other accommodation requests, such as translation for limited English speakers, or access and accommodation for disabled persons.

The City of Portland Housing and Community Development Division can be reached at:

Portland City Hall
389 Congress Street
Room 312
Portland, ME 04101
(207) 756-8246
TTY: (207) 874-8936

Department and program information can also be found at: http://www.portlandmaine.gov

1. **Public Reports and Comment Period**

The City of Portland prepares the following plans and reports about its HUD programs.

Document	**Description**	**Length of Public Comment Period**
Five Year Consolidated Plan	Five year plan that identifies City goals, priorities, and needs, and strategies to address them.	30 days
Annual Action Plan	Describes activities the City will fund and undertake in the coming year in order to benefit low to moderate income residents, in accordance with the Consolidated Plan.	30 days
Consolidated Annual Performance and Evaluation Report (CAPER)	Describes activities undertaken in the previous year and reviews program performance.	15 days
Analysis of Impediments to Fair Housing	Outlines actions to overcome barriers, impediments, or discrimination that Portland residents face in accessing and maintaining housing.	30 days

Prior to adoption of the Five Year Consolidated Plan, Annual Action Plans, and Consolidated Annual Performance Evaluation Reports (CAPER), the City will make available to citizens and public agencies, such as the Cumberland County Community Development office, the Consortium of Care, Portland Housing Authority, etc., as well as other interested parties, a summary of the plan or report published in a local newspaper and on the City web site. A reasonable number of free hard copies will also be made available for review at City Hall in the Housing and Community Development Office, Room 312, at the Portland Public Library, 5 Monument Square, and the Cumberland County Community Development office at 142 Federal Street. The report or summary will contain information regarding the purpose and process for developing the Plan, the anticipated funding to be received, the estimated amount of funding that will benefit persons of low and moderate income, and the range of activities that are eligible and planned to be undertaken, or have been undertaken and the locations where copies of the plan or report are available. These publications will commence a 30 day comment period for the Five Year Plan and the Annual Action Plan, and a 15 day comment period for the Consolidated Annual Performance Evaluation Reports (CAPER).

2. **Public Hearings and Meetings**

The City holds a number of public hearings each year to obtain citizen input and comments on the Consolidated Plan, the Annual Action Plan and the Consolidated Annual Performance Evaluation Report (CAPER). All such meetings and hearings are held in handicapped-accessible, public locations, primarily City Hall and other community centers.

A) **City Council Meetings** - Two public hearings are held in March or April, prior to the City Council's adoption of the Consolidated Plan and the Annual Action Plan. A third hearing to review program performance is typically held in September or October prior to the adoption of the CAPER. The City notifies the general public of the time and dates of the hearing by placing a legal advertisement in the local daily paper two weeks prior to the date of the hearing. The notice contains at a minimum the amount of assistance the City expects to receive (including grant funds and program income); the range of activities that may be undertaken; the estimated amount of funding that will benefit persons of low- and moderate-income; the City's plans to minimize displacement of persons and to assist any persons displaced; and when and how the City will make this information available. The City also notifies public agencies, organizations and other stakeholders through email or mail at least 15 days prior to the hearing. Information is also always posted on the City of Portland's website.

B) **Neighborhood Meetings** – CDBG Neighborhood meetings are held annually, in September or October, in the City's low to moderate income eligible neighborhoods (neighborhoods where at least 51% of persons or families earn below 80% of the Area Median Income). The meetings are held at convenient times, in handicap accessible locations such as community centers, city hall or public school buildings and feature presentations describing the CDBG program, Citizen Participation Plan, eligible activities and funded projects that have been completed in these neighborhoods. A discussion follows focusing on potential projects or project types for each neighborhood. Advertisement and outreach for these meetings are provided by press releases, mailings to all residents in income-eligible areas, ads in local newspapers, email list-serves of neighborhood organizations and interested parties, and postings at public housing properties.

C) **Housing & Community Development Committee Meetings** – This committee meets twice a month and regularly addresses HUD program topics. Meetings are noticed and open to the public.

3. CDBG Priority Task Force

The CDBG Priority Task Force is a Council appointed Task Force which convenes every few years to develop priorities and provide advice to the City Manager and City Council on the Housing and Community Development needs of the City, including social, economic, housing, and neighborhood revitalization needs. This group should consist of 9-16 Portland residents representing diverse and relevant populations and expertise that could include but is not limited to: a) residents of eligible neighborhoods; b) low and moderate income Portland residents; c) renters and d) landlords; individuals who are knowledgeable about e) planning and f) economic development; g) public service representatives from various areas of expertise; h) Portland housing authority (resident or worker); i) senior citizens; j) young persons (under 30); k) immigrant and refugees; and an individual with a l) disability. All meetings of the Task Force are noticed and open to the public. A new Task Force is appointed every three to five years. Task Force membership lasts the duration of the priority setting process for that year, approximately six months to one year.

4. CDBG Annual Allocation Committee

The CDBG Annual Allocation Committee is a Council appointed volunteer Committee responsible for reviewing and scoring Community Development applications and making funding recommendations to the City Manager and the City Council each year. All Committee meetings are open to the public. Dates, agendas, backup materials, and minutes are posted to the City of Portland's website and updated regularly during the months the Committee meets, typically December through February. The CDBG Allocation Committee is a standing Committee where members serve three year terms. This group should consist of 7-10 Portland residents, who will serve staggered three year terms. Conflict of interest should be minimized; no staff, board members, contractors or anyone receiving financial gain from an applicant's proposal can participate on this committee. The City advertises one to two times per year (in the local newspaper and the web site, etc.) for persons interested in being on this Committee.

5. Technical Assistance and Outreach

The City's Housing and Community Development Division provides technical assistance to any organization, agency or individual serving or interested in serving low income neighborhoods and persons for the purpose of developing proposals to request funding under Housing and Community Development programs and activities. Technical assistance is available upon request from the Department at City Hall, Room 312, 389 Congress Street, or by calling (207) 874-8731.

The City of Portland's Island and Neighborhood Services Administrator is another resource that residents and neighborhood organizations can contact regarding information about CDBG or other City needs. This position operates as a conduit between residents or neighborhood organizations and the appropriate City Department. Information is also shared with the City Councilors so they are aware of the concerns of their constituents. The transmission of information occurs through phone calls, emails, and during monthly meetings with neighborhood organizations throughout the City and especially in the eligible neighborhoods, where neighborhood organizations are very active and engaged in City processes. This position also serves as the program's fair hearing officer. The Island and Neighborhood Services Administrator can be reached at (207) 756-8288 or TTY: (207) 874-8936.

6. Access to Records and Information

Residents, public agencies and other interested parties will also have access to records relating to the City's Consolidated Plan, proposed activities and the use of funding over the previous five years. Records are available at the Housing and Community Development office, Room 312 City Hall, 389 Congress Street.

Translation and interpretation services for non-English speaking persons will be made available for materials or meetings upon request. In addition, all reports and meeting notices will include a statement and contact information in appropriate languages indicating that document translation and interpretation is available. It is the City's policy to provide any and all reasonable accommodations for its disabled or non-English speaking citizens to access any materials, presentations, or locations relative to City programs, including providing oral, Braille, electronic, or large print copies of materials for the visually impaired; and delivering copies of materials to the homebound. Such requests can be made by contacting the Housing and Community Development division at City Hall, Room 312, 389 Congress Street, or by calling (207) 874-8731, TTY: (207) 874-8936.

7. Comments and Complaints

The City considers all comments, whether received in writing or orally, during the development of the Consolidated Housing and Community Development Plan and related Annual Action Plans and Consolidated Annual Performance and Evaluation Reports

(CAPER). Comments or Complaints can be submitted orally at public meetings or in written form at any time. A summary of the comments received in the preparation of the Plan, will be attached to the final Consolidated Plan, Annual Action Plan, amendment to the Plan or Consolidated Annual Performance Report.

The City responds to all substantive complaints regarding the Consolidated Plan, or activities implemented under the Plan, in writing within 15 working days of receiving said complaints where feasible. If a complainant remains unsatisfied, staff brings the complaint to the City Manager for review and resolution. If warranted, the City Manager may refer the complaint to the City Council for review and resolution. All comments and complaints should be directed either in writing or orally to the City's Housing and Community Development Program Manager (207) 874-8731, City Hall, Room 312, 389 Congress Street, Portland, ME 04101 or the Director of Housing and Community Development (207) 874-8711, City Hall, Room 312, 389 Congress Street, Portland, ME 04101.

8. City of Portland Website and Social Networking Sites

The City of Portland's website provides up-to-date information on the Community Development Block Grant, HOME Program, and Emergency Solutions Grant. The CDBG application, process, dates and additional information is listed and updated regularly on the website. The current Citizen Participation Plan, Consolidated Plan, Consolidated Annual Performance and Evaluation Reports (CAPER), and Annual Action Plans are available on the web site all year. The website can be accessed at: http://www.portlandmaine.gov . The City will also ensure that electronic materials are accessible via screen reader technology for the visually impaired and that translation of website content is available. The Planning & Urban Development Department also shares program information and announcements via Twitter under the handle @PortlandPlan.

9. Amendments to the Consolidated Housing and Community Development Plan

Due to changes in local needs during the program year, amendments and revisions to the Consolidated Plan may be necessary. Some of them may be substantial amendments that significantly alter the priorities of the 5-year strategy and the activities within the Annual Plan. Most will be minor in nature, requiring only insignificant shifting of funds from one account to another in order to complete an approved activity. This may include the reprogramming of contingency or surplus funds. The following criteria will govern how the City implements substantial amendments and funding revisions.

A) Minor amendments. Unless a change qualifies as a substantial amendment (see below) the City Manager or his/her designee will amend the City's approved plan whenever one of the following decisions is made:

(1) To make a change in its allocation priorities or a change in the method of distribution of funds;

(2) To carry out an activity, using funds from any program covered by the consolidated plan (including program income), not previously described in the action plan; or

(3) To change the purpose, scope, location, or beneficiaries of an activity.

Each amendment must be authorized by the City Manager or his designee, and submitted to HUD. All amendments will also be made public by posting on the City of Portland's website, and made available during business hours in the Department of Planning and Urban Development (Division of Housing and Community Development) City Hall, Room 312. Additionally, members of the public may request a copy of any proposed substantial amendment via email request to the City's CDBG Program Manager. The amendment may be implemented immediately after submitting it to HUD and making it public.

B) Substantial amendment. A substantial amendment to the Consolidated Plan or Annual Action Plan is defined by the City as a transfer of funds between two or more approved Plan activities that is greater than 50% of that year's annual allocation of ESG program funds, 10% of that year's annual allocation of HOME program funds, and 5% of that year's annual allocation of the CDBG program funds.

Substantial amendments to the Plan will be presented to the Portland City Council for review and approval. This meeting will be advertised as a City Council action; open to the public; provide opportunity for public comment in writing or orally on the proposed substantial amendment. The public will be notified of all substantial amendments by an advertisement of the proposed amendment in a local newspaper, and posting on the City's web site. The advertising of the substantial amendment will begin a thirty (30) day citizen review and comment period. The City will consider any comments or views of citizens received in writing or orally during the comment period. The City Manager will submit to HUD a letter authorizing the amendment after the thirty-day comment period and City Council approval, and will implement the amendment at that time.

C) Funding revisions. Funding revisions are defined as minor programmatic or budgeting changes necessary to fund new activities or secure adequate funding to complete approved activities. For this purpose, a "new activity" is defined as a project or projects not originally submitted for funding during that year's CDBG program application process. Funding revisions will be addressed in the following ways.

(1) Any new activities proposed to be funded in an amount less than the substantial amendment thresholds stated above, with either reprogrammed contingency, unallocated funds, additional funds allocated by HUD, or with monies from another account will require approval from the City Manager.

(2) Any fund transfer from one approved activity to another in an amount less than the substantial amendment thresholds stated above, but in an amount that increases the underfunded activity *in excess of* 25% of the original allocation shall be approved by the Director of Planning and Urban Development.

(3) Any fund transfer from one approved activity to another in an amount less than the substantial amendment thresholds stated above, but in an amount that increases the underfunded activity *less than* 25% of the original allocation shall be approved by the Department's Housing and Community Development Director.

10. <u>Displacement</u>

In accordance with CDBG and HOME Program regulations, the City of Portland shall discourage displacement of families and individuals from their homes as a result of HOME or

CDBG-assisted activities. Furthermore, the City will take all reasonable steps, consistent with the overall goals of the program, to minimize displacement. These steps include:

1) Requiring the replacement of all occupied and vacant low or moderate income dwelling units that are demolished or converted to a use other than low or moderate income housing in connection with an activity assisted by CDBG or HOME funds, with comparable low or moderate income dwelling units; or through payment into the housing replacement fund.
2) Requiring the provision of relocation assistance through either the URA, as described in 49 CFR Part 24, or through Section 104(d) of the Housing & Community Development Act.

Mary Davis
Division Director, Housing & Community Development Division

AGENDA ITEM #3

TO: Councilor Donoghue, Chair
Members of the Housing and Community Development Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

DATE: March 7, 2014

SUBJECT: Renewal of HOME Consortium

I. SUMMARY OF ISSUE

The Cumberland County HOME Consortium will soon be entering the last year of its second three-year consortium contract period. The current consortium agreement is due to expire on June 30, 2015.

II. REASON FOR SUBMISSION

We are required to submit our consortium renewal request to the U.S. Department of Housing and Urban Development by June 30 for the contract period July 1, 2015 through June 30, 2018.

III. INTENDED RESULT

Confirm Portland's participation in the Cumberland County HOME Consortium for the period beginning July 1, 2015 through June 30, 2018.

IV. COMMITTEE GOAL/COUNCIL GOAL ADDRESSED

Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the homelessness task force.

Create a collaborative process for the on-going establishment of pro-active priorities at the regional, state and federal levels that advance the interests of the city.

V. FINANCIAL IMPACT

In FY 2013-2014, the Cumberland County HOME Consortium received $866,153 in HOME program funds from the U.S. Department of Housing and Urban Development. Based on the funding formula established in the Mutual Cooperation Agreement between the City of Portland and the other Consortium Members the City receives 10% of the grant ($86,615) for administrative costs and $428,623 for project programming. The remaining funds ($350,914) are allocated to the other Cumberland County communities.

VI. STAFF ANALYSIS AND RECOMMENDATION

The consortium has been a successful collaboration in support of affordable housing throughout Cumberland County. From July 2009 through June 2013, 334 units were assisted by or created with HOME funds. The City of Portland has been a recipient of HOME funds since 1992. However, the county communities did not receive HOME funds until the creation of the Consortium in 2009. Through a formula calculation agreed upon by the members of the Consortium, Portland continues to receive our typical expected allocation, retains independent operation of its HOME program and serves as "Lead Entity" for the Consortium, retaining 100% of the allowable administration funds as compensation for this responsibility. (See attached "Hold Harmless" statement).

Staff requests the HCDC approve and recommend to the City Council that the City of Portland renew its participation in the Cumberland County HOME Consortium.

APPENDIX "A"

City of Portland, "Hold Harmless" Calculation

Introduction

A central premise in the creation of the Cumberland County HOME Consortium is that the City of Portland, as an existing HOME Program Participating Jurisdiction, will continue to receive funding equal to its allocation prior to the formation of the Consortium. Portland will be "held harmless". Its base funding, prior to any added allocation owing to participation in the Consortium, as outlined in other sections of the Agreement, will remain neutral.

The Standard

Portland's base, "hold-harmless" allocation under the Cumberland County HOME Consortium for 2012-2014 will be 118% of the HOME allocation for the Lewiston/Auburn HOME Consortium.

It is possible, though highly unlikely, the funding allocation for Lewiston/Auburn may vary from its historic established patterns. This could be due to penalties imposed by HUD, demographic shifts or other events unrelated to the federal HOME budget or HUD's general distribution of funds to participating jurisdictions. If this occurs, Consortium members will examine all available data to establish a hold harmless allocation for Portland in the fairest manner possible.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Housing and Community Development Committee

FROM: Greg Mitchell, Economic Development Director

DATE: March 7, 2014

SUBJECT: **Downtown and Transit Oriented Development TIF District Continued Discussion**

This memo continues the discussion related to establishment of a combined Downtown and Transit Oriented Development (DT/TOD) Tax Increment Financing (TIF) District. Four items to be discussed at the March 12, 2014 HCDC meeting, include:

1. **Geographic Boundaries**. Staff is providing one proposal for a DT/TOD TIF District with notes related to extending a TOD corridor along Forest Avenue and possible amendments to the Waterfront TIF District boundary.

2. **Existing TIF Districts**. Staff will provide an overview of the four existing large area-wide TIF district (Arts, Bayside, Waterfront, Thompson's Point TOD/TIF) and their relationship with the proposed combined DT/ TOD TIF District.

3. **Increased Property Value Estimates**. Staff will provide preliminary estimates for increased property value for each area-wide TIF district and the proposed DT/TOD TIF District.

4. **Next Steps**. Staff will outline a series of next steps to advance this discussion toward Committee and City Council approval of a DT/TOD TIF District.

A discussion of each above four items follows below.

1. Geographic Boundaries

Staff is proposing a single proposal to establish a DT/TOD TIF District - see attached map. The proposed boundaries for this TIF district match up with existing TIF districts and are consistent with past and present City planning efforts which include:

- ***Bayside Vision and Plan (2000)***
- ***East Bayside Plan (2010)***
- ***Arts District Plan (1995)/Creative Economy Plan (2008)***
- ***Downtown Plan (1991 and 2005)***

- ***India Street Planning (currently underway)***
- ***Waterfront Plan (2005)***
- ***Eastern Waterfront Plan (2002)***
- ***Transforming Forest Avenue (2011)***
- ***Hub - Link Transit Study (under way)***

Additionally, the proposed DT/TOD TIF District geography includes commercial zoning districts.

Finally, it is noted that minor adjustments to the proposed DT/TOD District boundary may be needed due to the possible Bay House TIF District near-term termination and inactive Fore Middle India Street Project (adjacent to the Hampton Inn) TIF District.

2. Existing TIF Districts

An overview of the Arts, Bayside, Waterfront, and Thompson's Point TIF Districts follow:

TIF District	**Start/Stop FY**	**TIF Capture***	**Allowable Uses**
Bayside**	FY04/FY33	100%	Public Infrastructure; Staff Salaries; 2 Credit Enhancement Agreements.
Arts	FY10/FY24	100%	$100,000 Yearly to Creative Portland; Center for the Arts; Capital, financing, real property assembly, and professional costs; Revolving Loan or Investment Fund; 1 Credit Enhancement Agreement.
Waterfront	FY03/FY32	100%	Dredging; Debt for Ocean Gateway; Street Improvements; Pedestrian circulation and amenity improvements; Staff salaries.
Thompson's Pt./TOD TIF	FY15/FY44	100% Yrs 1-10 85% Yrs 11-15 75% Yrs 16-20 65* Yrs 21-30	Transit services to be determined; 1 Credit Enhancement Agreement.

*TIF Capture rates are allowed at 100% per year unless reduced by the City.
**TIF Revenue collateral for HUD loan.

The proposal includes maintaining the above four TIF districts in place due to existing obligations associated within each TIF district which includes:

- Individual site specific Credit Enhancement Agreements in all four districts;
- Bayside TIF District revenue being used as collateral for the 108 HUD funds; and,
- Each district's unique needs, including the Arts District financial support to Creative Portland, and the Waterfront District financial support to specific waterfront activities.

Staff recommends exploring amendments to each of the above four districts to better align the use of future TIF revenue into public infrastructure investments.

3. <u>Increased Property Value</u>

Preliminary estimates for increased property values, as of April 1, 2014 on peninsula, by area include:

- ***Arts TIF District***. Projected increased property value is $25+ million.

- ***Bayside TIF District***. No projected increased property value.

- ***Waterfront TIF District***. Projected increased property value is $13+ million. It is noted that the estimated $13 million increase in property value is associated with the new Marriott Hotel which is located in the Waterfront TIF district growth area. An amendment to the Waterfront TIF District is needed to include this property in the TIF District. An additional amendment should be explored to include West Commercial Street property (site of Phin Sprague boat yard and Marine Terminal expansion) within the Waterfront TIF District.

- ***Proposed DT/TOD TIF District area***. Projected increased property value is $27 million.

4. <u>Discussion and Next Steps</u>

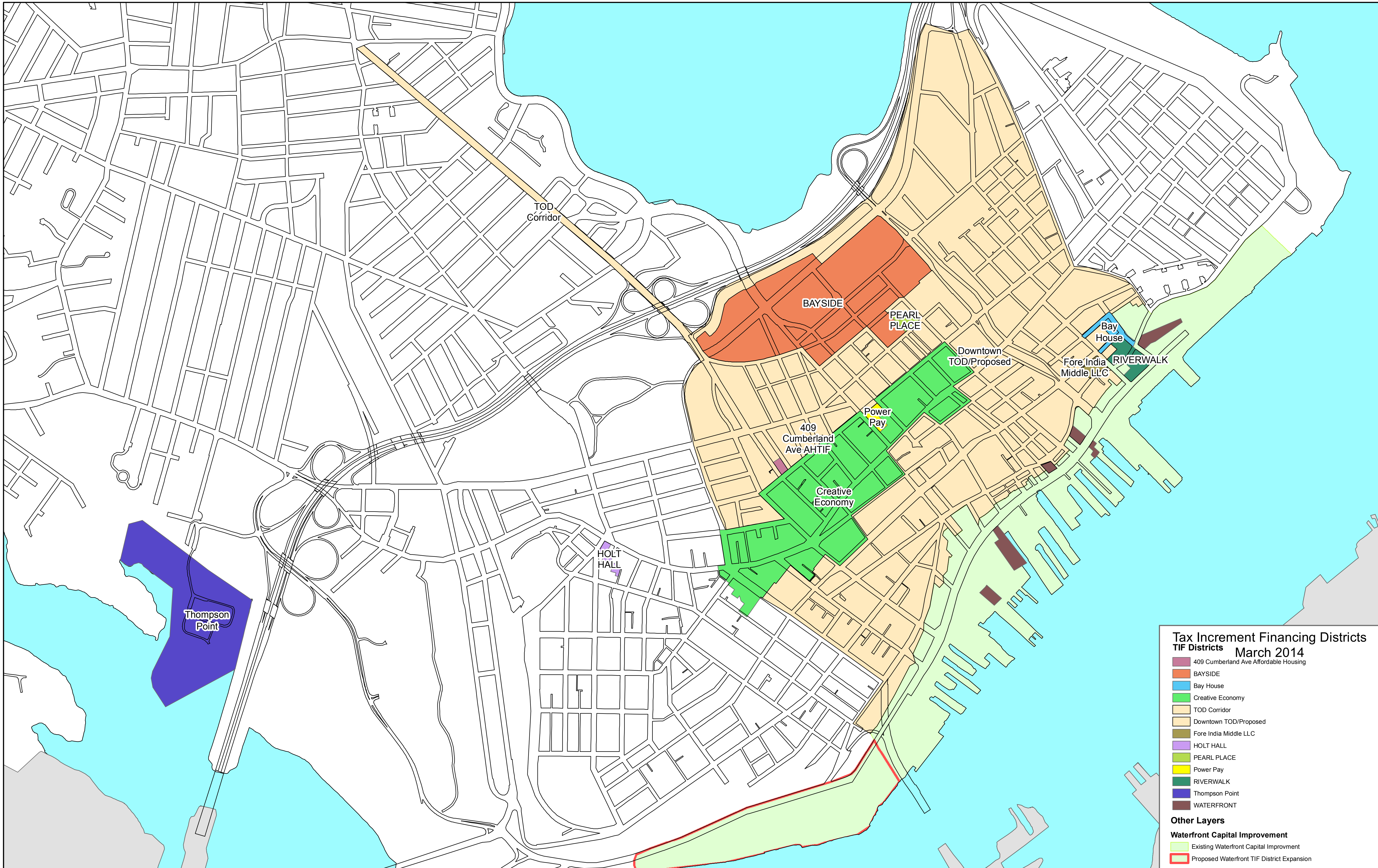
Staff is looking for direction from the HCDC regarding the proposed boundary for the DT/TOD TIF district and approach to maintain and possibly amend the area-wide TIF districts located on the peninsula.

Next steps include preparing downtown and transit plans to support specific listings of proposed investments for use of TIF revenue. State agencies require plans to be in place to identify the specific uses of TIF revenue. State agency requirements for required plans, at present, are evolving. Staff feels that State agency plan requirements can be met by preparing a synopsis of the infrastructure investment strategies contained in existing plans along with incorporating the results of the India Street planning work currently underway, combined with Metro staff's assistance to provide recommendations for new or enhanced transit services. This work, which would be completed by Planning and Urban Development, is a much larger task than was originally anticipated when we started this effort. Given other items on the Department's work plan, it may take several months to complete. If the HCDC wishes it to be done more swiftly, we should discuss what other items would move lower on its priority list for completion to make room for this planning effort.

Next steps include:

- City staff preparing a synopsis of existing plans including a specific listing of public infrastructure investments;
- City staff working with Metro staff and the TSE in concert with the Hub – Link Plan to present recommendations for specific new and/or enhanced transit services.

Staff will provide monthly progress reports to the HCDC.


TOD Corridor
BAYSIDE
PEARL PLACE
Downtown TOD/Proposed
Bay House
Fore India Middle LLC
RIVERWALK
Power Pay
409 Cumberland Ave AHTIF
Creative Economy
HOLT HALL
Thompson Point
Tax Increment Financing Districts
March 2014
TIF Districts
409 Cumberland Ave Affordable Housing
BAYSIDE
Bay House
Creative Economy
TOD Corridor
Downtown TOD/Proposed
Fore India Middle LLC
HOLT HALL
PEARL PLACE
Power Pay
RIVERWALK
Thompson Point
WATERFRONT
Other Layers
Waterfront Capital Improvement
Existing Waterfront Capital Improvment
Proposed Waterfront TIF District Expansion

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Housing and Community Development Committee

FROM: Greg Mitchell, Economic Development Director

DATE: March 7, 2014

SUBJECT: **Nova Star Cruises Limited Lease**

I. SUMMARY OF ISSUE

An overview of the Nova Star ferry service connecting the port of Portland, Maine with Yarmouth, Nova Scotia includes:

- ***Season - May 1st to October 31st seven days a week***;
- ***Portland Port Arrival Time is 7:00 p.m.; and,***
- ***Passenger, vehicle, and commercial truck planned use***.

Attached is a proposed lease, with Nova Star Cruises Limited, which has been negotiated under the direction of the HCDC. An overview of the Lease terms is provided below.

Seasonal exclusive use of the following Ocean Gateway facilities and property:

- Departure Building for Nova Star office and ticketing.
- Queuing Area during certain times of day (5:00 p.m. to 11:00 p.m.).
- Berthing (7:00 p.m. to 11:00 p.m.) daily.
- Terminal Building ground floor daily use for Custom Border and Protection screening between 5:00 p.m. and 9:00 p.m.

Non-exclusive use of the Receiving Building between 9:00 a.m. and 9:00 p.m.

See attached Lease Exhibit A for an orientation of Ocean Gateway facility and property.

Parking. All day parking spaces for up to five (5) employees, and part-time parking (5:00 p.m. to 12:00 midnight) for up to ten (10) additional employees at a mutually agreeable cost and location.

Term. Two (2) year initial term with two (2) additional two (2) year renewal terms for a total of six (6) years. Renewals will be subject to mutual agreement.

Departure Building Rent. $19,200 per year or $12.00 per square foot.

City Fees. See attached Lease Exhibit B for fees. It is noted that the City Tariff will need to be amended to be in line with the attached fees schedule for international ferry service.

Lease Deposit. $10,000

Facility Modifications. It is noted that there are approximately $225,000 in Ocean Gateway facility and property improvements needed to accommodate new Custom Border and Protection (CBP) requirements. These improvements include new fences/gates, increased lightening, existing screening booth modifications along with the rental expense for a temporary office trailer for CBP personnel. Nova Star is responsible for this covering this expense with a planned commercial loan from the Portland Development Corporation.

II. REASON FOR SUBMISSION

Lease agreement for use of Ocean requires HCDC review and recommendation to the City Council and City Council approval.

III. INTENDED RESULT

A recommendation from the HCDC to the City Council to approve the proposed Lease.

IV. COUNCIL GOAL ADDRESSED

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

Projected Lease rent and fee revenue is contingent upon the level of passenger, vehicle, and truck use. Conservative estimates are in the range of over $150,000 up to $400,000 per season.

VI. STAFF ANALYSIS

Staff working under the direction of the HCDC has negotiated a fair lease agreement for both parties.

VII. RECOMMENDATION

City staff recommends approval of the proposed Lease.

VIII. LIST ATTACHMENTS

1. Exhibit A to Lease
2. Exhibit B to Lease
3. Proposed Lease, with Exhibits

EXHIBIT A

DIAGRAM OF PREMISES
AND OCEAN GATEWAY TERMINAL

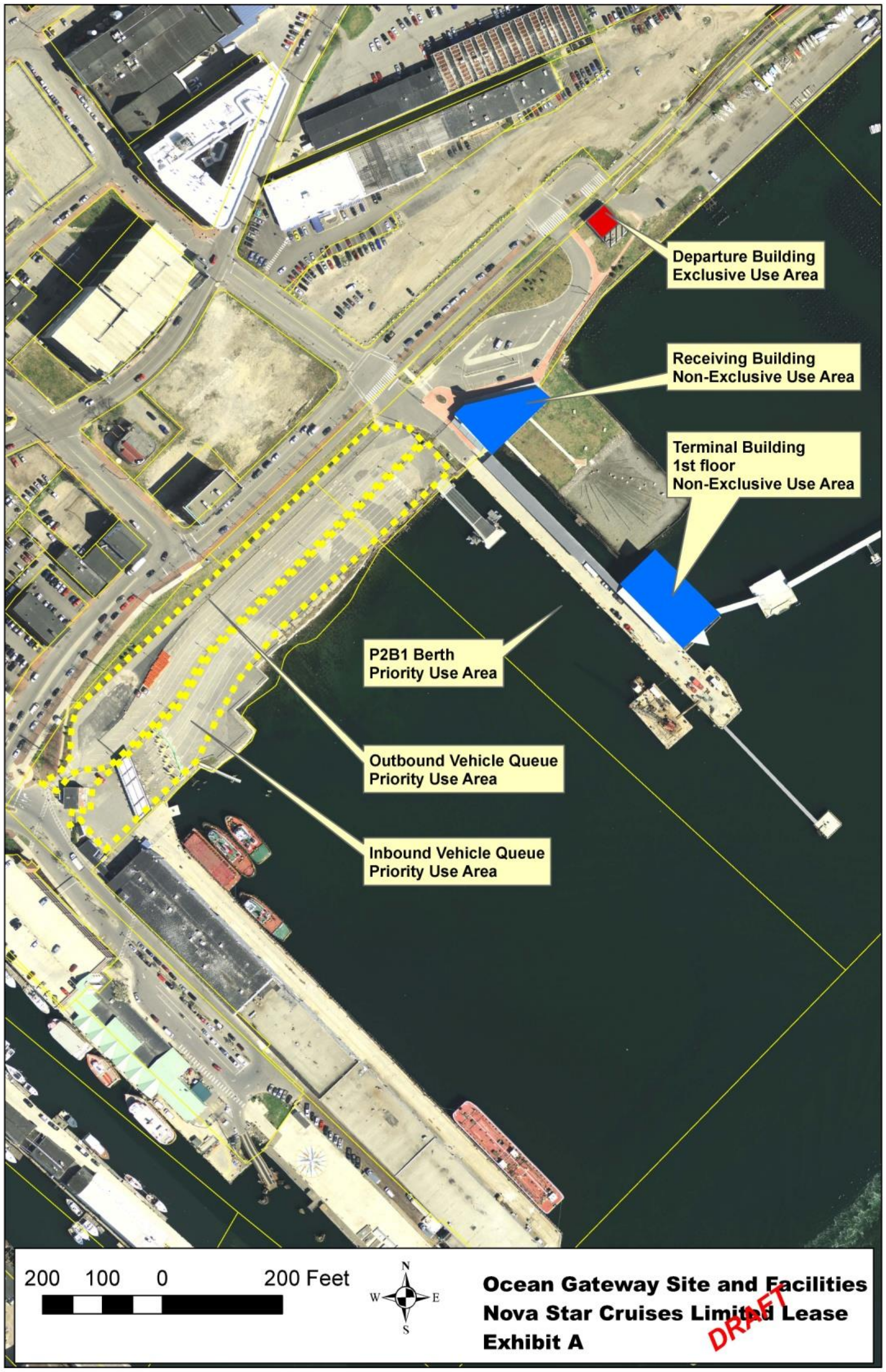


EXHIBIT B
As of March 4, 2014

Fuel License, per season	\$100.00
Berthing	\$350.00/Flat Rate 1st Year; \$1.00 per foot of overall vessel length, per day 2nd Year.
Common Area Fee-Receiving Building, per day	\$ 25.00
Common Area Fee-Terminal Ground Level, per day	\$ 50.00
Fresh Water, per metric ton	\$ 4.00
Security Badges, each	\$ 2.50
Security Badges, replacement, each	\$ 25.00

The following fees are upon each arrival and each departure:

Passengers	\$ 2.50
Bicycles	\$ .50
Motorcycles	\$ .75
Automobiles	\$ 3.00/1st year, \$5.00/ 2nd year.
Passenger Vehicle with Camper/Utility Trailer	\$ 3.00/1st year, \$5.00/ 2nd year.
Recreational Vehicles/Motor Homes	\$ 3.00/1st year, \$5.00/ 2nd year.
Tour Busses/Motor Coaches	\$ 20.00
Commercial Trucks (without articulating trailer)	\$ 20.00/1st year, \$30/2nd year.
Commercial 'Trailer Trucks': Cab with Articulating Trailer	\$ 20.00/1st year, \$30/2nd year.

LEASE BY AND BETWEEN

CITY OF PORTLAND AND

NOVA STAR CRUISES LIMITED

RE: OCEAN GATEWAY

THIS LEASE AGREEMENT dated as of this **__** day of **________**, 2014, is by and between the City of Portland, Maine, Maine municipal corporation with a principal office at 389 Congress Street, Portland, Maine 04101 (the "Landlord"), and Nova Star Cruises Limited, a Canadian registered corporation with a principal office at 131 Sandy Run, Hammond Plains, Nova Scotia, Canada, B4B - 1X9 (the "Tenant").

WHEREAS, Landlord owns certain real property and improvements known as Ocean Gateway, including a Receiving building and a Terminal building at 14 Ocean Gateway Pier, and a Departure building (formerly known as the "Paint Building") at 14A Ocean Gateway Pier, and queuing and parking areas (collectively the "OG Facilities") located at the Ocean Gateway Pier, Portland, Maine; and

WHEREAS, Tenant wishes to operate an international ferry service between Portland, Maine and Yarmouth, Nova Scotia; and

WHEREAS, both parties wish to continue service between Portland and Yarmouth (the "Service") by a corporate affiliate of Tenant on vessel cruise ferry known as the Nova Star, 161 meters in length, or other vessel supplied by Tenant and approved by Landlord, which shall not be unreasonably withheld, supplied by Tenant or its corporate affiliates (the "Vessel"); and

WHEREAS, Landlord wishes to lease to Tenant office, ticketing, and passenger support space and to provide passenger departure and receiving space, queuing, berthing and employee parking facilities (the "Premises"), for use by Tenant and its customers in the conduct of the Service;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. <u>Premises</u>.

Landlord does hereby lease, demise and let unto Tenant, to have and to hold on the terms herein, subject to the reservation and condition in subparts below, the Premises identified herein and shown on Exhibit A, attached hereto and incorporated herein.

a. <u>24/7 Exclusive use space</u>. The following space is available for the exclusive use of Tenant for the Initial Term or Renewal Term of this Lease:

i. Office and ticketing space at the Departure building to be used for customary and usual office and ticketing operations (the "Office Space"), as well as for general passenger support purposes;

ii. The interior of this structure is now unimproved; Landlord's sole obligation shall be to provide electricity and water to the building, with Tenant responsible for any improvement it requires, as provided below.

iii. The approximate exterior dimensions of the Departure building are forty feet by forty feet, and its location is shown on Exhibit A.

b. <u>Spaces for exclusive use at certain times</u>. The following spaces are available for the Exclusive use of Tenant for the hours stated during the Operating Season:

i. Queuing area. The sole area to be used for marshalling inbound and outbound vehicles, is the area labeled "Out Bound Queue" and "In Bound Queue" on Exhibit A, as may be modified to meet Customs and Border Protection requirements, and is to be used by Tenant on a non-exclusive but priority basis during the Operating Season to accommodate its sailing schedule, as outlined in Section 4. The Queuing area will be available to the Tenant for its exclusive use, however, only between the hours of 5:00 P.M. and 11:00 P.M., daily, and only during the Operating Season. The Queuing area may be reduced temporarily by mutual agreement of the Tenant and the City of Portland's Director of Facilities Management or his/her designee (the "Director"). In addition, Tenant may place in the Queuing area any trailers or other facilities or improvements required by the U.S. Custom Border Protection service to be in or near such area, with the approval of the Landlord which may not be unreasonable withheld, and subject to regulatory approval by the Portland Planning Board and/or Planning Staff. With respect to the queuing of commercial trucks and all truck with a cab and articulating trailer ('semi's'): The Tenant will actively discourage the the queuing of such vehicles in the public ways of the Landlord. Before the beginning of the first Operating Season, Tenant will provide Landlord with a written plan for queuing such vehicles, including the contingency of such vehicles, while awaiting departure, being too numerous to be accommodated in the Outbound Queuing Area, and possibly including the establishment of an off-site queuing area, with radio or telephone communication used to coordinate movement of such trucks to the Premises from that area.

ii. Berthing. In addition to the foregoing, berthing at the OG Terminal may be used by Tenant and the Vessel on a non-exclusive but priority basis during the Operating Season, based upon Tenant's sailing schedule, as outlined in Section 4. The Berthing area will be available to the Tenant for its exclusive use between the hours of 7:00 P.M. and 11:00 P.M., daily, during the Operating Season. In the event Tenant wants unscheduled berthing, a request for such berthing shall be made with as much advance notice as reasonably possible prior to the need for such berthing. Landlord shall make such berthing available to the extent it is reasonably available, subject to the provisions of Section 4 below. The Landlord reserves the right to assign a secondary berth to Tenant in the event of Tenant's off-schedule berthing. Tenant shall be solely responsible for the cost of moving its vessel to off-schedule berthing, including but not limited to any security costs, and Landlord shall have no responsibility for such moving, security or related costs. Use of the Berthing area shall include the use of the 'roll-on, roll-off' ramp facilities now existing at the OG Terminal, as is, for vehicle and passenger loading and unloading. Use of this ramp facility is at Tenant's sole risk. Tenant agrees to have an appropriate engineering or other profession certify to Landlord as to the safety and acceptability of the interface of this ramp facility and the corresponding facilities on the Vessel, on or before April 15, 2014. Landlord is to certify that the ramp facility is constructed and maintained to the supplied drawings and specifications on execution of this Agreement. Upon request, Landlord will provide Tenant with any plan or schedule Landlord has for the maintenance of this ramp facility. The approximate size and location of this above non-exclusive use space shall be as shown on Exhibit A.

iii. Terminal Building. Tenant will have the exclusive use of the ground floor of the Terminal Building at the OG Terminal between the hours of 5:00 P.M. and 9:00 P. M. daily, during the Operating Season, for the processing of passengers by Custom Border Protection, and related functions. The Tenant will 'staff' this area during this exclusive use time, and clean the area after each use, and secure (lock up) the area after each use, unless requested otherwise by Landlord's employees.

c. Non-exclusive use space. The following spaces is available for the non-exclusive use of Tenant during the Operating Season:

i. Receiving Building. Between the hours of 9:00 A.M. and 9:00 P. M. daily, during the Operating Season, the Receiving Building at the OG Terminal may be used by Tenant on a non-exclusive basis, in common with others, including the passenger waiting areas and rest rooms within the OG Receiving Building. During cruise ship operations at the OG Terminal, cruise ship passenger support will be a significant use within the Receiving building and surrounding vehicle circulation areas. Tenant will secure (lock up) the area after each use, unless requested otherwise by Landlord's employees.

ii. Exterior areas. In addition to the foregoing, the walkways, driveways and roadways within the OG Terminal may be used by Tenant on a non-exclusive basis, in common with others. However, on any day on which another vessel (such as a cruise ship) will be using the OG Terminal, the Tenant and its passengers will only use the area to the east of the Departure Building for dropping off of customers and passengers, and Tenant will co-operate with Landlord to adequately place signage for incoming customers and passengers to be aware of this use restriction.

d. Parking. Landlord will make available to Tenant for its employees' parking up to 5 full-day parking spaces and up to 10 additional parking spaces available only between 5 P.M. and 11:59 P.M., daily, at a mutually agreeable cost and location, during the Operating Season of each year of the term of this Lease or any renewal term. Landlord will assist the Tenant such that Tenant is able to direct customers of parking facilities within the City of Portland, including the nearby Ocean Gateway Garage, but Landlord with not provide any cumtomer parking (other the Queuing area described above, to be used for queuing).

e. Landlord reserves the right to change particular locations of those portions of the Premises which are for non-exclusive use by Tenant, but subject to the condtion that such re-location(s) will not unreasonably burden the operations of Tenant. The intent of this reserved right to re-locate is to allow Landlord to continue the ongoing development and enhanced utilitzation of its limited waterfront real estate, in coordination with other parties using nearby locations, or desiring to make use of City owned property or nearby locations.

This Lease Agreement is non-exclusive except as provided for above for exclusive use and nothing herein shall prevent or prohibit the Landlord from leasing other available space at either the Ocean Gateway or any other facility owned or operated by Landlord, to another Tenant for any purposes Landlord deems suitable, including but not limited to the operation of a similar ferry service. Tenant's use of the Queuing area and all other areas to be used by passengers is subject to any reduction in size or configuration or availability as may be required, at any time, by any security agencies having jurisdiction with respect to such areas.

2. [intentionally omitted]

3. <u>Term.</u>

a. Initial Term. Except as provided below, the Initial Term of this Lease shall be from April 15, 2014 through October 31, 2016, with Tenant option to renew for two (2) additional two (2) year terms (the Renewal Term), subject to mutual agreement of the parties as to Rent and Fees. Tenant shall provide Landlord with notice no later than one full year before the then effective end date of the then term of this Lease, as to whether Tenant wishes to renew this Lease. If Tenant wishes to renew, the parties shall meet no later than within two months of such notice to negotiate renewal Rent and Fees. In the event the parties have not agreed on such Rent and Fees within four months after such notice, then this Lease will terminate effective on that then effective end date.

b. Operating season. Tenant's Operating Season shall be May 1 to October 31, annually (the "Operating Season"), which may be enlarged or extended, upon a request from Tenant, after approval of the landlord in its sole discretion. Tenant shall have the right to exlusive occupancy of the portion of the Premises which is the Departure Building, and non-exclusive use of the remainder of the Premises from two weeks before the beginning of the Operating Season, and two weeks after the end of the Operating Season of each year of the Initial Term of this Lease and any Renewal Term, for preparation and winding up, but subject to other uses the Landlord may make of all portions of the Premises, but for the Departure Building.

4. <u>Permitted Uses.</u>

a. During the term of this Agreement, Tenant is permitted to use the Premises and related OG Facilities for the purpose of conducting the Service via the Vessel. Tenant reserves the right to change vessels providing the Service hereunder, (so long as such new vessel is of reasonably comparable quality and is functionally compatible with the then existing facilities at OG), subject to Landlord's approval which shall not be unreasonably withheld. Tenant shall pay all costs associated with accommodating any such change in, or addition to, such vessel(s).

b. Tenant agrees to provide seven (7) days of service per week during the Operating Season, subject to normal exigencies of the ferry business, including weather and mechanical breakdown. Sailings shall be daily with arrivals at 7:00 p.m. and departures by 10:00 p.m. Should Tenant wish to institute additional service, the parties will meet to review the issue of priority berthing and queuing availability for such additional or modified service schedule, and such additional service shall only be instituted with the written approval of the Landlord, and at Landlord's sole discretion. Should Tenant wish to reduce its schedule of service, Tenant will provide as much notice as reasonably practicable and will provide best efforts to give notice at least sixty (60) days in advance.

c. Tenant acknowledges that no trade or occupation shall be conducted on or from the OG Facilities or use made thereof that would be unlawful, improper, or offensive, or contrary to any law or any municipal by-law or ordinance.

5. <u>Rent; Fees.</u>

a. Tenant shall pay Fees, when due, as provided on Exhibit B, attached hereto and incorporated herein.

b. Tenant shall pay, for the use of the Departure Building, an annual amount as Rent of Nineteen Thousand Two Hundred Dollars ($19,200.00) due and payable as specified in Section 6 (a), below.

c. Overnight berthing may be provided upon Tenant's request, if such berthing is reasonably available. In such case, the fee for such berthing shall be pursuant to Exhibit B.

d. Upon execution of this Lease, Tenant agrees to pay Landlord a deposit in the amount of Ten Thousand ($10,000.00) which deposit shall be forfeited in full to Landlord in the event of termination or default prior to one full season of operation by Tenant. After this first season of operation, this deposit shall be retained by Landlord as security deposit.

6. <u>Payment; Statements</u>.

a. Payment: Rent shall be paid in twelve equal monthly payments in advance beginning on April 1, 2014, and thereafter on the 1st day of each month of the term of this Lease and any renewals.

b. Other fees: The per passenger fees, per vehicle fees, berthing and common area fees in Exhibit B shall be paid, without need for invoice, by the fifteenth (15^{th}) day of each month for the calendar month immediately preceding such payment, accompanied by Tenant's statement as provided below. All other Fees shall be paid within Thirty (30) days of receipt of an invoice from the Landlord.

c. All payments will be made in U.S. legal tender to the Landlord at the address herein. Tenant's right to occupy the Exclusive Use space and its Rent and Fee obligations under Paragraph a.. above shall start on April 1, 2014; Fees due only during the Operating Season in Paragraph b. above shall begin as of the first day of the month of said Operating Season. No additional rent shall be charged for insurance or operating expenses, unless otherwise provided for herein. Tenant shall be responsible for payment of personal property taxes which may be payable on their trade fixtures and equipment, and for payment of any federal, state or local fees or taxes which may apply to their operations hereunder.

d. Late payment: Tenant shall make prompt and timely payment of all rentals, fees, and other charges due hereunder as the same may from time to time come due. In the event that any such payment is not made within thirty (30) days of the invoice due date, a penalty of one percent (1-%) per month 12% per annum) shall be assessed and paid on all such amounts outstanding.

e. Address: All payments hereunder shall be written to the City of Portland and sent to the attention of: Director of Facilities Management, City of Portland, 389 Congress Street, Portland, Maine 04101 or such other place as the Director may designate in writing from time to time.

Any invoices shall be sent to Tenant at the following address: Nova Star Cruises Limited, 30 Damascus Rd, Suite 201, Bedford NS, Canada B4A 0C1, Attn: Mark H. Amunden, President, or such other person or address as Tenant may designate in writing from time to time.

f. Tenant statements: Tenant shall submit its official manifest or other official documentation (or electronic equivalent) showing the number of passengers, vehicles and buses/trucks (or other conveyances) transported by Tenant both to and from the City of Portland each month when it submits its per passenger, per vehicle and per bus/truck fees under Exhibit B. Tenant shall further provide Landlord with a statement as to monthly berthing when it submits its payment for the berthing.

g. Landlord reserves the right to conduct an audit of Tenant's traffic records, upon reasonable notice and during regular business hours, to determine the accuracy of amounts paid hereunder. In the event such audit discloses an underpayment to Landlord of more than Five Percent (5%) in any year, Tenant shall pay to Landlord, in addition to the amount owed and any applicable late charges, the reasonable cost to Landlord of its audit.

7. <u>Condition of Premises; Improvements to Premises.</u>

a. "As is." Tenant has had the full opportunity to inspect the Exclusive Use space, the berthing, queuing, parking and the common use space prior to execution of this Lease Agreement and takes all such space, specifically including the existing 'roll-on roll-off' ramp, "as is", except as specifically provided herein. Should Tenant's Vessel require modifications of the existing 'roll-on roll-off' ramp, such modifications shall be solely at Tenant's cost and expense, and subject to all required reviews and permits for such structure, including but not limited to approval of the Director which shall not be unreasonably withheld. Should Tenant change vessels and this results in the need for a new or modified ramp structure, gangway structure or other portions of the OG Facility from that provided as of May 1, 2014, such structure or facilities shall be provided solely at Tenant's cost and expense, and subject to all required reviews and permits for such structure, including but not limited to approval of the Director which shall not be unreasonably withheld.

b. In the event Tenant wishes to make improvements to the Premises, it shall obtain the written approval of Landlord prior to undertaking any such improvements, which approval shall not be unreasonably withheld, but all such improvements shall be at Tenant's cost and expense.

c. Notwithstanding the foregoing, Landlord agrees that Tenant may install, at Tenant expense, only at particular locations approved in advance by the Director, its security camera system in order to monitor the docking basin, vehicle inspection or processing booth and waiting areas for security and operational issues; subject to the condition, however, that Tenant will share access with the Landlord to the ‘live feed’ from such cameras, as well as any recordings from such cameras if and when requested.

8. <u>Obligations of Landlord; Maintenance, Utilities</u>.

Except as otherwise provided herein, the Landlord shall provide for the ‘landside’ facilities only, at its expense, the following:

a. Heat and Ventilation to maintain the Receiving Building at a reasonable temperature and hot water at such hours and on such days as Tenant is using the Receiving Building, and electricity within the Receiving Building.

b. An Electrical connection to the Departure Building, with service to be sub-metered separately for, and paid for by the Tenant. Tenant shall have the right to use the Departure Building 24 hours per day, 7 days per week.

c. Except as otherwise provided in this Lease, Tenant acknowledges and agrees that this Lease is a ‘net lease’, for the Landlord, and that the Landlord shall not be responsible for any costs, charges, expenses or the like whatsoever arising from or related to the leased premises or rights, or the business carried on or related to said premises or rights, and Tenant shall pay all costs, charges, expenses or the like of every nature and kind whatsoever relating to the leased premises or rights, including any passenger or vehicle ramps, unless agreed to in advance in writing by Landlord.

d. Water for ordinary drinking, cleaning, lavatory and toilet facilities and necessary for efficient, adequate and sanitary provision of services for the Receiving Building and the Departure Building, and, at the Receiving Building only, Landlord will provide at its cost sewer service for the facilities located therein; Landlord will provide water (including potable water) to the Vessel, at the Rates in Exhibit B.

e. Maintenance and repair of the roof, exterior walls and structure of the Premises, (the marine infrastructure, i.e., the passenger bridge, security fencing, fendering and ramp (except as provided in section 7.a. above), in the same condition as they are at the commencement of the term or as they may be put in during the term of this Agreement, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance or repair is made necessary by fault or neglect of Tenant or the employees, contractors, agents or invitees of Tenant, in which case such maintenance or repair shall be at the expense of the Tenant and Tenant shall pay all costs therefor.

f. Maintenance and reasonable cleaning of the common use areas, including washrooms, and the exterior grounds, all walkways and queuing and parking areas available for use by Tenant, its employees and invitees, including snow and ice removal.

9. Obligations of Tenant.

Tenant covenants that it will, at its expense:

a. Pay when due, all Rent, Fees and other charges or assessments hereunder;

b. Pay all costs associated with the ferry operation (except as otherwise stipulated herein), including but not limited to, office and ticketing staff, provision of all office and ticketing equipment, and direct Vessel costs including but not limited to fuel, water, electricity, stevedoring, screening and security staff, staff to direct and supervise vehicle traffic and queuing, trash removal and pilotage. Tenant shall be responsible for the repair, maintenance and cost of its own Vessel fueling system subject to all applicable federal, state and local regulations.

c. Tenant is hereby required to utilize stevedores licensed by the City for line handling, loading and unloading luggage and baggage and the like, and supervising and directing the loading and un-loading of all vehicles;

d. Pay all utility periodic charges associated with the Departure Building, based upon a monthly invoice from Landlord, or from the utility itself if possible. To the extent reasonably available, sub-metering shall be used to determine such costs;

e. Pay all expenses for all installation and periodic charges associated with communications systems, including but not limited to phone systems and services, computer systems and communication services, television and cable access, satellite services, and security and video equipment and services within the exclusive use areas and used, except as provided herein, soley by the Tenant;

f. Maintain the Premises in such repair as on the commencement of this Agreement, except only for reasonable wear and tear and damage caused by fire or other unavoidable casualty not the fault of Tenant, its employees, contractors, agents or invitees. Tenant shall be responsible for furnishing and cleaning its Exclusive Use space. Tenant shall not injure or deface the Premises or the OG Facilities nor permit anyone else to do so. Tenant agrees to report to Landlord promptly, but in any case within 24 hours of when it it knew or reasonably should have known of any substantial damage to the Premises or OG Facilities which poses any potential health or safety issue, including but not limited to any water damage or intrusion;

g. Properly contain and dispose of all trash and garbage from its operations, including but not limited to all vessel trash and garbage, in containers suitable for pickup by Tenant or Tenant's contractor. Landlord shall provide regular trash pickup for the common use areas of the OG Facilities only.

h. Provide cleaning of the exclusive use space on an as needed basis relating to Tenant's activities. "Cleaning" shall mean dusting, vacuuming, sweeping, pest management, and trash removal and similar cleaning activities;

i. Maintain in full force and effect the insurance coverage required in Section 15 below, and such fire and extended coverage or business interruption insurance for its own property or benefit as it may deem to be appropriate. Tenant shall hold its property, including fixtures, furniture, equipment and the like, or that of any other owner, on the Premises at Tenant's own risk;

j. Notify the Landlord in advance of any proposed alterations to the Premises, including but not limited to posting of signage by Tenant at OG in accord with Section 11 herein. All such alterations are subject to the prior written approval of the Director, which approval shall not be unreasonably withheld;

k. In addition to other payments required herein, Tenant shall pay and discharge punctually all generally applicable taxes and governmental assessments on any of Tenant's activities or property. The parties understand and agree that there are no real estate property taxes to be assessed against the Premises leased hereunder and chargeable to Tenant, but Tenant shall be responsible for payment of any personal property taxes which may be assessed. Tenant reserves the right to contest the imposition or amount of any such taxes or assessments by any means provided by law;

l. Permit Landlord at reasonable times to inspect the Premises and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to said Premises or any part thereof, and during such operations to take into and through said Premises or any part of the Premises all materials required, Landlord agreeing, however, that it will carry out such work in a manner which will cause Tenant minimum inconvenience;

m. Not permit any employee, agent, contractor or invitee of Tenant to violate any covenant or obligation of Tenant hereunder nor create a nuisance at the OG Facilities;

n. Keep the Premises equipped with all safety appliances required by law or any public authority because of the use made by the Tenant of the Premises;

o. Keep Landlord informed of any unavoidable changes to sailing times sufficiently in advance so that Landlord can accommodate its berthing needs, if possible; however, Landlord does not guarantee that any revised sailing times can be accommodated; but for such notice, Landlord may presume the Vessel will arrive at approximately 7:00 P.M, and depart at approximately 10:00 P.M. daily; a departure of more than one hour from this times shall require notice to the Landlord; and

p. Provide all security personnel, and any Custom Border Protection facilities, including utility connections and utilities services for the same, at Tenant's cost and expense, as may be required by, or for compliance with, Custom Border Protection or the Service with the United States Coast Guard operations, and such additional security personnel as may be deemed reasonably necessary by Tenant; and all such required facilities and improvements shall be property of Landlord at the end of the lease term.

Should any maintenance or repair of the OG Facilities or the systems serving the OG Facilities require repair or replacement as a result of the negligence or willful act of the Tenant or the Tenant's invitees, agents or contractors, Tenant shall be responsible for the timely repair or replacement of same. Any damage caused to the berthing, queuing, parking or common use areas, including but not limited to waiting areas, hallways, stairwells, and restrooms, caused by any of Tenant's employees, contractors, agents or invitees, shall be repaired by Landlord, and the cost of such repair shall be billed to Tenant at Landlord's cost, and shall be paid by Tenant as additional rent with the next due Rent payment; or, alternatively, taken from any security deposit being held by the Landlord, in which case the Tenant shall replenish that security deposit within ten (10) days of being informed in writing that this is necessary.

10. <u>Certain Rights Reserved to the Landlord.</u>

The Landlord reserves the following rights:

a. To retain and use in appropriate instances keys to all doors within and into the Premises and to change the locks to the Premises if Landlord deems it advisable. No lock shall be changed by Tenant without the prior written consent of Landlord. Landlord shall have the right to access the utility rooms through Tenant's exclusive use space as reasonably necessary;

b. On reasonable prior notice to Tenant, to exhibit the Premises to prospective Tenants or users of the OG Facilities and to others having a legitimate interest at any time during the term;

c. To adopt reasonable rules and regulations relating to the OG Facilities from time to time during the Term; provided, however, such rules and regulations shall not materially interfere with Tenant's permitted use of the Premises. Tenant agrees to comply with reasonable rules and regulations from and after the fifteenth (15^{th}) day after Tenant's receipt thereof;

d. To remove from the Premises, at Tenant's expense, any alterations, additions, signs, awnings, or the like, not consented to in writing by the Director; and

e. Landlord reserves the right to berth vessels of any type at the OG Facilities, subject to Tenant's rights under this Lease.

f. Landlord reserves the right to use the OG Terminal and OG Facilities for functions and for functions (including but not limited to weddings) for third parties, subject to Tenant's rights under this Lease.

11. Signage.

Tenant shall have the right to have signage on the Premises, including but not limited to outdoor signage, which signage shall be approved by the Director and shall be at Tenant's sole cost. It is the intent of the parties to prominently promote Tenant's ferry service. Installation of such signage may be done by the Landlord, or by the Tenant by a contractor acceptable to the Landlord, at Tenant's cost. General signage for the common use Space, and the parking lot at the OG facility, shall be provided and installed by the Landlord, at Landlord's cost. All signage shall be installed and maintained in accordance with all applicable local and state governmental codes. Subject to Landlord's approval which shall not be unreasonably withheld, Tenant may, at its expense, place murals and/or photographs and/or graphics on walls of the common use space for promotion of its ferry service. Tenant shall restore all such space to its original condition at the termination or expiration of the Lease.

12. Compliance with Laws.

Tenant agrees to comply with all present and future laws, ordinances, orders, rules, regulations and requirements of the federal, state and local governments or any of their departments, bureaus, boards, commissions and officials thereof (collectively, the "Laws") with respect to the Premises, or the use or occupancy thereof, including without limitation, at Tenant's cost, to alter, maintain or restore the Premises in compliance with all laws relating to the condition, use or occupancy of the Premises, whether said compliance shall be ordered or directed to or against Landlord or Tenant, or both. Tenant shall comply, at its sole cost and expense, with all Laws relating to (i) air emissions, (ii) water discharges, (iii) noise emissions, (iv) air, water or ground pollution, or (v) any other environmental or health matter (collectively, "Environmental Laws") during the Term in connection with its use and occupancy of the Premises and the OG Facilities. Tenant shall not be responsible for any compliance attributable to the obligations of Landlord hereunder nor to any event or act which occurred prior to the execution date or after the expiration date of this Lease Agreement, unless caused by the error or omission of Tenant, its officers, agents, employees, contractors or invitees, nor shall Tenant be responsible for the cost of any change to the OG Facilities required as a result of any changes in the requirements of laws related to accessibility by persons with disabilities.

13. Security Rules.

a. Tenant shall comply with all safety and security requirements in its operations hereunder. Tenant further agrees that its officers, employees and agents shall abide by the provisions of the Landlord’s Federal Facility Security Plan, and with any other security directives or policies that may be promulgated from time to time by the Landlord, the State of Maine or by agencies of the Federal Government during the term of this Agreement. The Landlord agrees to provide Tenant with copies of the relevant portions of Landlord’s Plan to permit Tenant to comply with its terms.

b. Tenant shall comply with the lawful directions of the City’s Facility Security Officer’s directions and commands, with respect to its operations at the OG Terminal and berthing area. Tenant shall designate a particular person, who must be readily available, as its Security Contact Person, for the purposes of emergency and other communications to, from and with the City’s Facility Security Officer.

c. Tenant shall, to the extent required by law or any agency with jurisdiction, prepare and file its own Facility Security Plan, which shall then become an amendment to Landlord’s Facility Security Plan, for Tenant’s operations and its use of Landlord’s Facilities, and provide a copy of such Plan and amendment to the Landlord.

d. Transportation Workers Identification Credential Requirement: All persons requiring unescorted access to the secure areas of vessels, facilities, and OCS facilities regulated by parts 104, 105, and 106 of 33 CFR (Code of Federal Regulations) must, to the extent required by law and applicable authorities, possess a TWIC (Transportation Workers Identification Credential) before such access will be granted. A TWIC must be obtained via the procedures established by TSA (Transportation Security Administration) in 49 CFR part 1572.

e. In addition, Tenant employees working at the OG Facilities shall have Landlord-approved identification badges displayed at all times when at the OG Facilities, whether within the Premises or the common use space.

f. Tenant shall pay all costs and expenses for additional security, required as determined by the Landlord in its sole discretion, due to Tenant's failure to adequately provide security (whether required by third parties or not) at Landlord’s OG Facilities.

g. In addition, Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, which may arise directly out of Tenant's failure to comply with the covenants of this paragraph, and such failure shall be deemed a default under this Agreement. Tenant shall be responsible for obtaining all necessary permits and licenses required for its use and occupancy of the OG Facilities at its own cost and expense.

h. As provided in Section 9(p) above, Tenant will pay all costs related to required Security facilities.

14. Indemnification.

a. General. To the fullest extent permitted by law, Tenant shall at its own expense defend, indemnify, and hold harmless the Landlord, its officers, agents, and employees, from and against any and all liability, claims, damages, penalties, losses, expenses, including costs of investigation and attorneys fees, or judgments, just or unjust, arising from injury or death to any person, or damage to, or loss of use of, property sustained by anyone (including but not limited to Landlord's employees or property) and arising, in whole or in part, out of Tenant's use, activities at or on, or occupancy of the OG Facilities, except that such obligation of indemnification shall not include indemnification for claims to the extent such claim is caused by (i) the negligent acts or omissions of Landlord, its officers, agents, employees or contractors, or (ii) a breach by Landlord of its obligations under this Lease. Tenant shall include Tenant, its officers, agents, employees, contractors, subcontractors (including Atlantic Fleet Services Corporation) and/or invitees.

Tenant shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. In cases in which Landlord is a party, Landlord shall have the right to participate at its own discretion and expense and no such suit or action shall be settled without prior written consent of Landlord. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to Landlord which would otherwise exist.

b. Covenant against liens: Tenant shall not cause nor permit any lien against the Landlord's property or any improvements thereto to arise out of or accrue from any action or use thereof by Tenant and shall hold the Landlord harmless therefrom; provided, however, that Tenant may in good faith contest the validity of any alleged lien. Upon request of the Landlord, Tenant shall post a bond warranting payment of any such lien, or provide other security acceptable to Landlord, in the event Tenant contests such lien.

c. Survival. The Terms of this Section shall expressly survive the expiration or termination of this Agreement.

15. Insurance.

a. Amounts. Without expense to the Landlord, and with no lapse in coverage, Tenant shall procure and maintain, at its own cost, and show evidence to the Landlord of the following insurance to protect the Landlord from claims and damages which may arise from Tenant's operations under this Agreement, whether such operations shall be performed by the Tenant or by anyone directly or indirectly employed by it, including without limitation Atlantic Fleet Services Corporation, in the types and minimum amounts set forth below:

Description	Coverage	Each Occurrence
(i) Commercial General Liability, including Broad Form Property Damage	B.I./P.D./ Death	$5,000,000
(ii) Vehicle Liability, including owned, hired or non-owned	B.I./P.D./Death	$2,000,000
(iii) Workers' Compensation, including U.S. Longshoremen and Harbor Workers' Coverage, as applicable	B.I./Death	Statutory
(iv) Protection & Indemnity insurance $5,000,000 including Federal Maritime and Jones Act Coverage		
(v) Pollution coverage Land to Sea/Land to Land		$5,000,000
(vi) Employer's Liability B.I./P.D. including U.S. Longshoremen & Harbor Workers, as applicable		$1,000,000

b. Landlord protected. The Landlord shall be named as an additional insured under items (i) and (ii) above. Item (iii) shall include a waiver of subrogation against Landlord. To the extent that Tenant has any employees who are not covered by the Longshoremen & Harbor Workers, Federal Maritime and Jones Act coverages, Tenant shall provide evidence of Workers Compensation coverage in the statutory amounts, including a waiver of subrogation against Landlord.

c. Notice to Landlord. All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Landlord. Each liability policy required to be obtained hereunder shall be on an occurrence basis. In the event that policies are not available on an occurrence basis, Tenant shall purchase a "tail" which provides coverage hereunder for a minimum of six (6) years after termination of this Agreement.

All policies required hereunder shall be primary to any insurance or self-insurance which Landlord may maintain for its own benefit. Liability insurance coverage shall also extend to damage, destruction, and injury to Landlord-owned or Landlord-leased property and Landlord personnel, to the extent caused by, or resulting from negligent acts, operations, or omissions of Tenant, its officers, agents, employees, invitees, and/or contractors.

d. Certificates. Certificates or other evidence of insurance coverages required of Tenant in this Section, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the Landlord prior to use of the Premises. Such certificate or certificates shall at all times while this Lease Agreement is in effect provide Landlord with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier.

e. Tenant Property Insurance. Tenant shall procure and maintain, at its option and election, such all risks fire and casualty insurance covering its property on the Premises as it deems necessary.

f. Landlord reserves the right to require a commercially reasonable increase in the minimum insurance limits hereunder at the commencement of any Renewal Term of this Lease.

16. [Intentionally omitted]

17. Assignment/Subletting.

a. By Tenant. Tenant shall not sublease, transfer or assign this Agreement or the rights granted hereunder at any time during the Term of this Agreement without the prior written approval of Landlord, which may be granted or withheld in Landlord's discretion. No such assignment or subletting shall relieve Tenant of any obligations hereunder and any person accepting such assignment shall take the Agreement subject to all prior breaches and shall be liable therefor in the same manner as Tenant.

Tenant shall have the right to assign all of its rights, obligations and interests under this Agreement to any successor to its business through merger, consolidation, reorganization or sale of all of its assets and the consent of the Landlord thereto shall not be required. In such cases, Tenant shall provide Landlord with prompt written notice of any such assignment.

b. By Landlord. Landlord reserves the right to assign this Lease to a quasi municipal or State entity, provided, however, that in such event such entity shall agree to assume all of the terms and obligations of the Landlord under this Lease. Landlord shall not assign this Lease to a private party without the prior written approval of Tenant, which may be granted or withheld in Tenant's discretion.

18. <u>Casualty Damage.</u>

a. If the Premises or any part thereof shall be destroyed or damaged by fire or other unavoidable casualty, so that the same shall be thereby rendered unfit for use, then, and in such case, the Rent hereinabove stated or a just and proportional part thereof, according to the nature and extent of injuries sustained, shall be suspended or abated, until the Premises shall have been put in proper condition for use by Tenant; provided, however, in the event of such destruction or damage, either Landlord or Tenant shall have the right to terminate this Lease by giving the other party written notice of such termination within thirty (30) days after such damage or destruction, and upon the giving of such notice, the term of this Agreement shall cease and come to an end as of the date of such damage or destruction and any unearned rent shall be returned to Tenant.

b. Landlord and Tenant each hereby waive any and all rights of action for negligence against the other which may hereafter arise on account of damage to the OG Facilities or to the property of either party, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the parties, or either of them. Landlord and Tenant shall each be responsible for maintaining such casualty insurance on its property as it deems necessary and such policies shall waive any right of subrogation thereunder against the other party.

19. <u>Default.</u>

a. Either party may terminate this Agreement upon no less than Thirty (30) calendar days' prior written notice for failure of the non-terminating party to comply with the terms and conditions of this Agreement. In such event, the non-terminating party shall have the right to cure such default within the Thirty (30) day period, or in the case of default in any payment due hereunder, within Ten (10) calendar days of receipt of notice of such default. If a default is of such a nature that it cannot reasonably be cured within 30 days, the non-defaulting party shall permit a reasonable period to cure so long as the party in default proceeds diligently to cure such default. Such notice of default shall not be required to coincide with a rental period.

b. Any suspension of operation of the vessel in excess of ten (10) consecutive days during the sailing season, for reasons other than major mechanical failure of the Vessel, shall, at Landlord's option, be deemed to be a default and termination of this Lease. For purposes of this subsection, a sailing season begins on the earlier of May 1 or the first trip of the vessel, and terminates on October 31.

During any period of suspension, Tenant shall continue to be liable for any rent or utility payments for its exclusive use space only, unless Landlord notifies Tenant that Landlord wishes to utilize the ticket counter during the suspension period, and such use is not disruptive to Tenant, in which case, the rent shall be ratably reduced.

c. Upon termination of this Lease, Tenant shall quit and surrender to Landlord the Premises in accordance with the provisions of Section 20 hereof. In no event shall either party be liable to the other for incidental, special, or consequential damages of any nature claimed as a result of the breach of any term of this Agreement or termination of this Agreement. And upon termination of this Lease, the parties shall have no further obligation to one another, except those obligations which arose prior to termination of the Lease or which explicitly survive termination of the Lease hereunder.

20. <u>Return of Premises; Holding Over.</u>

a. At the expiration or termination of this Lease, Tenant shall ensure that all vessels with which it is in any way affiliated are removed from the OG and all City of Portland berthing areas, and will also promptly quit and surrender the Premises to Landlord broom clean and in good order and condition, ordinary wear excepted, and free from debris, trash and waste, and shall cease its operations from the OG Facilities. Tenant shall remove all trade fixtures, equipment and other personal property installed or placed by it at its expense in, on or about the Premises or OG Facilities; provided, however, all damage caused by or as a result of such removal shall be repaired by Tenant at its expense. All trade fixtures, equipment, furniture, furnishings and personal effects not removed by Tenant within thirty (30) days after expiration or termination of this Lease shall, at Landlord's option, be deemed to have been conveyed to Landlord in fee title, and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without obligation to account therefor or, at Landlord's option, Landlord can have such trade fixtures and items removed and the cost of any such removal and the expense of any repair necessitated by such removal shall be borne by Tenant.

b. If Tenant or any party claiming through or under Tenant shall remain or continue to be in possession of the Premises or any part thereof after the termination of the Lease or any renewal thereof, without Landlord's consent, then, at Landlord's option, Tenant or such party or both shall be deemed to be illegally retaining possession or, at Landlord’s option, shall be deemed to be a month-to-month Tenant of the Premises and subject to all the terms and conditions of this Lease except that the monthly rent hereunder shall be One Hundred and Fifty Percent (150%) of the Rent payable during the month prior to such termination. This

Section shall not be construed as giving Tenant any right to hold over after the expiration of the Term or to limit Landlord's rights to obtain possession of the Premises upon termination by any lawful means available to Landlord if Landlord does not elect to treat the continued possession by Tenant or any party claiming through or under Tenant as a month-to-month tenancy.

c. Landlord lawfully may upon termination of this Lease Agreement, enter into and upon the said Premises or any part thereof in the name of the whole, and repossess the same as of its former estate, and expel Tenant by any lawful means and those claiming through or under Tenant, and remove its or their effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant.

21. Quiet Enjoyment.

So long as Tenant shall observe and perform the covenants and agreements binding on it hereunder, Tenant shall at all times during the term herein granted peacefully and quietly have and enjoy possession of the Premises without any encumbrance or hindrance by, from or through the Landlord.

22. Notices.

Any notice required to be given under this Lease shall be in writing and shall be hand-delivered or sent by U.S. certified mail, return receipt requested, postage prepaid, addressed to the parties as stated below or such other address as either party may designate in writing to which its future notices shall be sent:

To Tenant:	Mark H. Amunden, President Nova Star Cruises Limited Nova Star Cruises, Ltd 131 Sandy Run Hammond Plains, Nova Scotia B4B - 1X9 Canada
With a copy to:	D. Kelley Young Troubh Heisler P.O. Box 9711 511 Congress Street Portland, ME 04104-5011
To Landlord:	Mark H. Rees, City Manager 389 Congress Street Portland, Maine 04101

With a copy to: Director of Facilities Management
389 Congress Street
Portland, Maine 04101

23. Amendment; Authority.

Both parties hereto acknowledge and agree that they have not relied upon any statements, representations, agreements or warrantees except such as are expressed herein. The terms of this Lease may be modified or amended by the mutual assent of the parties hereto; provided, however, that no such modification or amendment to this Lease shall be binding until in writing and signed by both parties.

Each party warrants that this Lease Agreement has been signed by a representative duly authorized to bind that party to this Lease Agreement.

24. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Maine. Tenant warrants to Landlord that it is licensed to do business in the State of Maine and has an agent authorized to accept service of process in said State. Tenant shall provide such information upon request to Landlord.

25. Force Majeure.

Neither Tenant nor Landlord shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, war, acts of superior governmental authority or other reason over which it has no control; provided, however, that the suspension of performance shall be no longer than that required by the force majeure and the party prevented from performance has given written notice thereof to the other party.

26. Non-Waiver.

No waiver of any breach of any one or more of the conditions of this Lease by the Landlord or Tenant shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

27. Brokers.

Landlord and Tenant each represent and warrant to the other that it has not dealt with any agents, brokers or finders in connection with this Agreement. Each party agrees to hold and indemnify the other harmless from and against any losses, damages, costs or expenses (including attorneys' fees) that either party may suffer as a result of claims made or suits brought by any broker in connection with this transaction, the obligated party hereunder to be the party whose conduct gives rise to such claim.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed as of the day and year first above written.

WITNESS:	**NOVA STAR CRUISES LIMITED**
______________________________	By: ______________________________ Mark H. Amunden Its President and CEO
	CITY OF PORTLAND
______________________________	By: ______________________________ Mark H. Rees Its City Manager

EXHIBIT A

DIAGRAM OF PREMISES
AND OCEAN GATEWAY TERMINAL

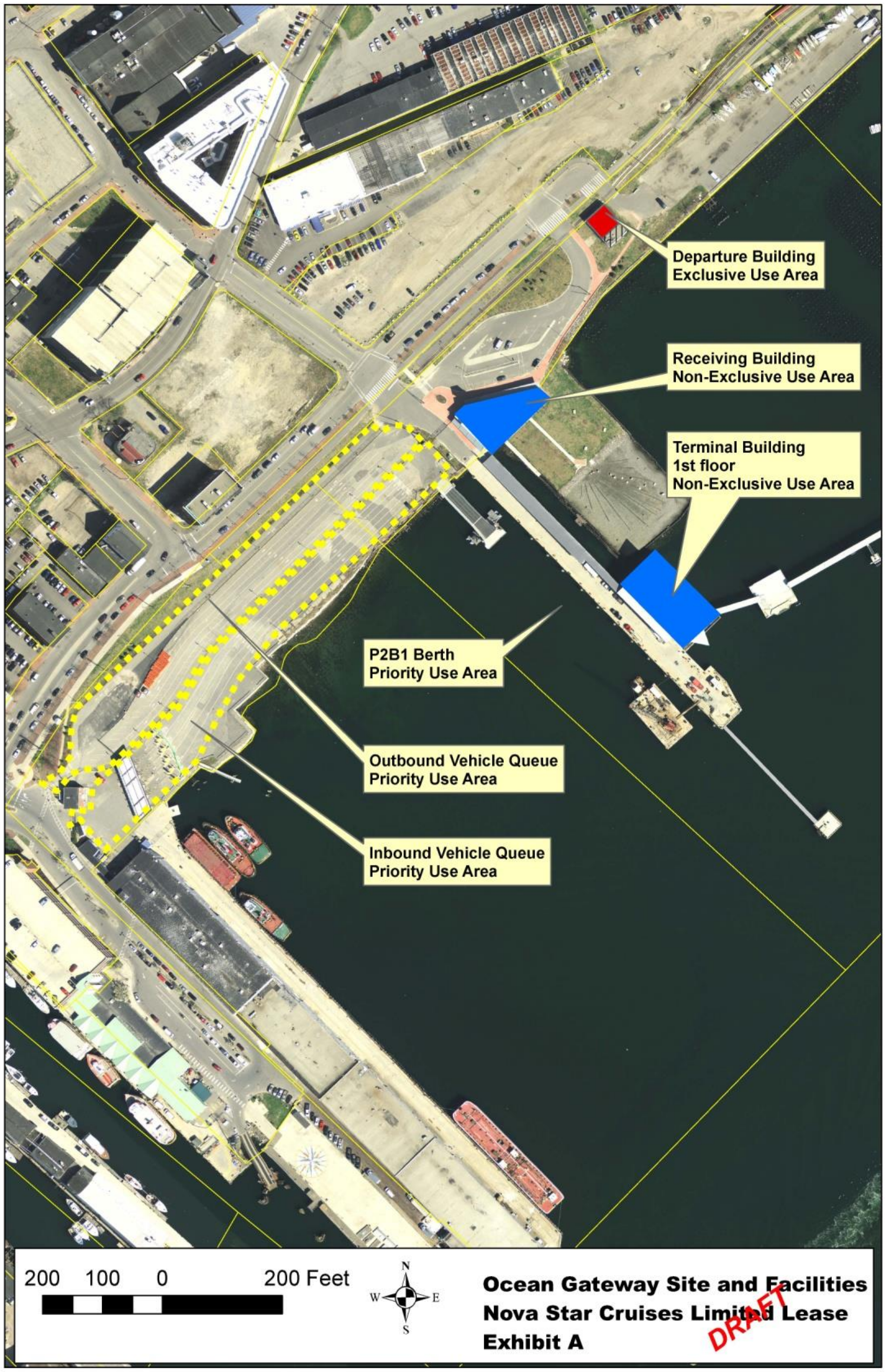


EXHIBIT B
As of March 4, 2014

Fuel License, per season	$100.00
Berthing	$350.00/Flat Rate 1st Year; $1.00 per foot of overall vessel length, per day 2nd Year.
Common Area Fee-Receiving Building, per day	$ 25.00
Common Area Fee-Terminal Ground Level, per day	$ 50.00
Fresh Water, per metric ton	$ 4.00
Security Badges, each	$ 2.50
Security Badges, replacement, each	$ 25.00

The following fees are upon each arrival and each departure:

Passengers	$ 2.50
Bicycles	$ .50
Motorcycles	$ .75
Automobiles	$ 3.00/1st year, $5.00/ 2nd year.
Passenger Vehicle with Camper/Utility Trailer	$ 3.00/1st year, $5.00/ 2nd year.
Recreational Vehicles/Motor Homes	$ 3.00/1st year, $5.00/ 2nd year.
Tour Busses/Motor Coaches	$ 20.00
Commercial Trucks (without articulating trailer)	$ 20.00/1st year, $30/2nd year.
Commercial 'Trailer Trucks': Cab with Articulating Trailer	$ 20.00/1st year, $30/2nd year.

Mary Davis
Division Director, Housing & Community Development Division

AGENDA ITEM #6

TO:	**Councilor Donoghue, Chair** **Members of the Housing and Community Development Committee**
FROM:	**Mary Davis, Housing & Community Development Division Director** **Jeff Levine, Planning & Urban Development Director** **Greg Mitchell, Economic Development Director**
DATE:	**March 6, 2014**
SUBJECT:	**2014 HCDC Calendar**

Attached is a standing communication on your agenda, the updated Committee Calendar.

DRAFT 2014 Housing & Community Development Committee meeting Calendar

Meetings: 2nd & 4th Wednesday of each month

As of February 27, 2014

January

Jan. 8 Meeting:

2014 Draft HCDC Work Plan for preliminary discussion subject to change after January 13 City Council goal setting workshop.
For Review and Recommendation to Council - Pearl Place TIF district amendments
Wilmot Street – Possible Reacquiring – Executive Session
Tenant Based Rental Assistance Program update
Housing First Pre-Development RFP – Review Draft
Communication: Update on CDBG Workforce Development Program

Jan. 22 Meeting:

Presentation on proposed amendments to parking requirements and the Sustainable Transportation Fund for possible action
Economic Development Vision and Plan – Work Plan Update for 2014-2015

February

February 12, 2014 Meeting:

Possible City lease/acquisition of property for City Department Consolidation/Forward to Council – Public and Executive Session
Start Downtown TOD/TIF Discussion
Update on Housing Plan and Consultant Services RFP/Communication Item

February 26 Meeting:

Housing Program Budget Recommendation to Council
Review City sites for residential development or sale including former Adams School property
Nova Scotia Ferry Service Operator Lease – Executive Session

March

March 12 Meeting:

Continue Downtown TOD/TIF District Discussion
Nova Scotia Ferry Service Operator Lease/Possible Recommendation to City Council
Communication: CDBG funding recommendations from Committee & City Manager; Annual Action Plan
Review & Recommendation: Updated Citizen Participation Plan
Review & Recommendation: 3 year renewal of Cumberland County HOME Consortium, 2015-18

March 26 Meeting:

Presentation on proposed amendments to the B2 zones for possible action
Review and possible approval of Affordable Housing RFP
Creative Portland PACE Project in Bayside for Review/Direction and executive session for possible City-owned Bayside property disposition discussion.
Spring Street Garage Space Leases (Pirates and Adjacent Vacant Space)
Communication: Update on the discussion of city sites for residential development

April

Downtown TIF District – Continue Discussion
Review and approval of Annual Housing RFP
Presentation on proposed amendments to R-6/R-7 zones for feedback
Tugboat Lease Renewal at Portland Ocean Terminal
Communication: Annual Action Plan, due to HUD May 15
Somerset Street Grade Adjustment Project – Tentative Executive Session
Donation of Property to City on Rowe Avenue
Tentative: executive session/public session for guidance and approval to move forward with disposition process for a tax-acquired property.

May

Start discussion related to Riverside Street area wide needed public infrastructure status and improvements.

June

For Review and Comment/ Recommendation to Council if necessary: Recommendations for improvement to CDBG process.
Housing Liaison Program Update
Presentation on proposed amendments to R-6/R-7 zones for possible action

July

August

Housing Development RFP – review of proposals received
For Review and Comment: Consolidated Annual Performance Evaluation Report (CAPER) due to HUD September 30.

September

October

Communication: CDBG Application is available/Process Update.

November

Annual City wide TIF District Activity Report/review and recommendation to City Council
HCDC Annual Accomplishment Report/review and recommendation to City Council

December