

1. Agenda

Documents: [PC AND LBC JOINT MEETING AGENDA 1.8.15.PDF](#)

2. Congress Square

- Public Comment
- Parks Commission Vote and Recommendation to Land Bank
- Land Bank Vote

Documents: [LAND BANK APPROVAL MEMO.PDF](#), [CONG SQUARE1.8.15.PDF](#),
[CONGRESS SQ. PUBLIC COMMENT.PDF](#)

3. Meeting Schedules

Review and approve schedule for LB and PC meetings (PC to stay with the first Thursday of the month, as to inform LB at their meetings on the second Thursday of the month.)

4. Role Of Land Bank And Parks Commission

Members will discuss the roles of each body and how they will work together moving forward.

5. Commission Items To Be Discussed

After these items, the Parks Commission and Land Bank Commission will separately work on their specific items

6. Parks Commission

Brief meeting to review revisions to CIP recommendations

Documents: [2016 DRAFT BUDGET REQUEST FOR PARKS 12.27.14.PDF](#)



Joint Meeting **Land Bank and Parks Commissions**

Agenda

January 8, 2015
5 – 6:30 / 7 PM
Portland City Hall
Room 24
(Basement)

1) Congress Square:

- **Public Comment**
- **Parks Commission Vote and Recommendation to Land Bank**
- **Land Bank Vote**

2) Meeting Schedules:

Review and approve schedule for LB and PC meetings. (PC to stay with the first Thursday of the month, as to inform LB at their meetings on the second Thursday of the month)

3) Role of Land Bank and Parks Commission:

Members will discuss the roles of each body and how they will work together moving forward.

After these items, the Parks Commission and Land Bank Commission will separately work on their specific items.

Land Bank Commission:

Forestry Section of Portland Public Services proposes to conduct winter time Forest Management work

Parks Commission:

Brief meeting to review revisions to CIP recommendations

**CITY OF PORTLAND
MEMORANDUM**

To: Members of the Land Bank Commission
Cc: Members of the Parks Commission; Danielle West-Chuhta, Esq., Corporation Counsel; Michael Brennan, Mayor; Members of the City Council; Sheila Hill-Christian, Acting City Manager; Mike Bobinsky, Director of Public Services; Jeff Levine, Director of Planning and Urban Development.
From: Michael Goldman, Associate Corporation Counsel
Date: December 30, 2014
Re.: Approval Requirements in Portland, Me., Code § 2-43(c); Congress Square Park Redesign.

At the December 11, 2014 joint meeting of the Land Bank Commission and the Parks Commission, you requested that I summarize under what circumstances the approval requirements set forth in section 2-43(c) of the City's ordinances governing the Land Bank apply. As explained in more detail below, with some exceptions, the approval requirements of section 2-43(c) must be complied with before any of the activities set forth in section 2-43(b) are conducted on a Land Bank property interest. Those requirements must also be complied with before the City can (1) sell or otherwise dispose of, (2) lease, (3) remove from Land Bank designation, or (4) use or improve in a manner prohibited by the Land Bank ordinances any Land Bank property interest. Because the Council has specifically requested feedback from the Land Bank Commission regarding the two proposals for the development of Congress Square (the "Ground Level Park" and the "Park With Event Center"), I have briefly addressed the application of section 2-43 to those proposals, with the caveat that the details of those proposals have yet to be determined.

Section 2-43(b) Prohibitions

Section 2-43(b) provides that "Except upon the approval, in accordance with section 2-43(c), of the commission, the City Council, and, where applicable, the voters in a municipal election, or where required by state or federal law, and where appropriate, subject to the Constitution of Maine or state law, the commission or the City government shall not allow" the seven enumerated categories of activities listed below. The first category, which governs construction on Land Bank properties appears to be the most relevant category to the development of Congress Square Park.

- Subsection 2-43(b)(1)

Subsection 1 prohibits:

1. Construction or placing of buildings; roads, other than paths for recreational use; signs; billboards; other advertising, utilities or other structures on or above the surface, except in furtherance of the conservation, open space, and recreation purposes of this article. Notwithstanding the foregoing, this provision shall not prohibit any of the following within any predominantly improved or non-forested areas of a Land Bank property interest: recreational structures, outdoor restaurant seating, outdoor markets, outdoor performance spaces, signs, and other advertising. Furthermore, predominantly unimproved or forested Land Bank property interests, or portions thereof, shall remain in their existing unimproved and forested condition. For the purposes of this subsection, a golf course shall be deemed a predominantly improved and non-forested area;

Because Congress Square Park is arguably a “predominantly improved or non-forested area,” the restrictions in section 1 do not prohibit “recreational structures, outdoor restaurant seating, outdoor markets, outdoor performance spaces, signs, and other advertising.”

Ground Level Park. To the extent that the elements of the Ground Level Park are limited to only “recreational structures, outdoor restaurant seating, outdoor markets, outdoor performance spaces, signs, and other advertising,” the approval requirements of section 2-43(c) would not apply to that proposal. To the extent that any of the elements of the Ground Level Park exceed that list of permitted items, however, section 2-43(c) approval would likely be required.

Park with Event Center. Because the Park with Event Center requires the construction of an event center building, and likely the lease, sale or other disposition of a portion of the park, that proposal would likely require approval under section 2-43(c).

- Subsections 2-43(b)(2) to (6)

The remaining 6 categories of prohibited activities under section 2-43(b) appear more likely to trigger the requirements of section 2-43(c) in the case of predominantly unimproved or forested Land Bank property than in the case of predominantly improved or non-forested area such as the Congress Square Park development. Those categories are:

2. Dumping or placing of trash, waste or unsightly or offensive material;
3. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;

4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading to enhance the open-space uses of the land;
5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural, scenic or open condition; or to permit the land to continue to support the cultural or recreational values for which it was acquired;
6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, except as may be necessary or convenient in urban open public spaces described in section 2-43(a)(12); or
7. Other acts or uses detrimental to the cultural, natural, scenic or open condition of the land or water areas.

I presume, for purposes of this memo only, that the prohibited activities listed in section 2-43(b)(2) through (7) are not implicated by either of the Congress Square Park proposals. With that said, once the details of the Congress Square redesign are known, it is certainly possible that the development could implicate, for example, subsection 3 (removal or destruction of trees) or subsection 4 (excavation). Although the restrictions in subsections 2 through 7 existed prior to the addition to the Land Bank of “urban open public spaces,” and those restrictions appear to have been intended to apply to predominantly unimproved or forested land, nothing in the current version of the ordinance expressly exempts Congress Square or similar properties from those restrictions.

Section 2-43(c) Approval Requirements

To the extent that either of the Congress Square Park development proposals involve activities that are prohibited under section 2-43(b) or involve the lease, sale, or other disposition of part of that property, they would trigger the approval provisions set forth in section 2-43(c)(1), which include, as a preliminary matter, “the review and recommendation” of the Land Bank Commission and either

- i. the approval of seven (7) members of the City Council and the approval of the majority of votes cast in a municipal election through the process set forth for an ordinance initiated by the City Council in section 9-45; or
- ii. the approval of eight (8) members of the City Council.

Furthermore, the use, improvement or disposition of the Land Bank property interest “must be legally consistent with the terms of any gift or grant of funds or property which was used for the acquisition of that property interest.”

Finally, section 2-43(c)(2) provides less restrictive approval requirements under the following circumstances:

[F]or any request to lease, use or improve a Land Bank property interest, in a manner otherwise prohibited by this article, which, in isolation or when aggregated with other such actions within the previous five (5) years, comprises less than five thousand (5,000) square feet or less than ten percent (10%) of the total area of the Land Bank property interest, whichever is smaller, shall become effective only after review and recommendation thereon by the commission and the approval of six (6) members of the City Council, and shall not require voter approval in a municipal election. For the purpose of this subsection, the total area of the property interest shall be the entire contiguous area of that Land Bank property interest, as measured by the City's tax assessor office.

In other words, if the land affected by a lease, use, or improvement is less than 5,000 square feet or less than 10% of the area of the affected Land Bank property interest, whichever is smaller, then approval of the LBC and only 6 members of the Council is required. Note that this provision does not apply to the sale of Land Bank property interests.

My understanding is that Congress Square Park is about 14,694 square feet, 10% of which is 1,469 square feet. Because, as I understand it, the building for the proposed event center would cover at least 8,000 square feet of the park, the 5000 square foot exception in section 2-43(c)(2) would not apply to the Park with Event Center even if the City were to lease the land to the developer.

Memorandum

Planning and Urban Development Department

Planning Division



To: Chairs Tom Jewell, Diane Davison, and members of the Land Bank and Parks Commissions
From: Caitlin Cameron, Urban Designer
Date: January 8, 2015
Re: Congress Square Redesign – Evaluation of Two Park Options

The City Council, as described in Order 34 14/15, is evaluating and ultimately deciding between two redesign scenarios for Congress Square:

- 1) Redesign of entire Square including existing footprint of Congress Square Park without an event center
- 2) Redesign of entire Square including an event center with a public park over the event center

This packet addresses the following questions from the Land Bank Commission and Parks Commission raised at the December 11, 2014 meeting on the subject of Congress Square Park Options 1 and 2:

1. For both Options, what would be the costs associated with:
 - a. Maintenance?

Response: City staff assesses that Option 2: the rooftop park would be more expensive than Option 1: the ground-level park primarily for two reasons – snow removal and facility repairs.

Currently, the Portland Downtown District (PDD) pays \$200,000 to the City for an extra maintenance crew to be provided to the Downtown area. In the case of snow removal, a full crew might be required to clear the space considering the clearance of stairs and ramps. Option 1, depending on the design, could also require increased snow removal maintenance than current conditions. Any physical barrier and element, such as bollards, structures, or trees makes it more difficult to use the bobcat/plows for snow removal. In each Option, there are maintenance considerations regarding snow storage.

Option 2 includes a lot of stairs and ramp surfaces which, based on material and wear, would eventually require repair.

Finally, on the topic of mowing, the least-cost maintenance option for either Option 1 or 2 would be to choose horticulture that does not require mowing as both options could present areas that are difficult to access.

b. Security?

Response: No additional security personnel would be hired by the City specifically for the park in either Option. Option 2: the rooftop park would likely require some design features to allow parts of the park to be closed at night and personnel (either City or other) would be needed to open and close the park.

c. Insurance?

Response: The City is self-insured and therefore, as long as either Option is designed to meet building, life safety, and ADA codes, the cost to the City for insurance would not change or increase. If Rockbridge wants to be indemnified from liability and risk for Option 2: the rooftop park, then that would be a separate issue requiring review by the City. Subsequently, if the City felt there was an increased risk it could add a rider for additional insurance- again this approach would require an assessment of the perceived risk and we do not know what dollar amount would be associated with such an action.

2. Request for clarification on the new Parks Ordinance and how it affects the Congress Square process. Would either option require an 8:1 Council vote of approval?

Response: Please refer to Attachment A

3. Request for a list of possible land transactions and contractual agreements for Option 2.

Response: Please refer to Attachment A

4. What commitments has Friends of Congress Square Park made towards fundraising for the redesign?

Response: Please refer to Attachment C

The attachments also include most recent public comment and additional comments from the Friends of Congress Square Park.

Attachments:

- A. Memo 12.31.14 – Response to legal questions (source: Michael Goldman, Corporation Counsel)
- B. Memo 5.29.13 – UDAG/CDBG funding (source: Jeff Levine, Director, Department of Planning and Urban Development)
- C. Friends of Congress Square Park organization commitment (source: Friends of Congress Square Park)
- D. Letter regarding the Parks Ordinance 12.15.14 (source: Friends of Congress Square Park)
- E. Memo regarding UDAG/CDBG funding (source: Friends of Congress Square Park)
- F. Public Comment 12.11.14 – 12.31.14

Memorandum
Department of Planning and Urban Development



To: City Council

From: Jeff Levine, Director

Date: May 29, 2013

Re: Information on Congress Square Plaza and Federal Funds

cc: Mark Rees, City Manager
Greg Mitchell, Economic Development Director
Alex Jaegerman, Planning Division Director

Since my earlier memo (attached) regarding UDAG funding for Congress Square Plaza, the question has been raised again about whether the City could potentially sell or lease land that had been developed into part of the plaza without reimbursing the federal government for the cost of the plaza. Specifically, the question has been raised about whether 24 CFR 85, which regulates the sale of some property acquired with federal funds, requires such a reimbursement.

I have posed that question to our federal partners. The answer is that, in the case of a UDAG project, this section of federal regulations does not apply.

In summary, as stated in my earlier memo, the City is able to sell or lease some of the plaza without reimbursing the federal government for the cost of that land, provided a public process is followed under § 570.505. More details are outlined in the attached emails and my earlier memo.

This will clarify the question of which HUD regulations pertain to real property acquired or improved with UDAG funds:

In the absence of program specific regulations, administrative requirements for HUD grants are covered by 24 CFR Part 85. The treatment of real property is found at §85.31.

However, this is not the case with Urban Development Action Grants (UDAGs). UDAG program regulations are set forth in Subpart G of Part 570 and include sections 570.450 to 570.466. §570.465, applicability of rules and regulations, states: “The provisions of subparts A, B, C, J, K, and O of this part 570 shall apply to this subpart except to the extent that they are modified or augmented by this subpart.” The identified subparts are regulations of the Community Development Block Grant (CDBG) program. Subpart J is Grant Administration, which includes sections 570.500 to 570.513. §570.505 describes the “use of real property.” This is the regulation applicable to the treatment of real property acquired or improved with UDAG funds. Here is the full language of that section:

§ 570.505 Use of real property.

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:

(1) The new use of such property qualifies as meeting one of the national objectives in § 570.208 (formerly § 570.901) and is not a building for the general conduct of government; or

(2) The requirements in paragraph (b) of this section are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in § 570.504(b)(4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.

[53 FR 8058, Mar. 11, 1988, as amended at 53 FR 41331, Oct. 21, 1988]

Please let me know if you have any further questions.

Cedric Kam

Acting Deputy Director and
Economic Development Specialist, Region I (New England)
U.S. Department of Housing & Urban Development, CPD
10 Causeway Street, Boston, MA 02222-1092

Memorandum
Department of Planning and Urban Development



To: City Council

From: Jeff Levine, Director

Date: May 16, 2013

Re: Information on Congress Square Plaza and Federal Funds

cc: Mark Rees, City Manager
Greg Mitchell, Economic Development Director
Alex Jaegerman, Planning Division Director

Congress Square Plaza was developed with federal money as part of the overall Urban Development Action Grant (UDAG) for that area, beginning in 1979. The goal of that UDAG grant was to support economic revitalization of the area around Congress Square. The UDAG grant also paid for the new Portland Museum of Art building as well as rehabilitation and reuse of the former Public Library and construction of the parking garage.

Given that federal funds went into acquisition of the former building on the Congress Square Plaza site, as well as development of the Plaza, I have contacted our federal partners to see if there would be any issues if the decision were made to sell part of the Plaza for redevelopment as an event center. I provided the Department of Housing and Urban Development with the documents we have on the UDAG grant and they completed additional research on the issue.

Attached is their response to the query. In brief, it says that the City is free to sell part of the Plaza for redevelopment as an event center. However, if the decision were made to go in this direction, the City would have to provide

public notice of the decision. In addition, and perhaps most importantly, the proceeds from the sale of the land would be considered revenue from the UDAG program. Those funds would therefore have to be used for activities that are eligible activities. Generally, that means that the funds would have to be used for CDBG-eligible activities, which could include renovation of the plaza or other infrastructure construction.

From: "Kam, Cedric" <Cedric.Kam@hud.gov>
To: 'Jeff Levine' <JLEVINE@portlandmaine.gov>
CC: "Newcomb, Paula A" <paula.a.newcomb@hud.gov>, "Shumeyko, Robert D" <robert.d.shumeyko@hud.gov>
Date: 5/3/2013 4:30 PM
Subject: RE: 1979 Congress Sq Report and Order

Jeff,

Thanks, Portland's original UDAG project report is very helpful. While there is no real narrative about the plaza, the Planning Director's 10-11-79 memo to the City Manager describes focus #3 of the proposed UDAG as "acquisition, demolition of the Dunkin' Donuts buildings to provide for a modern hotel entrance to the Eastland." Page 14 of the report shows photos of the Dunkin' Donuts building with the caption "BUILDING TO BE ELIMINATED AND REPLACED WITH PLAZA." Page 18, Appendix I, Property Acquisition for UDAG, lists under Public Acquisition: Purpose - Urban Plaza, 593-601 Congress and 137-147 High. It is clear that a public plaza was originally proposed for this site and approved by HUD for the UDAG. As I understand, the City proposes reducing the size of the plaza and selling the excess land to the hotel to construct event space. You are requesting guidance on how to proceed with these proposed changes to the UDAG-acquired plaza.

Given that the application was submitted in 1979 or 1980 and the project has long since been completed, we can assume that the UDAG must have been closed out, even though you cannot locate any closeout documents. Applicable HUD guidance includes (1) UDAG program regulations, Subpart G of Part 570 (24 CFR 570.450 - 466) and (2) CPD Handbook 6511.2 REV-1, Urban Development Action Grant Closeout Procedures:

- Pursuant to Handbook 6511.2 REV-1, chapter 2, section 2-1, "miscellaneous revenues are UDAG loan repayments and other payments and revenues which are received by the Recipient ... after completion of UDAG-funded recipient activities." Thus, any sales proceeds received from the hotel are miscellaneous revenues.
- Section 2-2(c) defines eligible uses of miscellaneous revenues: "Activities eligible under Title I of the 1974 Housing and Community Development Act are found at Part 570 Subpart C of the CDBG regulations and part 570 Subpart G of the UDAG regulations." That is, miscellaneous revenues may be used for any CDBG-eligible activities except for ineligible UDAG activities identified at §570.456(b) public services and (c) "speculative projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another."
- Section 2-2(D) addresses the timely use of miscellaneous revenues by noting that the following language will be incorporated verbatim in the Closeout Agreement: "HUD requires you to use, and not accumulate, miscellaneous revenues generated from this project for eligible Title I activities in a timely fashion."
- UDAG regulations at §570.465 state that "provisions of subparts A, B, C, J, K, and O of this part 570 shall apply."
- Subpart J of Part 570 is grant administration: §570.505 governs the use of real property acquired or improved with CDBG funds (or in this case, UDAG funds) in excess of \$25,000. The proposed reduction of the plaza's size and change in use for hotel event space requires public notice with an explanation that new use will meet a national objective. I assume the event space will meet the LMJ national objective.
- I found no requirement that these UDAG miscellaneous revenues be reported with your CDBG funds. On the other hand, you certainly may identify them in your Con Plan/Action Plan as an additional source of funds to be used for an eligible CDBG activity, in this case, as I understand, public improvements to the remaining plaza space.
In summary: The City may change the UDAG-funded plaza by giving public notice pursuant to §570.505 (and your Citizen Participation Plan). Sale proceeds received by the City from the hotel are UDAG miscellaneous revenues and may be used for any CDBG-eligible activities except public services or speculative industrial or commercial relocation.
Let me know if you have any questions.

Cedric Kam

Acting Deputy Director and

Economic Development Specialist, Region I (New England)

U.S. Department of Housing & Urban Development, CPD

10 Causeway Street, Boston, MA 02222-1092

Phone: 617-994-8352 Fax: 617-565-5442

Email: cedric.kam@hud.gov<mailto:cedric.kam@hud.gov>

THE FRIENDS OF CONGRESS SQUARE PARK

Mission Statement: The Friends of Congress Square Park is a community non-profit organization dedicated to the preservation, enhancement and use of Congress Square Park, a central part of the Portland park system. We are dedicated to the arts, public access and community involvement in Congress Square Park as a means to enhance the livability and economic potential of downtown Portland.

Based on the evaluation conducted with the Congress Square Redesign Study Group and observations through our placemaking efforts, the FoCSP strongly support the redesign of the park in its current footprint at ground level.

The FoCSP:

- Recognize that the success of any public space depends, above all, on its management. The Friends of Congress Square Park is committed to being the non-profit place manager of Congress Square Park, and to creating a lasting management structure, in partnership with the City, to ensure ongoing fundraising, programming, and maintenance of this important public space.
- Will commit to raising private funding to help pay for physical improvements and amenities as needed to make up for public funding shortfalls. We have spoken with our donor base and other supporters about giving major gifts to this effort, and have been assured that if the City commits to redesigning the park in its current footprint at ground level, they will financially support the project.
- Raised \$37,500 for programming in 2014. The FoCSP also received \$12,000 in in-kind support and countless hours of volunteer support. (Sub-committees of the FoCSP raised an additional \$85,000 to pay for legal fees and the campaign for the citizen's initiative to save the park and add protections to all our public spaces.)
- Project a \$50,000 programming budget for FY2015.
- Are launching a membership program, and are looking to hire a part-time event programmer and development assistant.
- Are finalists on a \$100k national placemaking grant for expanded amenities and programming for FY2015.
- Are actively collaborating with community partners to seek larger national grants to help further develop our programming model and to bring national investment and attention to our placemaking initiative. (This model could be expanded to other public spaces in Portland.)
- Are collaborating with Creative Portland, SPACE, VIA, Buroko, the Open Bench Project, PDD, and Pandora LaCasse (among other partners) to continue programming throughout the winter to make Congress Square Park a year round destination. (Programming includes: a new sculptural light installation, Merry Madness, silent video & photo projections during FFAW, activities during Winterfest, and more.)
- Filed for 501c3 status.

ROBERT H. LEVIN - ATTORNEY AT LAW



LAND CONSERVATION NONPROFIT ORGANIZATIONS

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December 15, 2014

Land Bank Commissioners:

Colin Apse
Breana Behrens
Tom Jewell
Meri Lowry

William Mann
Rene Perry
Colleen Tucker
Bryan Wentzell

Parks Commissioners:

Diane Davison
Dory Waxman
Carol Hutchins
Michael Mertaugh
Ralph Carmona

Cynthia Loebenstein
Steve Morgenstein
Jaime Parker
Jeff Scher
Travis Wagner

Cc: Danielle P. West-Chuhta, Corporate Counsel
Michael Goldman, Associate Corporate Counsel
Mike Bobinsky, Director, Public Services
Doug Roncarati, Storm Water Program Coordinator, Public Services
Troy Moon, Environmental Program and Open Space Manager
Caitlin Cameron, Urban Designer
Judith Rosen, Executive Department

Dear Land Bank Commissioners and Parks Commissioners,

I am sending you this letter on behalf of my client, Friends of Congress Square Park (FOCSP), to present my interpretation of the Land Bank Ordinance as it applies to the possible redesign of Congress Square Park. I understand that the Land Bank Commission (LBC) and the Parks Commission (PC) held a meeting last Thursday at which various questions were raised, and certain Commissioners requested my interpretation of the Ordinance, as amended by the initiative vote in June. As the principal drafter of the Citizens' Initiative, I have a useful role in

offering my interpretation of some of the key provisions. I would be happy to speak as a guest at any upcoming Land Bank Commission or Park Commission meetings, if requested.

Section 2-43(c)(1) is the operative provision of the Ordinance and it states, in relevant part:

... any request to sell or otherwise dispose of, or the City's lease, use or improvement in a manner otherwise prohibited by this article, of any property interest in the Land Bank shall become effective only after review and recommendation thereon by the [Land Bank C]ommission, and either (i) the approval of seven (7) members of the City Council and the approval of the majority of votes cast in a municipal election through the process set forth for an ordinance initiated by the City Council in section 9-45; or (ii) the approval of eight (8) members of the City Council.

There are two concept proposals for Congress Square Park's redesign that the Land Bank Commission and the Parks Commission have been asked to weigh in on. Option 1 is a redesign of the Park at its current ground level and on its current footprint. Option 2 is a redesign involving a sale or lease of much of the ground level to Westin, with the relocation of the Park to the roof of a proposed one-story event center building. The questions that arose at last Thursday's meeting were whether one or both of these options would require the City to follow the process set forth in the newly amended section 2-43(c)(1).

Option 1 is not subject to the 2-43(c)(1) process because it does not entail any sale, lease, or non-park use of Congress Square Park. Furthermore, it is unambiguously the case that Congress Square Park is a predominantly improved park, and therefore all of the structures set forth in the second sentence of section 2-43(b)(1) would be permitted. Thus, no Land Bank Commission or Park Commission review or approval is required to complete the physical improvements, and the Council can vote on Option 1 according to its usual majority rules process.

In contrast, Option 2 is subject to the 2-43(c)(1) process because it does entail the sale or lease or non-park use of a portion of Congress Square Park. Thus, Option 2 (or a final design similar in nature) would require the prior approval of the LBC, and the affirmative vote of at least 7 Councilors (Although the amendments passed by the Citizens' Initiative requires 6 affirmative votes, the ordinance passed by the Council in Order 204-13/14 raised that threshold to 7 votes.) Furthermore, approval by a voter referendum would be required unless 8 or 9 Councilors voted to approve.

Furthermore, please understand that Option 2 is still subject to the 2-43(c)(1) process even if the City continued to own the land and leased it to Westin, or if the City continued to own the land but built and maintained its own event center. That is because 2-43(c)(1) applies not only to outright sales and other dispositions, but also to any "lease, use or improvement in a manner otherwise prohibited by this article." For guidance on what is a "manner otherwise prohibited by this article," the logical place to turn to is 2-43(b), which sets forth a detailed list of

use and structure restrictions for Land Bank properties. Because an event center building clearly does not fit any of the permitted structures in 2-43(b)(1), it would be “prohibited by this article.”

Finally, questions arose around the process were the Council to choose to pursue Option 2. Regardless of which option the LBC recommends in the upcoming vote between these preliminary concept proposals per Council Order 34-14/15, were the Council to decide to pursue Option 2, or a design similar in nature, 2-43(c)(1) would require an additional “review and recommendation” by the LBC. The formal LBC “review and recommendation” per 2-43(c)(1) would require detailed sketch plans and at least the key deal points with the Westin, if not an actual purchase and sale or lease agreement. As such, prior to going back to the LBC for their review and recommendation on the actual transaction, the Council would need to get final designs and negotiate a deal with the Westin.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert H. Levin". The signature is written in a cursive, flowing style.

Robert H. Levin, Esq.

MEMO

To: Land Bank Commissioners and Parks Commissioners
From: Friends of Congress Square Park
Date: December 15, 2014

Re: Use of proceeds from any possible sale of federally funded Congress Square Park per HUD regulations

Dear Parks Commissioners and Land Bank Commissioners,

Thank you for the work you are doing to review the two options for a revitalized park in Congress Square. We wanted to respond to an ongoing assertion regarding the use of funds received if Option 2 (or a similar sale) is pursued that we believe to be spurious.

Congress Square Park was originally built with \$1.5 million in funds from an Urban Development Action Grant. The FoCSP contacted HUD in Boston to determine if the use of these funds to build the original park placed any restrictions on the potential sale of the land. The answer appears to be: yes, there are restrictions.

Below are two emails from Paula Newcomb, Senior Community Planning and Development Representative Department of Housing and Urban Development.

Our summary of her findings is the following:

1. Any funds from the sale of the land must be used for a CDBG funded activity. Congress Square Park is not in an approved CDBG area and, therefore, the sale proceeds cannot be used for any project in that area (such as renovations to the remaining park area or intersection).

2. The proposed new use for the land must meet one of the three national objectives. The three national objectives are: (1) Benefit to low and moderate income persons; (2) Aid in prevention or elimination of slums or blight, and (3) Meeting an urgent need - apparently designed only for activities that alleviate emergency conditions.

If BOTH of these criteria are not met, then HUD must be reimbursed for the current fair market value of the land.

In our opinion, national objectives (2) and (3) are not applicable to the Congress Square Park area as it is not a slum or blighted area and there are no emergency conditions in the area.

In our opinion, the only national objective that could possibly be applied would be the creation of low and moderate-income jobs. However, 70% of CDBG funds must be used to meet the LMI national objective. The activities proposed, as a whole, cannot benefit moderate-income persons to the exclusion of low-income persons (i.e., will primarily benefit low income persons). It is possible that an event center may result in job creation for some low-income persons, but they will be far outnumbered by moderate or high-income persons who are able to afford tickets to the events and will be the prime beneficiaries, not to mention the profits the hotel will presumably make for itself. It would seem that a

private event center would not meet the national objective with 70% of the benefit going to low and moderate-income people.

We feel this puts a significant roadblock in the path of pursuing option 2, or a final design similar in nature, and claiming that the funds from the sale of the land could offset the new park cost. In fact, the sale of any portion of this land could result in a significant cost to the city of Portland if in fact it was required to reimburse HUD for fair market value.

Thank you for your thoughtful consideration of all the issues involved.

Best Regards,

David LaCasse
Treasurer, Friends of Congress Square Park

From: "Newcomb, Paula A" <paula.a.newcomb@hud.gov>
Date: April 4, 2014 10:42:09 AM EDT
To: "'dlacasse' (dlacasse@lacwes.com)" <dlacasse@lacwes.com>
Cc: "Kam, Cedric" <Cedric.Kam@hud.gov>, "Shumeyko, Robert D" <robert.d.shumeyko@hud.gov>, Jeff Levine <JLEVINE@portlandmaine.gov>, DavisMary <mpd@portlandmaine.gov>
Subject: FW: Question on an UDAG funded urban park

Please note my responses below:

From: dlacasse [<mailto:dlacasse@lacwes.com>]
Sent: Tuesday, April 01, 2014 3:38 PM
To: Newcomb, Paula A
Subject: Re: Question on an UDAG funded urban park

Good afternoon,

Thank you for your reply.

I should note that I am not an attorney. I am a board member of the Friends of Congress Square Park, which is a group dedicated to preserving and maintaining this public park for the citizens of Portland. (so sorry)

I should further note that the sale of Congress Square Park to a hotel developer for a private event center was opposed by the surrounding neighborhood associations, the City's Parks Commission, the three City Councilors representing the districts closest to the park, as well as other community groups and citizens.

Could you clarify a few issues for me?

1. What are the criteria for the "specific tests" that must be met to qualify for one of the national objectives? Each category would have different ways of testing compliance. For example, low mod jobs would be documented by the creation of jobs that would be made available to low and

moderate income individuals and documented via job creation agreements and reporting.

2. What is the process used to determine if one of the three national objectives has been met, and who accomplishes this determination? The City's community development staff are charged with compliance with HUD giving oversight. Each project is subject to monitoring.

3. By whom and by what process is fair market value determined? The City would engage an appraiser, but the process would be subject to Federal and State procurement laws.

4. Are there any time limits for the restrictions you have described on the use of the real property or use of funds from the sale of the property after the UDAG project closeout? We did not identify any time limits.

5. I believe what you are stating is that the new use for the land that is sold has to meet one of the national objectives and the money from the sale has to be used for a CDBG eligible activity. If both of these conditions are not met, the city would need to reimburse HUD at fair market value less the portion of the park that was constructed with non-UDAG money. Is that correct? Yes.

Thank you again for your attention to this matter.

David LaCasse P.E.
LaCasse & Weston, Inc.
203 Anderson St.
Suite 201
Portland, Maine 04101
Phone [207-773-7711](tel:207-773-7711)
Fax [207-773-7815](tel:207-773-7815)
Cell [207-831-1980](tel:207-831-1980)
E-mail: dlacasse@lacwes.com

On Mar 31, 2014, at 2:11 PM, "Newcomb, Paula A" <paula.a.newcomb@hud.gov> wrote:

Dear Attorney LaCasse:

Despite our best efforts, we are unable to locate a copy of Portland's UDAG Agreement although we have determined it was dated 12/23/1987.

However, our reading of the applicable UDAG and CDBG regulations does not indicate that HUD conditions or must approve any future changes of use of property acquired with UDAG funds. The current HUD regulations describe the UDAG recipient's responsibility for closed projects in 24 CFR 570.464, 570.465, 570.509(c)(4), 570.505 and 570.504(b)(4) and (5).

Subpart J of Part 570 Grant Administration at §570.505 governs the use of real property acquired with CDBG funds in excess of \$25,000 and is also applicable to UDAG funds pursuant to §570.465. The City must allow public comment for any change of use in accordance with its Citizen Participation plan. If the proposed new use does not meet a national objective, HUD must be

reimbursed for the current fair market value less the portion of value attributable to non-CDBG funds.

The program rules state that in order to be eligible for funding, every CDBG-funded activity must qualify as *meeting one of the three national objectives* of the program. This requires that each activity, meet specific tests for benefiting low- and moderate-income persons (including low/mod income area, limited clientele, housing or jobs), preventing or eliminating blight (spot or area wide), or meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community. Thus, providing the City follows its Citizen Participation Plan, it may change the use of the property as long as the proposed use would meet a national objective and the sale proceeds are used by the City for any CDBG-eligible activities except public services or speculative industrial/commercial relocation.

Please feel free to contact us should you have further questions.

Paula A. Newcomb

*Senior Community Planning and Development Representative
Department of Housing and Urban Development
Community Planning and Development
10 Causeway Street, Room 535
Boston, MA 02222
[617-994-8378](tel:617-994-8378) Telephone
[617-565-5442](tel:617-565-5442) Fax*

<image001.jpg>

From: dlacasse [mailto:dlacasse@lacwes.com]
Sent: Friday, March 21, 2014 10:25 AM
To: Newcomb, Paula A
Cc: ME_Webmanager; Burney, William D
Subject: Re: Question on an UDAG funded urban park

Thank you

David LaCasse P.E.
LaCasse & Weston, Inc.
203 Anderson St.
Suite 201
Portland, Maine 04101
Phone [207-773-7711](tel:207-773-7711)
Fax [207-773-7815](tel:207-773-7815)
Cell [207-831-1980](tel:207-831-1980)
E-mail: dlacasse@lacwes.com

On Mar 21, 2014, at 10:02 AM, "Newcomb, Paula A" <paula.a.newcomb@hud.gov> wrote:

We are researching your question regarding this closed out grant.

We will be back in touch as soon as possible.

Thanks for your inquiry.

Paula A. Newcomb

*Senior Community Planning and Development Representative
Department of Housing and Urban Development
Community Planning and Development
10 Causeway Street, Room 535
Boston, MA 02222
[617-994-8378](tel:617-994-8378) Telephone
[617-565-5442](tel:617-565-5442) Fax*

<image001.jpg>

From: ME_Webmanager
Sent: Friday, March 21, 2014 9:18 AM
To: 'dlacasse'; ME_Webmanager; Newcomb, Paula A
Cc: Burney, William D
Subject: RE: Question on an UDAG funded urban park

Good morning Dave,

Thank you for contacting HUD regarding an Urban Development Action Grant.

Your inquiry has been shared with the Community Planning & Development (CPD) regional office; the staff is gathering information and will soon be responding back to you.

Ann~

**Ann Martin
ME Webmail**

From: dlacasse [<mailto:dlacasse@lacwes.com>]
Sent: Wednesday, March 19, 2014 5:49 PM
To: ME_Webmanager
Subject: Question on an UDAG funded urban park

Hi,

In 1980 or 1981 Portland, Maine received \$1.5 MM dollars to purchase some buildings, tear them down and build an Urban Park.

In the application, (we have been unable to find the actual contract) Portland stated that the space would be kept open and be maintained as a City Park. The City is now trying to sell this space for private development.

What are the Hub rules concerning this? Is there any way to get the actual UDAG contract?

Regards

David LaCasse P.E.
LaCasse & Weston, Inc.
203 Anderson St.
Suite 201
Portland, Maine 04101
Phone [207-773-7711](tel:207-773-7711)
Fax [207-773-7815](tel:207-773-7815)
Cell 207-831-1980
E-mail: dlacasse@lacwes.com

Public Comment received online from 12/11 – 12/31

Form Submitted on: 12/11/2014 3:00:12 PM

First Name: Stephen

Last Name: Gaal

Address: 176 Eastern promenade, Portland, ME

Comments on the two Congress Square Park Design Concepts: We had a city-wide vote on this. The citizens of Portland want a park, not an event center, nor an event center masquerading as a park. The committee charged with evaluating the two proposals voted 10-5 in favor of a park. WE WANT A PARK! Why are we continuing to debate this? Why is the Chamber of Commerce dictating events for our city?

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/11/2014 3:23:41 PM

First Name: Janet

Last Name: Alexander

Address: 445 Ray St., Portland, ME 04103

Comments on the two Congress Square Park Design Concepts: We moved here in large part because Portland truly seemed a "livable" city and for nearly 40 years we've loved it here. The ground-level park seems to me much more consistent with a comfortable yet vibrant downtown area. Didn't previous public comment come down heavily in favor of the ground-level option?

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/11/2014 3:49:08 PM

First Name: Deborah

Last Name: Cummins

Address: 22 Hancock Street #503

Comments on the two Congress Square Park Design Concepts: Option 2 is a win-win for the residents and taxpayers of Portland

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/11/2014 4:36:18 PM

First Name: Ed

Last Name: Collom

Address: 56 Roaring Brook Road, Portland

Comments on the two Congress Square Park Design Concepts: No event center, keep it as is.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/11/2014 4:47:59 PM

First Name: Jesse

Last Name: Deupree

Address: 50 Morning St. Portland

Comments on the two Congress Square Park Design Concepts: Portland needs more than just another small square type park. These are underutilized throughout the city, perhaps because we are a small enough city with wonderful large parks. A space that does more makes sense, thus a design including an event center is best for this city.

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/11/2014 8:29:25 PM

First Name: Lily

Last Name: Newton

Address: 170 Harriet St South Portland

Comments on the two Congress Square Park Design Concepts: Although I live in South Portland, I grew up in Portland and spend a lot of time in Portland. This park has been an eyesore and safety concern for as long as I can remember. I believe the best option to revitalize this park and make it attractive and useful (and safe) is to have an event center, with an elevated park. Thank you

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/11/2014 9:35:33 PM

First Name: Steven

Last Name: Urkowitz

Address: 100 Spruce St, Portland Me

Comments on the two Congress Square Park Design Concepts: I oppose the elevated park concept for the Congress Square site. I worked on the campus of the City College of New York in Manhattan where a park and recreation facility was sited on a raised roof of a gymnasium building. For the last forty years it has been unpopulated, desolate, and finally it was closed off from public access. Imaginative design for the ground level option holds far more potential.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/11/2014 10:50:21 PM

First Name: Martin

Last Name: Steingesser

Address: PO Box 7575, Portland 04112-7575

Comments on the two Congress Square Park Design Concepts: The Elevated Park with Event Center infringes on public space. The City finds adequate funds to design and create parks and recreational spaces. Public use of this public space is a challenge for good urban planning and way to fund and

implement that plan for the benefit of all Portland residents.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/11/2014 11:29:04 PM

First Name: Caitlin

Last Name: Hager

Address: 26 E. Oxford St. Portland, ME

Comments on the two Congress Square Park Design Concepts: A ground level park is more accessible to the public and looks easier to maintain. The ground level park is the best fit for Portland.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/12/2014 9:55:35 AM

First Name: hugh

Last Name: nazor

Address: 50 Federal St

Comments on the two Congress Square Park Design Concepts: Greater accessibility and more flexibility of use would favor a more open and ground level park.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/12/2014 11:27:00 AM

First Name: Megan

Last Name: Grumbling

Address: 139 Brackett St. #4

Comments on the two Congress Square Park Design Concepts: I vigorously support Option 1, the ground-level, all-public design, for reasons of superior accessibility, wider possible range of activities, greater visibility and sight-lines, and -- most importantly -- the civic importance of offering Portland citizens a 100% public space and stake in our urban landscape. Anything less would diminish Portland's international status as a renowned livable city that cares about public space.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/12/2014 12:47:00 PM

First Name: davis

Last Name: Robinson

Address: 40 Seeley Ave, Portland

Comments on the two Congress Square Park Design Concepts: I like the elevated park and the event center: win-win.

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/12/2014 3:19:08 PM

First Name: Jim

Last Name: Elkins

Address: 8 Raven Terrace Scarborough, ME 04074

Comments on the two Congress Square Park Design Concepts: While not a Portland resident, I value the quality of downtown Portland and believe that option 2 would be the best for both quality of life and economic development.

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/12/2014 5:12:22 PM

First Name: Annie

Last Name: Wadleigh

Address: 19 Parris St

Comments on the two Congress Square Park Design Concepts: I am quite amazed that after a referendum, a Task Force recommendation and an extended survey deadline, the elevated park concept is still afloat. The people have spoken clearly and for an extended time that they do NOT want an event center in the park at Congress Square. It doesn't seem fair to keep the issue alive indefinitely until the Chamber receives the outcome they desire.

Respectfully, Annie Wadleigh

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/12/2014 10:03:12 PM

First Name: Michael

Last Name: Mertaugh

Address: 118 Beacon Street, Portland

Comments on the two Congress Square Park Design Concepts: I am in favor of Option 1 for the following reasons:

1. Handicapped access for the elevated portion of the park under option 2 would be very unwieldy. The access ramp would consume so much space that it would preclude effective use of the space beyond the footprint of an event center.
2. The experience of successful pocket parks, like Paley Park in New York suggests that simplicity of design in small parks is essential to their effectiveness. The requirement of handicapped access via a 450 foot access ramp would inevitably make Option 2 a cluttered and uninviting design. Adding an elevator would be prohibitively costly.
3. Option 2 would entail higher initial costs and much higher ongoing maintenance costs -- including clearing snow and ice from the access ramp -- in order to maintain the standards that are expected by the community. This is intended to be an all-weather park.
4. The ramp and the elevated portion of the Option 2 approach would entail safety risks of falling from

the elevated surface, and the risk of falling on the ramp in inclement weather.

5. The ramp in Option 2 would be a perennial temptation to skateboarders, with all of the liability risks that that entails.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/13/2014 3:24:41 PM

First Name: zach

Last Name: lipman

Address: 10 melbourne

Comments on the two Congress Square Park Design Concepts: this seems more accessible and friendly

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/15/2014 1:02:38 PM

First Name: Jay

Last Name: York

Address: 58 Wilmot Street

Comments on the two Congress Square Park Design Concepts: I am thoroughly disgusted that the our city leaders are still trying to sell Congress Square Park but not surprised by their underhanded ways of doing it.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/15/2014 9:02:35 PM

First Name: Rick

Last Name: Redmond

Address: 180 High St Apt 46 Portland, ME 04101

Comments on the two Congress Square Park Design Concepts: Event center!

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/17/2014 4:22:59 PM

First Name: Karen

Last Name: Perry

Address: 10 Congress Sq.

Comments on the two Congress Square Park Design Concepts: Has to be ground level for all disabilities whether they are temporary or permanent. I haveA disability due to a stroke. I am also on the city disability re-advisory committee this city of Portland.The park should be open till all Old people, whether they are disabled are not.

Do you prefer an option?: Option 1: Ground-level Park

Form Submitted on: 12/19/2014 8:47:41 AM

First Name: Eric

Last Name: Lessard

Address: 75 St. Lawrence St Portland

Comments on the two Congress Square Park Design Concepts: Both designs have positive aesthetic qualities. I urge the committee to select design #2. Portland needs to grow and the event center can help. Design number 2 tackles the need for a public park and the event center. It's a nice balance. With the uptick in restaurants & hotels in Portland, we need additional visitors to service the growth in both of these areas. For some reason the event center remains contentious in the community. Is it because of the association with the Venture Capitalist company? To grow, Portland should strive to work with organizations who can help us grow organically and with their added capital (which the city does not have). You never know, a business visitor to the event center can fall in love with Portland and grow his/her organization in Portland...growth is good!

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/22/2014 5:13:21 PM

First Name: Michael

Last Name: Bourque

Address: 137 Noyes Street

Comments on the two Congress Square Park Design Concepts: Of these two, I would select the version that includes a partnership with the hotel next to the plaza. Without doing so, I see the same failed space that we've endured for the last few decades. It seems to me that the city would have a hard time prioritizing funding for this space over so many other needs, but a public-private partnership would give an opportunity to actually change the space.

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/23/2014 12:00:37 PM

First Name: Richard

Last Name: Farnsworth

Address: 55 Old Mast Rd.

Comments on the two Congress Square Park Design Concepts: Option 2 gives us both the access to a park in the Congress Square area as well as meeting the needs for working with the private sector in order to help with some economic development of the area. I think that it is a good compromise in the use of this valuable piece of real estate.

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/23/2014 12:00:37 PM

First Name: Richard

Last Name: Farnsworth

Address: 55 Old Mast Rd.

Comments on the two Congress Square Park Design Concepts: Option 2 gives us both the access to a park in the Congress Square area as well as meeting the needs for working with the private sector in order to help with some economic development of the area. I think that it is a good compromise in the use of this valuable piece of real estate.

Do you prefer an option?: Option 2: Elevated Park with Event Center

Form Submitted on: 12/25/2014 9:01:06 PM

First Name: Ned

Last Name: Foster

Address: Cumberland Av

Comments on the two Congress Square Park Design Concepts: These two options are ridiculous. Its like asking me if I want to eat lima beans or ochra. Yuckers to both.

Why tie both of our hands behind our back? Why aim for the ankles?

Let the city do this right. Put it out to bid/proposals: "What can YOU do with this space, using the Westin as the bankroll?"

4/5 of the "park" is a wasteland. Use it right and recreate a good "park" near the street. Enough of the purist nonsense. This is a real issue.

Look at this recent news from Burlington, VT. They are aiming higher while Portland is satisfied to be a deadwater.

<http://www.vermontbiz.com/news/november/publicprivate-partnership-comprehensively-redevelop-downtown-burlington-mall-200>

Do you prefer an option?: Neither

Form Submitted on: 12/30/2014 10:42:57 AM

First Name: Anne

Last Name: Callender

Address: 138 Pleasant Ave

Comments on the two Congress Square Park Design Concepts: Based on the designs set forth for evaluation for use of the "Congress Square Park", I say neither has any appeal or addresses a coherent urban planning response to the site. The design options are truly a disappointment. The "park" has long been a gapping hole in the fabric of Congress and State Streets at its most visible point where thousands of people travel through Portland on a daily basis. This corner was meant to hold several buildings and it diminishes Portland to continue to under utilizing this space.

Contrary to the all the clamor about improving the park, the goal should be to reinforce the continuity of Congress and State Streets. We have a plethora of beautiful parks and open spaces in the City but we struggle to keep them maintained. The design concepts being explored do not take into account how this parcel works into Congress Street as a whole, and the scale of the existing Congress Square is completely wrong for its location and needs.

Congress Square Park is part of a larger open space with the Portland Museum of Art and the Hay Building, and these buildings and the space in between should be having a conversation, to make it a more unified public space. If you look at the open space between the Museum and the Westin you have a football field that has no place in this location. It lacks pedestrian scale and purpose. Just designing a standalone park will not fix its inherent problem. In the 20 years I have been working in this area, the current park has been virtually unoccupied due to its size and design features. It could be reduced by two-thirds and still function as it does now. It could be so much more than what is being offered in the redesign schemes.

We have a willing partner in the Westin to improve the site and make an important investment to elevate a major intersection that has languished for over 30 years. It is appalling to not give serious consideration to a company that has just invested \$40 million in Portland. Looking at the design models, we would be better served with a structure that relates in scale to the Hay Building and the Museum park and a park space that is no deeper than the lovely brick building that houses Paul's Food Center. I will argue that having a larger structure that looks out on the greater Congress Square will bring more life and vitality to this area. For decades we have been stuck looking at two uninspiring walls that were supposed to abut other buildings and not face anything.

And while we are dreaming and exploring options, I would love to see the Westin and the Museum of Art discuss a combined use that would further link the Arts District with to the Westin's event space. Let's do something that will enhance the area and add to our tax base. Give us another building in scale with its surroundings that has a wonderful façade facing Congress Street and a park that responds to it surroundings not an ill-conceived notion of filling a vacant lot.

Do you prefer an option?: Neither

**Portland Parks Commission
FY 2016 Budget Proposal for Parks
DRAFT**

Ranking Criteria:

1. progress on Congress Square Park, for which there are high expectations following the recent citizen's initiative and Council ordinance,
2. proposals for improving overall parks maintenance and oversight,
3. proposals for design studies and master plans that refine priorities and cost estimates and move projects closer to implementation readiness, and
4. completion of projects that are very close to completion and embody significant cost sharing.

Assumptions/Expectations:

1. Budgets will be maintained in FY 2016 for seasonal park rangers, a full-time park ranger, and seasonal parks maintenance staff. These are the highest priority park budget needs for FY 2016, but represent continuation of already budgeted activities.
2. The Parks Commission will prepare a brief first Annual Report, as mandated in the City's new Parks Ordinance, in FY 2016 on the basis of available information. Following consultation with the City Council on the desired content of subsequent annual reports, the Commission will request a budget in FY 2017 for collection of baseline data and preparation of a fuller annual report in FY 2017. The 2017 Annual Report will also reflect information generated by the update of the Parks Master Plan in FY 2016 (for which funds are requested below) and from the study that is currently being carried out by the Trust for Public Lands and Portland Trails.
3. Serious consideration will be given to the operating budget requests shown in the table, which are important for maintaining functionality of our parks. Experience demonstrates that deferred maintenance often leads to larger needs for capital outlays.

Priority Ranking	Location	Budget Designation	Budget Request	Estimated Cost	Comments
1	Congress Square Park	Operating budget	Finalize design through HP and Planning approvals to preparation of bidding documents for implementation	\$50,000	The other half of the \$100,000 estimated total cost of this activity is to be provided by the Friends of Congress Square Park. Designs are to be compatible with options for High Street redesign, but would not need to wait until the High Street

					redesign is completed. This request is expected to be followed up with a budget request for implementation in the 2017 CIP.
2	Parks Commission	Operating budget	Update parks Master Plan, <i>Green Spaces, Blue Edges</i>	\$30,000	To be carried out in collaboration with parks friends groups and the Trust for Public Land.
3	Evergreen Cemetery	Operating budget	Removal and care of hazardous trees	\$250,000	To address an increasing public safety hazard. This amount reflects the quote received by the city for this work.
4	Evergreen Cemetery	Operating budget	Planting of trees to replace removed trees	\$100,000	To reduce the detrimental visual impact of hazardous tree removal
5	Eastern Cemetery	CIP	Complete restoration of Victorian tool shed	\$18,000	This cost reflects the contractor's quote for this work
6	Longfellow Park	CIP	Repair and widen walks in Longfellow Park	\$33,000	Walks need repair & widening to be handicap accessible
7	city wide		Tree Planting	\$10,000	
8	city wide		Bench replacement	\$15,000	To replace half of the "fair" or "poor" condition benches

Comments on Friends' Proposals that are not Reflected in this Request:

1. The Friends of Congress Square Park requested \$1,033,400 for the renovation of Congress Square Park under the ground-level design (option 1). The decision process involving selection of the option to be implemented, the development and review of designs, and the HP and Planning review process are not likely to be completed in time to permit the start of implementation before July 2016. For this reason, the Parks Commission recommends financing for a cost-shared design study in FY 2016, to be followed by a request for implementation financing in FY 2017. The Friends of Congress Square Park have confirmed their willingness to provide a 50% cost match for the preparation of designs and involvement in consultant selection. The \$50,000 CIP request represents the CIP-financed portion of a design study estimated to cost \$100,000.
2. The Friends of Lincoln Park requested financing in an unspecified amount for upgrades to Lincoln Park (for which detailed plans and costing are currently being developed). While the commission supports restoration of this historically significant park, the consensus is that design plans and budget should be approved by the City's Historic Preservation Board and appropriate city staff prior to pursuing CIP funding for implementation. It is likely that rehabilitation efforts will need to be phased in order to mobilize financing and to reflect the ongoing redesign of Franklin Street, which could create opportunities to expand Lincoln Park to the Northeast. An FY 2017 budget request for this purpose is anticipated.
3. The Friends of Deering Oaks requested \$168,000 of financing to replace the lighting in Deering Oaks Park. The Parks Commission recommends a study to confirm that this expenditure would be justified by savings in rental charges and energy costs. Financing for this study is included in this request. If the study confirms that the replacement is justified by cost

savings, a financing request for lighting replacement is expected in the FY 2017 CIP.

4. The Friends of Deering Oaks also requested that the ongoing service contract for the porta-potties in Deering Oaks Park be revised to require higher maintenance standards. This activity would not entail additional costs. The Parks Commission endorses this request. The Friends of Deering Oaks also requested financing for staffing the Castle in Deering Oaks Park during periods of peak use. The Department of Public Services (DPS) is exploring options to extend hours at the Castle through staffing by DPS staff and by Friends volunteers. It is also planning to continue a budget request from the current year to provide coverage during the Farmers Market and for some hours during July and August.
5. The Friends of Evergreen requested financing to update the Evergreen Cemetery Master Plan. The consensus of the Parks Commission is that in view of the current budget situation, this activity could be deferred until more adequate financing is available.
4. The Friends of Evergreen also requested financing to carry out a design study for site improvements on the Stevens Avenue frontage of the cemetery. The Parks Commission recommends that matching financing be sought from the University of New England, an abutter to the Northeast that would benefit from the improvements and currently benefits from daytime parking in the cemetery. If this financing is confirmed, an FY 2017 budget request is anticipated for this activity.
5. The Friends of the Eastern Prom (FoEP) requested financing in the 2016 CIP to complete the connection to Cousin's memorial. This request was originally submitted in the FY 2014 operating budget at \$10,000 as a key design element connecting the Cutter Street redesign and Fort Allen Rehabilitation Project (FARP), recommended by the Historic Preservation Board. Timing for carrying out the connection to Cousin's memorial is critically linked to FoEP's efforts to complete FARP implementation by July 2015. FoEP has received \$30,000 to complete FARP implementation by installing interpretive exhibits within the Park and at the top of Cutter Street. This work is scheduled to be completed by July 2015. Upon further discussion, FoEP has withdrawn this request because its timing is not consistent with planned completion of FARP implementation by the July 2015 target date.
6. The West End Neighborhood Association submitted an un-costed request for outside furniture, signage, playground equipment and waste receptacles for various parks in the West End. The Department of Public Services reports that it will be able to supply much of this request through its existing stocks or through financing in its current budget.